

# List of Contributors

**Lynn Atkinson**

CRIMINOLOGIST  
AUSTRALIAN INSTITUTE OF  
CRIMINOLOGY, CANBERRA, ACT

**Jenny Barga**

LECTURER  
LAW SCHOOL, UNIVERSITY OF NSW

**Michael Cain**

SENIOR POLICY OFFICER  
NSW DEPARTMENT OF JUVENILE  
JUSTICE

**Trevor H. Cairney**

DEAN OF EDUCATION, UNIVERSITY OF  
WESTERN SYDNEY—NEPEAN, NSW

**Peter Campbell**

BRANCH MANAGER  
KINGSLEA, NEW ZEALAND

**David Dingala**

COMMUNITY CORRECTIONS OFFICER  
DEPARTMENT OF CORRECTIONAL  
SERVICES, NT

**Vaughan Duggan**

ASSISTANT DIRECTOR  
MANAGEMENT IMPROVEMENT OFFICE  
OF THE SECRETARY DEPARTMENT OF  
EDUCATION  
VIC.

**Ian Graham**

DIRECTOR  
NSW DEPARTMENT OF JUVENILE  
JUSTICE

**Liam Guilfoyle**

SUPERINTENDENT  
MT PENANG JUVENILE JUSTICE  
CENTRE, NSW

**David J. Harvey**

DISTRICT COURT AND YOUTH COURT  
JUDGE, NEW ZEALAND

**Timothy Keogh**

DIRECTOR  
PSYCHOLOGICAL SERVICES, NSW  
DEPARTMENT OF JUVENILE JUSTICE

**Kaye Lowe**

FACULTY OF EDUCATION, UNIVERSITY  
OF WESTERN SYDNEY—NEPEAN,  
NSW

**Peter McKenzie**

FACULTY OF EDUCATION, UNIVERSITY  
OF WESTERN SYDNEY—NEPEAN,  
NSW

**Chris McRobert**

CHILDREN'S MAGISTRATE  
ILLAWARRA CHILDREN'S COURT  
NSW

**Mike Martin**

ACTING ASSISTANT DIRECTOR  
DEPARTMENT OF CORRECTIONAL  
SERVICES, NT

**Elizabeth Moore**

INSPECTOR OF GIRLS PROGRAMS—  
VOLUNTEER, NSW DEPARTMENT OF  
JUVENILE JUSTICE

**Laurie Myers**  
SUPERINTENDENT  
RIVERINA JUVENILE JUSTICE CENTRE  
WAGGA WAGGA, NSW

**Elizabeth Nielsen**  
MANAGER RESIDENCES  
KINGSLEA, NEW ZEALAND

**Jackie Oakley**  
MANAGER  
OFFICE OF INDIGENOUS WOMEN  
ATSIC, WODEN, ACT

**Lloyd Owen**  
SENIOR LECTURER  
SOCIAL WORK DEPARTMENT  
LA TROBE UNIVERSITY, VIC.

**Dina Petrakis**  
FACULTY OF EDUCATION, UNIVERSITY  
OF WESTERN SYDNEY—NEPEAN,  
NSW

**Stephen Vose**  
MAGISTRATE  
CHILDREN'S COURT OF WESTERN  
AUSTRALIA, PERTH, WA

**Ron Wilson**  
ASSOCIATE DIRECTOR INDUSTRIAL  
STUDIES, BROADMEADOWS COLLEGE  
OF TAFE, VIC.

# PREFACE

THE IMPETUS FOR THE NATIONAL CONFERENCE ON JUVENILE DETENTION was an earlier conference on Juvenile Justice held in Adelaide in September 1992. At a time when punitive responses to juvenile offending were gaining favour with some state governments, the 1992 Juvenile Justice Conference provided a forum for theorists and practitioners to pose the difficult questions, to argue the alternatives to the looming "get tough" approach, and to seek balance and rationality in the juvenile justice debate. Better preventative and community based services and programs were advocated at the 1992 conference, particularly within the ambit of improving access to social justice.

In such a context juvenile institutions did not feature as a discrete topic on the conference agenda. This was seen as an omission by some conference delegates from the juvenile corrections arena. Perhaps following in part a straightforward logic which recognises that "get tough" policies go hand in hand with an increased emphasis on incarceration, these juvenile corrections administrators and practitioners put the case for a separate, national conference focussing on juvenile detention. That conference took place in Darwin in August 1993.

Since the late 1970s Australian juvenile institutions have weathered substantial changes in juvenile justice policy and practice. Until this time the "welfare" model of juvenile justice, with its rehabilitative thrust, had predominated. Relative to today, detention centres in the 1970s and into the 1980s were well populated with young people whose behaviour had been judged by the courts to be either "pre-delinquent" or law breaking. The regimes in these detention centres—or "training schools"—were intended to re-route these young people to the path of responsible citizenship, through social and pre-vocational skills training and behaviour modification programs. The programs were devised in keeping with the mainstream values of the day. Because of indeterminate sentencing provisions, graduation from these programs was a major factor in an individual's eventual release.

The costs, inequities, and ultimately failures of these well intentioned "welfare-based" policies and practices have been well documented. Reviews of juvenile justice policy and practice took place around Australia, from the late seventies in South Australia, through the 1980s, and into the 1990s, with Queensland the latest jurisdiction to formally review its welfare-based juvenile justice legislation. Under new legislation, principles of "justice" or "due process" were to inform the juvenile court, and detention was to be used as a last resort. Young people about whom there were welfare concerns, but who were not remanded or convicted as offenders, were no longer to be kept in secure custody. Indeterminate sentences became outmoded and

unacceptable, the advent of the 1992 West Australian *Crime (Serious and Repeat Offenders) Sentencing Act* notwithstanding.

The shift to due process gave better protection to individuals facing the juvenile justice system, and it recognised the costly failure of secure custody to produce conforming citizens. But although juvenile detention centres were stripped of their pretensions to reform en masse, these institutions, their staff and a smaller, clearly defined clientele remained.

What are some of the issues then, for juvenile detention centres operating in the 1990s?

Juvenile detention is under-researched in Australia. Lynn Atkinson's paper highlights the need for a more comprehensive national data base on juveniles held in detention, and for greater accountability in relation to the holding of juveniles in detention centres, adult prisons and police custody. Problems in the juvenile justice system for urgent redress include the gross over-representation of Aboriginal youth in detention, and the exacerbation of punishment for many outback Aboriginal youth who are detained far from their homes and cultural bases. Lynn Atkinson's paper also raises the spectre of privatised juvenile corrections and recommends the topic be debated before, rather than after the event.

While nationally there is a paucity of information on juvenile detention, some jurisdictions are equipped with systems capable of providing policy makers with comprehensive, high quality information, and of tracking the outcomes of new policies and legislation. Michael Cain's paper profiles the detained juvenile population in New South Wales, and includes information on the ethnicity, offence record, and penalties incurred by detainees. Among other findings, Michael Cain found that Indo-Chinese and Aboriginal youth were grossly over-detained.

Following on from Michael Cain's paper, Ian Graham spoke about the management of different cultural groups in juvenile detention centres in New South Wales. His paper highlights the need for comprehensive knowledge about young offenders and the offences they have committed, so detention centre programs can be appropriately targeted and relevant. Community consultation is an inherent part of successful program development for particular groups.

Vaughan Duggan's paper focuses on the introduction of unit management policies and procedures in Victorian detention centres. It presents as a model an integrated structure with well defined loci of responsibility and clear lines of accountability. The paper discusses the challenges of relating theory to practice.

David Harvey's paper looks at the current legislation and sentencing practices in relation to secure custody in New Zealand. Peter Campbell and Elizabeth Nielsen's paper contrasts juvenile justice systems in New Zealand before and after the introduction of the 1989 Children, Young Persons and their Families Act and gives a detailed description of the current national secure program for young offenders.

Chris McRobert's and Laurie Myers' papers argue for a different perspective on juvenile detention: detention as a new beginning rather than a last resort. On the evidence, Chris McRobert's faith in the ability of juvenile

detention centres to reform young offenders and, with better resourced after-care programs, equip them to stay clear of offending behaviour, is largely unwarranted. However, to some extent his sentiments are consistent with a running theme of the conference, that when detention is unavoidable, exemplary programs, which are perceived by the offender to be useful and relevant, must be an integral part of detention and aftercare regimes.

As a detention centre manager, Laurie Myers recalled in his presentation the demoralisation of staff which accompanied the shift from "welfare" to "justice". Under the previous welfare philosophy, and in the context of the closed world of the juvenile detention centre, many staff felt their work had value and purpose: regardless of outcomes, they saw themselves as key figures in the re-training and disciplining of delinquents, rather than as mere custodians. With the shift to due process came a changed and diminished clientele, and an apparent change of emphasis, from rehabilitating the wayward to warehousing the recalcitrant. Juvenile detention centres do not exist to serve the needs of staff, nevertheless it is clear that motivated, trained and committed staff are better able to motivate, train and inspire young people in their charge than staff who are demoralised and without purpose. Laurie Myers' paper seeks purpose and program satisfaction for detention centre staff and inmates alike.

Liam Guilfoyle's paper describes the introduction and provision of a casework approach to managing juvenile offenders in detention in New South Wales. The paper discusses the rationale of the approach, some difficulties, and the intended outcomes, from the points of view of both staff and detainees.

In her paper on young women and the juvenile justice system, Jenny Barga explores some interconnected themes: the criminalisation of young women; definitions of delinquency; and, the role of the juvenile justice system in each of the above. The issues are fundamental, Jenny Barga argues, to any study of young women and detention. Because these issues are part of the context to girls' incarceration, serious research into and consideration of these matters should inform policy and practice.

The special circumstances and needs of young women in a system developed and geared predominantly to the containment of young men, is a theme continued by Elizabeth Moore. She argues in her paper for alternatives to secure custody for young women, with resources allocated to community-based preventative and supervisory programs.

Tim Keogh's paper provides an overview of research into psychological interventions with detained youth. It discusses protocols for assessment and intervention and emphasises an individual needs-based approach. In Tim Keogh's framework, an important aim of psychological intervention for serious offenders is to restore feeling, communication and relating functions.

The paper by Trevor Cairney, Kaye Lowe, Peter McKenzie and Dina Petrakis, describes an action research project which studied literacy standards and practices in New South Wales detention centres. The project sought to develop and engage in literacy programs which would encourage the setting and achievement of individual learning goals, and hence would be empowering for detained students.

Ron Wilson's paper discusses fundamental changes in the delivery of vocational training in Victorian detention centres.

In the final paper in this volume, Lloyd Owen raises some research questions relating to various high tariff interventions for serious young offenders.

Lack of accessible information about juvenile detention has led variously to complacency, ill-informed policy decisions, and costly mistakes in human and dollar terms. The National Conference on Juvenile Detention, like most conferences, raised more questions than it answered. Nevertheless, the information disseminated in papers and the discussions which took place in workshops went some small way, as final panellist Mike Martin put it, towards bringing juvenile detention "out of the closet".

Lynn Atkinson  
September 1994

# AN OVERVIEW OF JUVENILE DETENTION IN AUSTRALIA

**Lynn Atkinson**

We could send a teenage offender to a major public school for 11,000 pounds per year. Paying 20,000 pounds per year to send him [sic] to prison, where he learns nothing but how to commit more serious crimes, makes no sense in human or economic terms. (Richard Graef, quoted in Howard League for Penal Reform 1993, p. 26).

IF DETAINING JUVENILES IS SO COSTLY AND UNREHABILITATIVE WHY DO WE continue to incarcerate young people? Who do we send to detention/training/juvenile justice centres? What are the effects of detention, and what are the alternatives to incarceration? What knowledge is needed to promote reform; what factors exist to bolster resistance to change? The array of information in this overview is intended to provide background information to the discussion of these and other matters relating to juvenile detention.

## **History of Juvenile Detention in Australia<sup>1</sup>**

The history of juvenile detention in Australia goes back almost to the arrival of the first fleet. The convicts on the first fleet included three boys and two girls under sixteen (Hughes 1987). There is some irony in the fact that, as observed by Seymour (1988), deported child convicts were often benefiting from special measures, diversion from the death penalty and the gallows, due to their tender years. For them it was diversion into a penal institution—white Australia—rather than out of it.

If we follow the history of juvenile detention in Australia from 1788 to the present, some enduring themes emerge. In the 1990s we are concerned with issues such as the justice/welfare nexus and how this impacts on policy and practice in juvenile corrections; the distillation processes of the juvenile justice system such that powerless and marginalised groups are over-represented in detention centre populations; the unredeeming nature of juvenile detention; the role of the private sector in juvenile corrections; and, the myopia about

---

<sup>1</sup>. Parts of this section will appear in Atkinson and Chappell (forthcoming).

girls in the system. If we look back briefly into history, we can see a long tradition of failing to solve or adequately address these issues.

In the nineteenth century the colonies of New South Wales and Van Diemen's Land received many young convicts. In the five years between 1833 and 1838, for example, nearly one thousand boys were transported to New South Wales. Two hundred convict boys were sent to Point Puer in Van Diemen's Land in 1838 alone (Seymour 1988).

Although at first no special treatment was accorded the young convicts, after a time alternative methods were considered and tried (Seymour 1988). In New South Wales in 1803, apprenticeships for juvenile convicts were introduced. Boys were apprenticed to learn trades, and girls became domestic servants. There was a strong financial incentive for the arrangements since costs associated with keeping the young convict apprentices were shouldered by the free settlers who took them on. The system was not a great success, however, proving to be little different from the labour assignment systems that applied to adult prisoners.

By 1820, boy convicts under sixteen, in theory anyway, were able to spend three years undertaking trade training before being assigned to labour in the colony. Moreover, for the first time separate accommodation, at Carters Barracks in Sydney, as well as a system of classification, was established for this group of young prisoners. However, the system did not live up to expectations. It was phased out and finally terminated in about 1835, along with the use of Carters Barracks as the first juvenile penal institution. The failure of the system was attributed by the Chief Justice of New South Wales to "the association of a body of young criminals together, and the incorrigible effects of their example and communications upon each other" (quoted in Seymour 1988, p. 13). Researchers since then have affirmed that juvenile detention is indeed unredeeming (Potas et al. 1990) and is in fact linked to increased recidivism (Forst & Blomquist 1991; The Howard League for Penal Reform 1993). The Chief Justice of the day, however, blamed the inmates rather than the regime for any undesirable outcomes.

In Van Diemen's Land convict boys had been taken to Point Puer at Port Arthur from 1834. It was intended that Point Puer be a place of rehabilitation and training for its young clientele, or "little depraved felons" as Governor Arthur, of Port Arthur fame, called them (quoted in Hughes 1987, p. 408). There is a truly heart wrenching rendition of life at Point Puer in Marcus Clarke's novel *His Natural Life* (1970). Hughes gives a more restrained version in his book *The Fatal Shore* (1987).

Over two thousand boys passed through the institution at Point Puer in its fifteen years of existence. The regime was disciplinarian and harsh and corporal punishment was a central feature. However, in an effort to redeem the boys, equip them with skills which would be useful to them in their later lives, and to meet the labour needs of the colony, a system of trade training was instituted for the very few boys fortunate to secure places.

The regime was also intended to provide the boys with religious instruction and basic literacy skills. However, there was little systematic effort and even fewer resources directed towards these intended rehabilitative measures. Reading matter was limited to the bible and a



handful of elementary readers and spelling books, and religious instruction, undertaken by a series of missionaries from different Christian denominations, failed to make a redeeming mark on the inmates. Given the context within which such instruction took place—the harshness of the regime and the pervasiveness of the inevitable prison culture—this is not surprising. The juvenile institution at Point Puer clearly failed to bridge the gap between its stated intention and philosophy, and its accomplishments in practice. This would come as no surprise to practitioners and researchers in the field today. Point Puer was closed in 1849, by which time the number of juveniles being transported from England had significantly decreased.

The development of Australian child welfare systems began in the early 1800s when the New South Wales Government and a committee of private citizens established a home for orphans and destitute children, mostly of convict parents (Seymour 1988). Other colonies followed suit towards the middle of the nineteenth century.

The second half of the nineteenth century witnessed the growth of reform and industrial schools to cater for both offending and destitute children. Attempts were made to classify and separate "criminal" and "neglected" youth. Reform and industrial schools were intended to contain and serve two, apparently distinct, juvenile populations: delinquents on the one hand and the merely destitute on the other.

As Seymour (1988) points out, however, and illustrates with a nineteenth-century quotation, the assumptions which supported mutually exclusive categorisations of young people as "neglected" or "offenders" were questionable:

The Council has learned by the experience gained in dealing with a large number of children that the so-called "criminal" children are not the worst class. Many children convicted of stealing and sent to reformatories are found to be moral and well-behaved, while very often it has been proved that children committed to the Industrial School as neglected or destitute are vicious, immoral, and altogether unfit to mix with decent children (South Australian State Children's Council, quoted in Seymour 1988, p. 48).

Church, state and charitable organisations were involved in the institutional control of these two groups of children, the state having primary responsibility for offenders, although it is clear that distinctions between the groups were blurred in practice.

Towards the end of the nineteenth century growing concern about the use of large institutions resulted in the growth of community-based arrangements. "Boarding out" placements in foster homes began to replace industrial schools (Seymour 1988). The dual schools system was eventually abandoned but the uneasy relationship between welfare and so-called justice responses is still with us today.

In sum then, the 200-year history of white Australia has given us blueprints for present concerns and dilemmas about juvenile detention. There is the ebb and flow between crime control and child-saving philosophies and practices (or justice and welfare), and the tension generated through the

polarisation of the debate. There is the failure of punitive detention to impact on recidivism or to address at an individual or systemic level the underlying issues which have propelled many of these young people into the justice system and into custody over 200 or so years. Whether we look at Hughes' documentation or Marcus Clarke's dramatic representations of Point Puer, or Howlett's (1993) profiles of juveniles and their deaths in detention between 1980 and 1992 (four out of nine being Aboriginal), it is clear that juvenile detention has been a repository for the marginalised and the powerless. (One of the nine young people in the Howlett study was a nineteen-year-old non-Aboriginal detained at an adult youth training centre in Victoria. The others, including all the Aboriginal young people, were under eighteen.)

There is also the shifting nexus between the public and private sector in the control of juveniles. The growing involvement of the private sector in juvenile corrections today is an issue which should be placed clearly on the agenda for discussion and debate.

Finally, we can note the tradition of ignoring the reality and needs of girls in detention, and linking their rehabilitation with the acquisition of domestic expertise.

### **The Contemporary Situation**

In the 1990s, despite a lack of hard evidence to suggest that juvenile crime is out of control, the current popular notion of a juvenile law and order crisis has been remarkably influential at the policy making level. Witness the success of media driven law and order campaigns which have resulted in the passing, for example, of the Western Australian legislation, the now infamous *Crime (Serious and Repeat Offenders) Sentencing Act 1992*. One of the achievements of this Act was to place a renewed emphasis on "just deserts" manifesting as certain and prolonged detention of particular groups of juveniles.

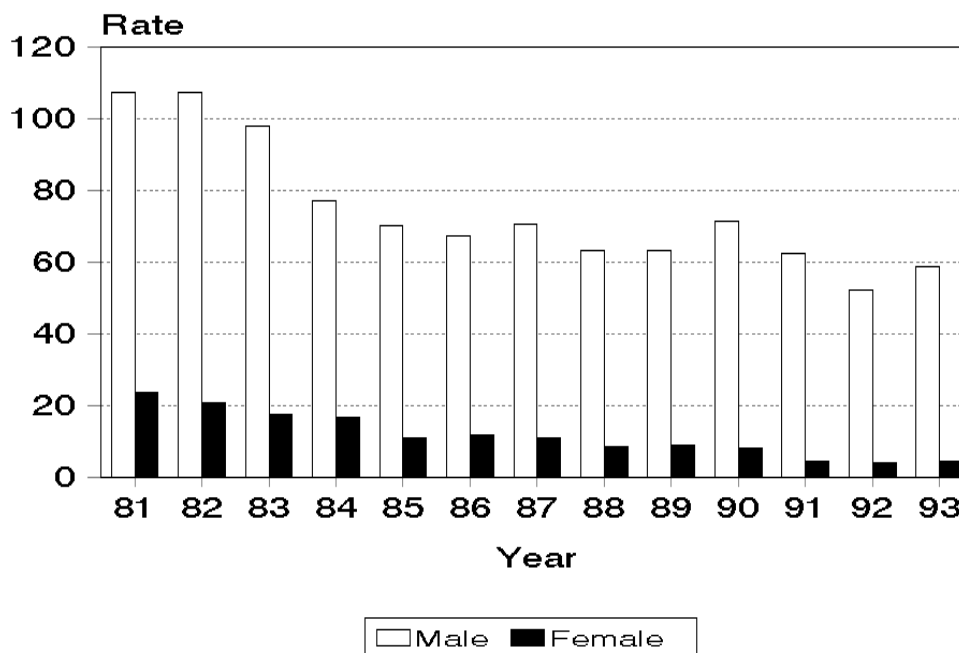
In Victoria, the new sentencing legislation places increased emphasis on the prison system to contain people deemed problematic and possibly dangerous to society. Although not including juveniles under seventeen in its reach, in Victoria young people over sixteen years of age usually appear in the adult jurisdiction and hence can come under its provisions. In New South Wales, the *Sentencing Act 1989*, intended to reduce the gap between the length of sentence and the actual time served, has resulted in a substantial increase in the amount of time served by juvenile offenders in custody (Cain & Luke 1991).

Another move which reflects the same punitive trend is the shifting of the administration of juvenile justice from departments of community welfare to form a separate department (NSW), or to be managed as a section of a department of corrections (NT, WA).

Despite the punitive drift over the last ten years the rate at which juveniles have been detained has, at the the same time, declined (*see* Figure 1).

Figure 1

**Persons aged 10-17 years in Juvenile Corrective Institutions  
By Sex and Rate per 100,000 Population, Australia, as at June 1981 to 1993**



Philosophical and legislative changes have meant that young people on non-offence orders are seldom placed in detention in most jurisdictions, although some of these young people will be recycled through the system as offenders instead (*see* Angus & Wilkinson 1993). There is also a greater use of community based orders for those youth not considered to be at the extreme range of the offending spectrum.

Who then is targeted for the new get tough policy? The West Australian legislation aimed at "serious repeat offenders", seems to encapsulate the concerns of juvenile justice administrators in the different jurisdictions. Sumner (1993) put it clearly at the Adelaide conference on juvenile justice in 1992 when he stated that proposed changes in the South Australian juvenile justice system were specifically aimed at "the recidivist offender". He also described as a "justice initiative" increased incarceration levels in South Australia over the last six months of 1991.

Those youth distilled into the detention system then are becoming increasingly marginalised as less recalcitrant youth are dealt with in the community and attitudes harden towards the group defined as intractable and not amenable to non-custodial interventions (Howlett 1993, O'Connor 1993a). This minority group in detention risks having its needs and experiences ignored (Howlett 1993).

## **Extent and Nature of Juvenile Custody**

While juvenile detention rates have declined in recent years, through changes in philosophy and practice and through greater use of community based orders, some of the custodial population can nevertheless be found in other secure facilities (and in other cases in a poorly resourced voluntary sector). Some young women, previously candidates for welfare intervention and custodial control, have also been channelled into non-custodial streams of the juvenile justice system.

If we take a broad view of juvenile detention we find young people being detained not only in centres for offenders and remandees (including Victoria's Adult Youth Training Centres), but also in police custody, immigration centres and adult prisons. Our knowledge of children and their experiences in these facilities is particularly limited. At present it seems we must accept, virtually with blind faith, that reasonable safeguards and conditions apply for youth held in these places. What do we know about these other facilities in which young people are detained?

### *Police Custody*

In his preliminary report on the 1992 Police Custody Survey, McDonald (1993) found that children as young as ten had been taken into custody, and that in the survey period, the month of August 1992, 1836 young people under eighteen had been detained by police.

McDonald points out that in most cases police custody is used for relatively short periods. (Half of those adults and juveniles in the survey were released within 4.7 hours; 87 per cent were released within 24 hours.) However, there are worrying exceptions to this and deep concerns about what can happen to young people in police custody when accountability is lacking. According to information supplied by the Deaths in Custody Monitoring Unit at the AIC there have been ten deaths of juveniles under eighteen in police custody between 1980 and 1992.

An incident which occurred in Western Australia highlights the issue of accountability. It took place at Fitzroy Crossing late in 1988, but it became public knowledge only in 1991. It concerned the illegal detention of an Aboriginal juvenile, who, it transpired, was never formally charged but who nevertheless was kept in police custody for eight days. When visiting, senior police discovered the boy in the lockup and immediately released him: the sergeant in charge of Fitzroy Crossing Police Station maintained he had forgotten about the youth. He also claimed to have forgotten to release the boy on an earlier occasion after he had been questioned by a Justice of the Peace (Saxon 1991a).

Although such incidents can be dismissed as rare and aberrant, nevertheless public disclosure of such events can bring forth a litany of further allegations of discriminatory and unjust police practices, as it did in the case of the Fitzroy Crossing incident (Saxon 1991b). Further, even if police mistreatment of youth in custody is the exception rather than the norm we

need only remember the recent Dethridge case in Perth<sup>2</sup> to appreciate the value for justice of better mechanisms for accountability.

### *Immigration Centres*

An article in the *Canberra Times* (Kingston 1993) in June 1993 stated that there were thirty children in Villawood detention centre in Sydney, including twelve born in detention. There is very little publicly available information on this detained population, or on the conditions in which these young people are held.

There are broad issues relating to the prolonged detention of illegal immigrants seeking refugee status and these apply equally and perhaps more urgently to children. Kingston (1993) conveys images of despair and desperation amongst detainees in the Villawood detention centre and concludes that suicides in such places should come as no surprise. Such conclusions raise serious questions about the policy and practice of extended detention of, in this case, juvenile illegal immigrants, and about the issue of public accountability.

### *Adult Prisons*

On 30 June 1991 there were fifty-eight juveniles under eighteen serving time in adult prisons (Walker 1992). Almost half the total number were serving time in Queensland gaols. Between 1980 and 1992 there were eight deaths of young people aged under eighteen in adult prisons (unpublished data, Deaths in Custody Monitoring Unit). Long sentences for serious juvenile offenders and terms in adult prisons are popular items on the law and order agenda. However, the scope for a rehabilitative experience, as opposed to a criminogenic one, is even more limited in our overcrowded, under-resourced and frequently violent prison system than it is in the traditional juvenile detention system (Forst & Blomquist 1991).

Eventually, these young graduates of the system will be recycled into the community. Whether our primary focus is the rehabilitation and welfare of the young offender, victims' rights, or the protection of society, the appropriateness of adult prison for juveniles must be seriously questioned.

### **Juvenile Detention Centres**

Our prime concern at this conference, however, is with juveniles in detention centres across Australia. We have limited knowledge about this population. The Australian Institute of Criminology began its collection of limited data on

---

<sup>2</sup>. A juvenile, Joseph Dethridge, accompanied a friend to the Fremantle Police Station, became embroiled in an argument with police, was assaulted by a police officer and then detained. The boy's parents eventually learned that the events at the police station had been recorded on video, and that the video was still intact. The video subsequently was produced in court to substantiate the boy's claims of police violence. In this instance the video recording made the difference between police ultimately being held accountable for their maltreatment of the juvenile, and their remaining where they had apparently believed themselves to be, that is, above the law.

juveniles in detention in 1977 by inviting directors of state welfare departments to submit quarterly returns on the numbers of juveniles held in detention. The Australian Institute Criminology has continued to collect and collate basic information on juveniles in detention in the juvenile justice system ever since. The Australian Institute of Health and Welfare collects information on juveniles under non-offence orders. A comprehensive national data base on juvenile corrections does not yet exist. The appropriate repository for such information, the purpose and nature of the data to be collected and the resourcing of the collection are all issues which remain to be addressed.

This paper offers a snapshot of juvenile detention on a particular date rather than an analysis of trends over time. The information in the following section was provided by the departments responsible for the administration of juvenile justice in each jurisdiction.

Juvenile justice offices were asked to provide information about juvenile detention facilities and details about detained populations as at 31 December 1992. The assistance of all jurisdictions in this regard is much appreciated. Some jurisdictions were unable to furnish information specific to this date but reported instead for the last day of a later quarterly period. Western Australia reported for 30 June 1993 and Queensland for 31 March 1993. Because of the aggregate reporting system in New South Wales the situation as at 8 January was chosen as being the closest reporting period to 31 December.

Australian Bureau of Statistics estimated residential population figures have been used where detention rates have been calculated or Aboriginal populations cited. In the juvenile detention data available, Aboriginal and Torres Strait Islander groups are undifferentiated. Because there are likely to be very few Torres Strait Islander young people in detention the term Aboriginal is used throughout.

### *New South Wales*

New South Wales outstrips the other jurisdictions in the number of institutions it runs for juveniles. There are ten detention centres, called juvenile justice centres, operating in this state.

Young women can be detained after sentencing at six centres (Worimi, Cobham, Minda, Reiby, Keelong, Riverina), and on remand only at a further two institutions (Yasmar, Broken Hill). Typically, all centres except Reiby detain girls on a short-term basis only. None of these centres caters exclusively for young women, although separate accommodation units exist in the long-term accommodation centres for girls (Reiby, and Minda during Reiby's refurbishment). Only girls over fifteen years of age are detained at Cobham and Yasmar. On average, there are about twenty-five females in custody at any one time, sentenced or on remand.

Boys are detained at all of the above institutions, as well as at Kariong (a high security institution) and Mt Penang. Only boys over fifteen are held at Kariong, Mt Penang, Cobham and Yasmar. Yasmar is for remandees only.

The current total bed capacity for remandees and sentenced young people in New South Wales is 510. The only inner suburban centre in New South Wales is Yasmar remand centre, which has a twenty-one bed capacity<sup>3</sup>. A further six centres are within a ninety kilometre radius of Sydney. The three remaining centres are at Broadmeadow (Worimi, thirty-five bed capacity), Broken Hill (remand centre, five bed capacity) and Wagga Wagga (Riverina Juvenile Justice Centre, thirty-four bed capacity).

Table 1 (*see* Appendix 1) outlines New South Wales' detention centres and their populations as at 8 January 1993.

Information for 8 January 1993 reveals that a total of 341 young people were in custody on that day. There were seventy-three Aboriginal males and three Aboriginal females held in detention, and 258 non-Aboriginal males and seven non-Aboriginal females. Aboriginal youth comprised 22.3 per cent of the youth in detention on that day (they comprise less than two per cent of ten to eighteen-year-olds in the New South Wales population). The number of young people in custody on that day was in most cases less than the mean daily occupancy for each centre in 1992.

The juvenile justice centre populations in New South Wales include some eighteen-year-olds who committed their offences prior to their eighteenth birthdays. At the time in question (January 1993) there were over 100 young people aged eighteen years in juvenile justice centres.

### *Victoria*

Victoria has witnessed a steady reduction in the number of institutions for young offenders and the number of beds in the institutions remaining. Langi Kal Kal adult youth training centre for males and Winlaton for girls have been the most recent closures. Victoria currently has the lowest juvenile detention rate of all the States and Territories. Few seventeen-year-old young people are contained in junior youth training (detention) centres. Some seventeen-year-olds who committed their offences prior to turning seventeen might still appear in the juvenile jurisdiction and be sentenced to a junior youth training centre. Youth between the ages of seventeen and twenty-one can be sentenced by the adult courts to an adult youth training centre, rather than prison. Adult youth training centres are administered by the Department of Health and Community Services, rather than by the adult corrective services system.

Victoria houses ten to sixteen-year-old offenders and remandees in two centres, both located at Parkville near the city centre. The Parkville youth residential centre provides fifteen beds for two groups: ten to fourteen-year-olds (boys and girls), and fifteen and sixteen-year-olds (girls only) who are detained or on remand. Turana Youth Training Centre has sixty beds for fifteen- and sixteen-year-old boys on remand or in detention. In all, seventy-five beds are provided for young people over ten and under seventeen years.

Sentenced young adults between seventeen and under twenty-one in Victoria can be placed in adult youth training centres rather than in the adult

---

<sup>3</sup>. The NSW Attorney-General announced in October 1993 that Yasmar would become a specialist detention centre for girls.

prison system. It is rare for young people aged twenty-one still to remain in an adult youth training centre rather than being in the adult prison system. A total of eighty-five beds are provided at three centres, Turana and Malmsbury for young men in this age group, and Parkville for women.

Girls from ten to sixteen, and young female adults to twenty-one years who have not been sentenced to prison, serve their time at Parkville, close to the city centre. Although the premises allow for the separation of remandees and detained young women, and for a separation between the three distinct age categories under which court orders are made, such separation does not necessarily happen in practice. The imperatives of staffing and programming mean the groups in reality do not remain discrete.

Parkville (the old Baltara complex) is the only institution in Victoria for detained females.

Victoria has a unique provision in its guardianship system, which is distinct from the juvenile justice system, which allows for juveniles requiring protective care to be held in secure detention for up to twenty-one days. Information about this population is not included in the Australian Institute of Criminology data base on juveniles in detention because these cases are now outside the jurisdiction of the juvenile justice system.

Table 2 (*see* Appendix 1) gives an outline of Victoria's detention centres and their populations at 31 December 1992.

On 31 December 1992 there were 105 young people in detention. Of these, there were three girls, all non-Aboriginal, and all under seventeen.

Of the 102 males in detention, thirteen were Aboriginal. Six were held in adult youth training centres; the remaining seven were under seventeen and held in junior centres. Of the eighty-nine non-Aboriginal males held, fifty-two were in adult youth training centres, and thirty-seven in junior centres. Aboriginal young people under seventeen comprised 14.9 per cent of all detained young people of that age group. They comprise about half a per cent of the relevant Victorian youth population.

Sixty-eight per cent of the available beds in juvenile detention centres and youth training centres were taken up, a figure slightly lower than the overall monthly average.

### *Queensland*

Queensland has four detention centres. John Oxley Youth Centre in Brisbane houses up to twenty-six young people: sentenced and remanded young women aged ten to seventeen, and sentenced boys aged ten to fourteen years. Sir Leslie Wilson Remand Centre in Brisbane houses up to twenty remanded boys aged ten to fourteen. It also takes any overflow from Westbrook Youth Centre, which caters for seventy-two sentenced and remanded boys aged fifteen to seventeen and is located at Westbrook, 150 km from Brisbane. Cleveland Youth Centre at Townsville, 1300 km north of Brisbane accommodates up to sixteen remanded or sentenced males and females aged between ten and seventeen.

Table 3 (*see* Appendix 1) gives an outline of Queensland's juvenile detention centres and their populations as at 31 March 1993.



On 31 March 1993 forty-eight Aboriginal youths were detained, including six girls. Forty-seven non-Aboriginal youths, including one girl, were detained in the same period. Aboriginal youth thus comprised more than 50 per cent of the detained youth population while representing about 3.6 per cent of the broader Queensland population of ten to seventeen-year-olds.

### *Western Australia*

Western Australia also has closed juvenile institutions in recent years. It now operates three secure juvenile detention centres. Longmore Training Centre has a forty-eight bed capacity for sentenced males and females aged from ten to seventeen years. Longmore Remand Centre is designated to hold 32 male and female remandees aged from ten to seventeen although provision has been made, and is made use of in practice, for the institution to take up to 39 young people<sup>4</sup>. Riverbank has 34 beds for juvenile males over 14 and usually operates to capacity.

Since the move to co-corrections at Nyandi in 1987, and the institution's subsequent closure, there is no longer a separate secure facility especially for girls. Beds in the Longmore complex can be used for boys or girls, depending on current needs. However, notionally, there are eight beds for females at each of the two facilities.

The Longmore facilities are in inner suburban Perth. Riverbank is about 22 km from Perth.

Table 4 (*see* Appendix 1) gives an outline of Western Australia's juvenile detention centres and their populations as at 30 June 1993.

At 30 June 1993, 104 of the available 121 secure beds were filled. Three Aboriginal and four non-Aboriginal females were in detention on that day. Sixty-four Aboriginal boys were detained, compared with 40 non-Aboriginal boys. Aboriginal youth, who represent less than 4 per cent of the State's relevant youth population, comprised 61.5 per cent of youth in detention on this day.

### *South Australia*

South Australia has two secure detention centres. The Youth Remand and Assessment Centre (SAYRAC) at Enfield, in metropolitan Adelaide functions as a remand, detention and, on the rare occasion, safekeeping centre. The seldom used safekeeping provisions allow for the detention of juveniles who are not subject to criminal proceedings. The Enfield institution can take a maximum of thirty-six young people, boys up to fifteen years of age and girls to eighteen years.

The institution at Magill, also in metropolitan Adelaide, holds a maximum of sixty boys up to eighteen years of age, and functions as a detention, remand and, occasionally, as a safekeeping centre. There are no separate accommodation units for males and females, nor for remanded and detained populations. This situation will be partially addressed with the

---

<sup>4</sup>. Longmore Remand was replaced by a new institution, Rangeview, in 1994.

opening of a new institution to replace one of the current institutions<sup>5</sup>. A result of the new institution will be an all round upgrading of security across the juvenile institutions.

Table 5 (*see* Appendix 1) gives an outline of South Australia's juvenile detention centres and their populations as at 31 December 1992.

On 31 December 1992 there was a total of forty-eight young people in detention. Eighteen Aboriginal young people, including two girls, were detained. Thirty non-Aboriginal males were detained, but no non-Aboriginal females. Half the total bed capacity was utilised on this day and the occupancy was significantly less than the daily average at both institutions.

Aboriginal youth, who represent less than 2 per cent of the State's relevant youth population, comprised 37.5 per cent of youth in detention on this day.

### *Tasmania*

Tasmania has one secure institution for young people, Ashley Home, at Deloraine, about 250 km from Hobart. Ashley Home receives sentenced or remanded males and females from eight to under eighteen years. The detention of children under ten does not take place in practice unless all other alternatives have been exhausted.

It is possible for non-offenders to be detained at Ashley Home under Tasmania's welfare based juvenile justice legislation (which is under review and likely to change in the near future). However, in practice such placements are rare. In the year 1992-93 three non-offenders were admitted to Ashley.

Table 6 (*see* Appendix 1) gives an outline of Tasmania's juvenile detention centre and its population as at 31 December 1992.

On 31 December 1992 there were eleven young people in detention, one below the average occupancy, and less than half the official capacity (thirty beds) of Ashley Home. No Aboriginal children and no girls were detained on that day.

### *Northern Territory*

Two juvenile detention centres operate in the Northern Territory, both in the Top End. Giles House in Alice Springs was closed in 1991 and children from the southern region remanded or sentenced to detention are now sent to join their Top End peers at the Don Dale Centre in Darwin. The Don Dale Centre has a higher level of security than the institutions it replaced (Northern Territory, Department of Correctional Services 1993). The southern region produced eight young people remanded to detention and sixteen sentenced to detention in 1992 (Northern Territory, Department of Correctional Services 1993).

---

<sup>5</sup>. The institution at Cavan is now open. SAYRAC, whose population is now housed at Magill, has closed. The Cavan clients are those who previously would have been detained at Magill.

Boys detained for long periods can be sent to the Wildman River Wilderness Work Camp 160 km out of Darwin.

Table 7 (*see* Appendix 1) gives an outline of the Northern Territory's juvenile detention centres and their populations as at 31 December 1992.

On 31 December 1992 fourteen Aboriginal young people were detained, including one Aboriginal girl. Three non-Aboriginal boys were detained at the same time, two at the Don Dale Centre and one at the Wilderness Work Camp. These overall numbers were significantly lower than the average daily occupancy for 1992. Aboriginal youth represented 82.4 per cent of the detained population on that day (Aboriginal youth represent about 35 per cent of the Northern Territory youth population).

#### *Australian Capital Territory*

The ACT has one secure detention centre, in inner suburban Canberra, with twenty-one beds for male and female sentenced juveniles and those on remand. Children as young as eight can be detained at Quamby, although the average age is between 16 and 17 years. At eighteen, a youth would usually not be eligible for a juvenile hearing and detention at Quamby except if the offence were committed before his or her eighteenth birthday and legal action had commenced before the young person had reached eighteen years and six months.

Quamby allows for the separation of remandees from sentenced young people, but does not have separate sections for males and females.

Table 8 (*see* Appendix 1) gives an outline of the ACT's juvenile detention centre and its population as at 31 December 1992.

On 31 December 1992 Quamby held 11 young people, all non-Aboriginal and all but one males. One boy was on remand, the rest had been committed by the courts. The average daily occupancy at Quamby is 11.6 young people.

#### **Some Issues for Discussion**

It is clear from this brief overview that some States incarcerate youth far more readily than others (*see* Table 9 in Appendix 1), and that the over-representation of Aboriginal youth in custody is a major problem in the juvenile justice system in many jurisdictions (Tables 9, 10 and 11 in Appendix 1; Figures 2 and 3). In fact, the levels of over-representation are often extreme, even when compared with the over-representation of Aboriginal people in the adult jurisdiction. Table 11 in Appendix 1 outlines the extent of Aboriginal over-representation in the juvenile detention system for the particular date in question.

Figure 2

**Percentage Aboriginal and Non-Aboriginal Juvenile Detainees**

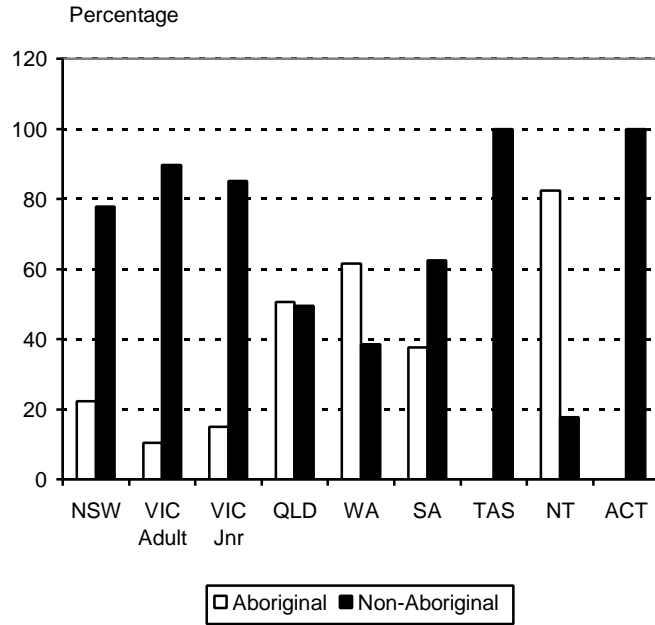
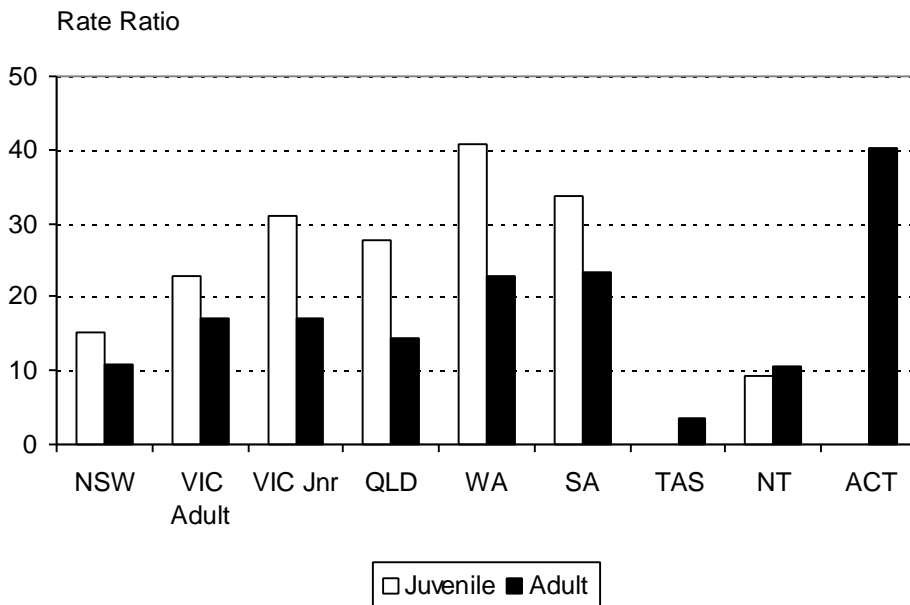


Figure 3

**Aboriginal and Torres Strait Islander Level of Over-Representation in Juvenile/Adult Institutions**



The over-representation of Aboriginal youth is not addressed in policies which aim to reduce overall detention centre populations but ultimately still ensure the longer, more certain incarceration of certain groups of young offenders. It is well known for example, that the major target group of the Western Australian Crime (Serious and Repeat Offenders) Sentencing Act—joy riders whose offences result in death or injury—contains an over-representation of Aboriginal youth (Atkinson & Chappell in press).

O'Connor (1993) points out that our tariff sentencing policy, focussing as it does on the offence, and succeeding as it does in incarcerating serious repeat offenders, ignores issues like inequitable police practices (including overpolicing) and racism. Underlying structural factors and racist and otherwise inequitable systems contribute to the selection of groups for entry into the juvenile justice system in the first place.

Reforms at all levels of the juvenile and criminal justice systems are needed to address Aboriginal over-representation, but we also need adequate data to map trends over the long term. (The kinds of reforms needed in our justice systems have been described by Warner & O'Connor in, for example, Alder et al. 1992, Warner 1993, O'Connor 1993a, O'Connor 1993b). The Australian Institute of Criminology is now seeking from the jurisdictions in their quarterly returns information about the Aboriginality of young people in detention centres. While this is a start, the AICs juveniles in detention data is nevertheless limited. What is needed is a national comprehensive data base.

A second problem is the exposure to increased levels of punishment experienced by many Aboriginal young people through being detained so far from home. Aboriginal youth detained in Perth or Darwin, for example, come from all corners of the State or Territory. As Wilkie (1991) points out for Western Australia, an overwhelming number of country admissions to juvenile detention centres are Aboriginal. This applies to other jurisdictions with high Aboriginal populations. Some Aboriginal young people are sent thousands of kilometres to custody "down south" or, in the case of the Northern Territory, "up north". Severed as they are from their cultural base, from family, country and language, the experience of these Aboriginal young people in the juvenile justice system is one of double jeopardy.

Creating more juvenile detention centres in outback areas is not the solution. Rather, there needs to be an increased and more creative use of diversion from custody, with detention used sparingly, only in extreme circumstances. Community education to gain support for these measures is essential.

A further issue which should be prominent on the juvenile corrections discussion agenda is the question of private sector involvement. The private sector has been involved with delivering community based programs in the United States (Bakal & Lowell 1992) and Britain (Nellis 1989) for some time. Further, the delivery of services in juvenile institutions and indeed the management of these institutions in the United States has seen some private sector involvement since the 1950s (Curran 1988). In 1989, 39 per cent of young people confined in correctional facilities in the United States were in the care of the private sector, mostly in halfway houses, but also in training

schools and a very few (396, or about 1 per cent of the total in private facilities) in private detention centres (Krisberg et al. 1992).

No doubt many will conclude that private management of juvenile detention in Australia and its alternative manifestations, such as home detention, is of little import now, since the days have passed of substantial involvement by church and charitable organisations. However, the private sector is already involved in program delivery in juvenile corrections. There is a private sector representative at this conference, for example, who is involved in running training courses for the management of violent behaviour in detention centres. In the adult corrections context, Australia has embraced the concept of private prisons. One private prison, the Arthur Gorrie Correctional Centre, has generated much concern and some criticism. There have been two suicides this year at Arthur Gorrie and a death in suspicious circumstances (unpublished data, Deaths in Custody Monitoring Unit). These deaths and a near riot at the prison in October 1992 (Harding 1993) raise urgent questions about management and accountability in privatised correctional services.

The issues relating to private sector involvement are complex. We need to be well informed in order to be proactive about this growing trend, and to ensure the level and nature of private sector involvement has a rationality which goes beyond supposed cost savings.

## **Conclusion**

Juvenile detention has been a neglected area. This can be seen both in the limited nature of the hard data available (compared with, say, adult corrections data), and by the fact that issues and problems relating to juvenile detention have been recycled down the generations. We need to remember history and to learn from it, if we are to create a fairer and better juvenile corrections system.

## **References**

- Alder, C., O'Connor, I., Warner, K. & White, R. 1992, *Perceptions of the Treatment of Juveniles in the Legal System*, National Youth Affairs Scheme, National Clearing House for Youth Studies, Hobart.
- Angus, G. & Wilkinson, K. 1993, *Children Under Care and Protection Orders Australia 1990-91*, Child Welfare Series, No 3, Australian Institute of Health and Welfare, Canberra.
- Atkinson, L. & Chappell, D. in press, "Juvenile justice in Australia", in *Issues and Perspectives on Young Offenders in Canada*, ed. J. Winterdyk, HBJ-Holt, Toronto.
- Bakal, Y. & Lowell, H. 1992, "The private sector in juvenile corrections", in *Juvenile Justice and Public Policy*, ed. I. Schwartz, Lexington Books, New York.

- Cain, M. & Luke, G. 1991, *Sentencing Juvenile Offenders and the Sentencing Act 1989 (NSW)*, Judicial Commission of New South Wales, Sydney.
- Clarke, M. 1970 (first published 1870), *His Natural Life*, Penguin, Aylesbury, Bucks, Great Britain.
- Curran, D. J. 1988, "Destructuring, privatization, and the promise of juvenile diversion: Compromising community-based corrections", *Crime and Delinquency*, vol. 34, no. 4, October.
- Dagger D. 1993, *Persons in Juvenile Corrective Institutions*, no. 62, March, Australian Institute of Criminology, Canberra.
- Forst, M. L. & Blomquist, M.E. 1991, "Cracking down on juveniles: The changing ideology of youth corrections", *Notre Dame Journal of Law, Ethics & Public Policy*, vol. 5, no. 2.
- Harding, R. 1993, "Inside trading", *The Bulletin*, 6 April.
- Howard League for Penal Reform 1993, *Young and in Trouble*, The Howard League for Penal Reform, London.
- Howlett, C. 1993, *Deaths in Juvenile Detention 1980-1992*, Deaths in Custody Australia No. 3, Australian Institute of Criminology, Canberra.
- Hughes, R. 1987, *The Fatal Shore*, Collins Harvill, London.
- Kingston, M. 1993, "Washing his hands of the refugees", *The Canberra Times*, 26 June, p. C1.
- Krisberg, B., DeComo, R. & Herrera, N. 1992, *National Juvenile Custody Trends 1978-1989*, the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.
- McDonald, D. 1993, *National Police Custody Survey 1992: Preliminary report*, Deaths in Custody Australia No. 2, Australian Institute of Criminology, Canberra.
- Nellis, M. 1989 "Juvenile justice and the voluntary sector", in *Privatizing Criminal Justice*, ed. R. Matthews, Sage, London.
- O'Connor, I. 1993a, "Spare the rod? New laws, old visions", *Alternative Law Journal*, vol. 18, no. 1, February.
- O'Connor, I. 1993b, "Juvenile justice issues in Queensland: New laws, old visions", in *National Conference on Juvenile Justice*. Conference Proceedings No. 22, eds L. Atkinson & S. Gerull, Australian Institute of Criminology, Canberra.

- Potas, I., Vining, A. & Wilson, P. 1990, *Young People and Crime: Costs and Prevention*, Australian Institute of Criminology, Canberra.
- Saxon, M. 1991a, "Youth locked up and 'forgotten'", *Sunday Times*, 12 May.
- 1991b, "False arrests made, say aides", *Sunday Times*, 12 May.
- Seymour, J. 1988, *Dealing With Young Offenders*, The Law Book Company, Sydney.
- Sumner, C. 1993, "Preventing juvenile crime", in *National Conference on Juvenile Justice*, Conference Proceedings No. 22, eds L. Atkinson & S. Gerull, Australian Institute of Criminology, Canberra.
- Walker, J. 1992, *Australian Prisoners 1991*, Australian Institute of Criminology, Canberra.
- Warner, K. 1993, "The courts, the judiciary and new directions: The limits of legislative change", in *National Conference on Juvenile Justice*, Conference Proceedings No. 22, eds L. Atkinson & S. Gerull, Australian Institute of Criminology, Canberra.
- Wilkie, M. 1991, *Aboriginal Justice Programs in Western Australia*, Research Report No. 5, July, Crime Research Centre, University of Western Australia, Nedlands, WA.



# APPENDIX 1

Table 1

Juvenile Detention - New South Wales, January 1993

Name of institution	Type of institution: detention and/or remand and/or non-offenders	Location Approx. distance from Sydney	Intended juvenile population	Official no. of beds	No. of juveniles in detention as at 8/1/93*			
					Aboriginal Male	Female	Non-Aboriginal Male	Female
Worimi	Remand and Sentenced	Broadmeadow 180 km	10 - 18 years males and females	5	4	0	19	0
Kariong	High Security - serious management problems	Kariong 88 km	16 - 18 years males only	36	2	-	21	-
Mt Penang	Sentenced	Kariong 88 km	16 - 18 yrs males only	160 (plus 12 reserve)	18	-	107	-
Cobham	Remand and Sentenced (limited number sentenced)	St Marys 50 km	16 - 18 years males and females	46	7	0	19	1
Yasmar	Remand	Haberfield 8 km	16 - 18 years males and females	21 (11 bed unit to be closed)	6	0	13	0
Minda	Remand and Sentenced (Multi-function)	Lidcombe 26 km	10 - 18 years males and females	52 **	9	0	21	0
Reiby	Sentenced	Campbelltown 45 km	10 - 18 years males and females	93 (Female unit temp. located at Minda due to refurbishment)	13	3	37	6
Keelong	Remand and Sentenced	Unanderra 79 km	10 - 18 years males and females	28	4	0	9	0
Riverina	Remand and Sentenced	Wagga Wagga 480 km	10 - 18 years males and females	34	10	0	12	0
Broken Hill	Remand (facility used on a needs only basis)	Broken Hill 1 260 km	10 - 18 years males and females	5	0	0	0	0
<b>Totals</b>				510	73	3	258	7

\*Extracted from Client Information System Aggregated Management Report as at 8/1/93.

\*\* (plus temporary unit of 10) Includes 16 bed unit for management problems (males under 16 years)

**\*Explanatory Notes**

1. Although normal age is 10 years to 18 years, nearly 100 detainees in custody are aged over 18 years.

2. The female population fluctuates, however, there is an average of 25 females on remand and sentenced at any time.

Normally, females are accommodated at Whitten Cottage (Reiby). Currently, Whitten Cottage is being refurbished and female appropriate facilities and programs are being developed for that site. Other centres may hold females but typically only on a short term basis.

Table 2

**Juvenile Detention - Victoria, December 1992**

<i>Name of institution</i>	<i>Type of institution: detention and/or remand and/or non-offenders</i>	<i>Location Approx. distance from Melbourne</i>	<i>Intended juvenile population</i>	<i>Official no. of beds</i>	<i>No. of juveniles in detention on 31/12/92</i>			
					<i>Aboriginal Male</i>	<i>Aboriginal Female</i>	<i>Non-Aboriginal Male</i>	<i>Non-Aboriginal Female</i>
Turana Youth Training Centre (Adult and juvenile)	Remand and Sentenced	Parkville, 3 km	15 - 17 years, males only	60	6	-	32	-
Malmsbury Adult and Youth Training Centre	Sentenced	Malmsbury, 95 km	17 - 21 years, males only	20	-	-	18	-
Parkville Youth Residential Centre	Remand and Sentenced	Parkville 3 km	17 - 21 years, males only	60	3	-	34	-
	Remand and Sentenced		10 - 14 years males and females	10	1	0	5	0
	Remand and Sentenced		15 - 17 years, females only	5	-	0	-	3
	Sentenced		17 - 21 years, females only	5	-	0	-	0
<b>Total Adult (17 - 21 years)</b>				85	6	0	52	0
<b>Total Juvenile (10 - 17 years)</b>				75	7	0	37	3

Table 3

### Juvenile Detention - Queensland, March

Name of institution	Type of institution: detention and/or remand and/or non-offenders	Location Approx. distance from Brisbane	Intended juvenile population	Official no. of beds	No. of juveniles in detention on 31/3/93			
					Aboriginal Male	Non-Aboriginal Male	Female	Female
John Oxley Youth Centre	Sentenced Remand and Sentenced	Wacol, Brisbane Westbrook 140 km	10 - 14 years, males only 10 - 17 years, females 15 - 17 years, males only	26	7	6	4	1
Westbrook Youth Centre	Remand and Sentenced		10 - 14 years, males only Overflow from Westbrook Youth Centre	72	25	-	33	-
Sir Leslie Wilson Youth Centre	Remand	Windsor, Brisbane		20	1	-	7	-
Cleveland Youth Centre	Remand and Sentenced	Townsville 1300 km	10 - 17 years, males and females	16	9	0	2	0
<b>Totals</b>				134	42	6	46	1

Table 4

### Juvenile Detention - Western Australia, June 1993

Name of institution	Type of institution: detention and/or remand and/or non-offenders	Location Perth	Approx. distance from Intended juvenile population	Official no. of beds	No. of juveniles in detention as at 30/6/93			
					Aboriginal Male	Non-Aboriginal Male	Female	Female
Longmore Training Centre (Also Nyandi)	Sentenced	Bentley 6 km	10 - 17 years males and females	48	26	0	9	4
Longmore Remand Centre	Remand and Default	Bentley 6 km	10 - 17 years males and females	39*	17	3	11	0
Riverbank	Sentenced	Caversham 22 km	15 - 17 years males only	34	18	-	16	-
<b>Totals</b>				121	61	3	36	4

\*(includes 5 extra to capacity but often used)

Table 5

### Juvenile Detention - South Australia, December 1992

Name of institution	Type of institution: detention and/or remand and/or non-offenders	Location Approx. distance from Adelaide	Intended juvenile population	Official no. of beds	No. of juveniles in detention on 31/12/92			
					Aboriginal Male	Aboriginal Female	Non-Aboriginal Male	Non-Aboriginal Female
South Australian Youth Remand and Assessment Centre	Remand, Sentenced and Safekeeping (rarely used)	Enfield (Metropolitan area)	10 - 15 years, males and 10 - 17 years, females	36	2	2	11	0
South Australian Youth Training Centre	Remand, Sentenced and Safekeeping (rarely used)	Magill (Metropolitan area)	10 - 17 years, males only	60	14	-	19	-
<b>Totals</b>				96	16	2	30	0

Table 6

### Juvenile Detention - Tasmania, December 1992

Name of institution	Type of institution: detention and/or remand and/or non-offenders	Location Approx. distance from Hobart	Intended juvenile population	Official no. of beds	No. of juveniles in detention on 31/12/92			
					Aboriginal Male	Aboriginal Female	Non-Aboriginal Male	Non-Aboriginal Female
Ashley Home*	Remand and Sentenced	Deloraine 250 km	10 - 17 years males and females	30	0	0	11	0

\*On very rare occasions non-offenders are placed in Ashley.

3 Non-offenders were admitted during 1992-93.

Table 7

**Juvenile Detention - Northern Territory, December 1992**

<i>Name of institution</i>	<i>Type of institution: detention and/or remand and/or non-offenders</i>	<i>Location</i> <i>Approx. distance from Darwin</i>	<i>Intended juvenile population</i>	<i>Official no. of beds</i>	<i>No. of juveniles in detention on 31/12/92</i>			
					<i>Aboriginal Male</i>	<i>Non-Aboriginal Male</i>	<i>Aboriginal Female</i>	<i>Non-Aboriginal Female</i>
Don Dale Centre	Remand and Sentenced	Darwin	10 - 16 years males and females	24 (4 for females)	8	1	2	0
Wilderness Work Camp	Long-term remand and Sentenced	Wildman River 160 km	10 - 16 years males only	16	5	-	1	-
<b>Totals</b>				40	13	1	3	0

Table 8

**Juvenile Detention - Australian Capital Territory, December 1992**

<i>Name of institution</i>	<i>Type of institution: detention and/or remand and/or non-offenders</i>	<i>Location</i> <i>Approx. distance from Canberra</i>	<i>Intended juvenile population</i>	<i>Official no. of beds</i>	<i>No. of juveniles in detention on 31/12/92</i>			
					<i>Aboriginal Male</i>	<i>Non-Aboriginal Male</i>	<i>Aboriginal Female</i>	<i>Non-Aboriginal Female</i>
Quamby	Remand and Sentenced	Symonston 6 km	8 - 18 years males and females	21	0	0	10 (1 remand sentenced)	1 (sentenced)

Table 9

**Number of Juveniles Detained, Beds Available and  
Rate per 100 000 Youth Population**

<i>Jurisdiction* Date+</i>	<i>No. Beds Available</i>	<i>No. Beds Occupied (No. of Juveniles Detained)</i>	<i>Rate of Incarceration (all detainees) Per 100 000 Youth Population</i>
NSW (8.1.93)	510	341	44.61
VIC (Adult YTC 31.12.92)	85	58	15.87
VIC (Junior YTC 31.12.92)	75	47	9.36
QLD (31.3.93)	134	95	25.70
WA (30.6.93)	121	104	52.01
SA (31.12.92)	96	48	30.12
TAS (31.12.92)	30	11	19.32
NT (31.12.92)	40	17	88.52
ACT (31.12.92)	21	11	29.78

\*The relevant youth population is used for each jurisdiction to calculate rates and includes the age groups actually represented in detention centres. New South Wales juvenile population includes 18-year-olds since so many of them were in juvenile justice centres on the relevant date.

+Date for which total numbers of juveniles in juvenile detention centres reported.

Table 10

**Number of Detainees and Rate of Incarceration by Aboriginality,  
and Percentage Detained**

<i>Jurisdiction* Date+</i>	<i>No. of Detainees</i>		<i>Rate of Incarceration</i>		<i>% Detained</i>	
	<i>Aboriginal</i>	<i>Non- Aboriginal</i>	<i>Aboriginal Juveniles (Per 100 000 Aboriginal Juvenile Population)</i>	<i>Non-Aboriginal Juveniles (Per 100 000 Non- Aboriginal Juvenile Population)</i>	<i>Aboriginal</i>	<i>Non- Aboriginal</i>
NSW	76	265	541.23	35.32	22.29	77.71
VIC (Adult YTC)	6	52	326.62	14.30	10.34	89.66
VIC (Junior YTC)	7	40	247.96	8.01	14.89	85.11
QLD	48	47	363.80	13.18	50.53	49.47
WA	64	40	848.69	20.79	61.54	38.46
SA	18	30	648.18	19.16	37.50	62.50
TAS	0	11	0.00	19.96	0.00	100.00
NT	14	3	218.96	23.42	82.35	17.65
ACT	0	11	0.00	30.05	0.00	100.00

\*See note Table 9

+As per Table 9



Table 11

**Aboriginal and Torres Strait Islander Level of Over-Representation in  
Juvenile/Adult Institutions (Rate Ratio)**

<i>Jurisdiction* Date+</i>	<i>Aboriginal Juvenile</i>	<i>Aboriginal** Adult</i>
NSW	15.33	10.96
VIC (Adult YTC)	22.83	17.11
VIC (Junior YTC)	30.95	17.11
QLD	27.59	14.48
WA	40.83	22.72
SA	33.83	23.36
TAS	-	3.66
NT	9.35	10.65
ACT	-	40.22

\*See note Table 9

\*\* As at 30 June 1992

+As per Table 9

# A PROFILE OF JUVENILES IN NSW JUVENILE JUSTICE CENTRES

**Michael Cain**

THE NSW GOVERNMENT CAME INTO OFFICE IN MARCH 1988 ON A STRONG law and order platform. Since then, a great deal of pressure has been placed on the Government by the public and the media to maintain this stance.

The NSW *Sentencing Act 1989* is one expression of the Government's law and order platform. Introduced in late September 1989, truth in sentencing legislation, as it became known, was an attempt by the Government to regain public confidence in both the sentencing process and the administration of custodial sentences.

Three features of truth in sentencing legislation are particularly noteworthy:

- the Sentencing Act aims to ensure that persons serve in full the minimum term of custody ordered by the court;
- the Sentencing Act abolished the use of remissions;
- the Sentencing Act applies equally to juveniles and adults.

Truth in sentencing has been successful in achieving its principal aim of ensuring court ordered minimum sentences are served in full, with no reduction possible from the application of administratively based remissions. However, it has also effectively made juveniles serve longer periods in custody than any sentencing regime since 1984. On average, juvenile detainees now serve one-third longer in custody than they would have under the earned remissions scheme which operated prior to the introduction of the Sentencing Act (Cain & Luke 1991).

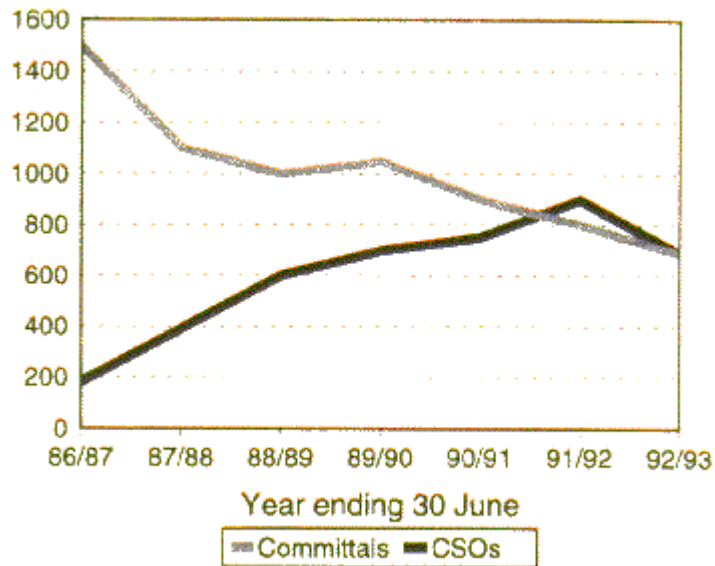
Notably, in this climate of tough law and order and truth in sentencing policies, a set of somewhat contrary principles has been operating with increasing effect. Diversion and last resort sentencing, particularly in relation to the incarceration of juvenile offenders, has been a growing movement over the last decade, urged on by criminal justice commentators who have

highlighted the inadequacies of penal measures as a means of dealing with juvenile offenders.

Figure 1 clearly shows the trend towards the reduced use of incarceration and the increased use of community service orders for juvenile offenders. Notably, in 1991-92, and for the first time in the history of juvenile justice in NSW, the number of community service orders exceeded the number of committals (CSOs: 878; committals: 851). Also, as a proportion of all Children's Court outcomes, CSOs (6.4 per cent) exceeded committals (6.2 per cent).

*Figure 1*

**Children's Court Committals and Community Service Orders,  
1986-87 to 1992-93**



Preliminary data for 1992-93 (that is, 95 per cent complete at time of writing) indicates that the five-year trend towards fewer committals appears likely to have continued, with only 729 control detention orders (representing 6.1 per cent of outcomes) being ordered by the courts. However, CSOs also appear to have decreased in 1992-93, in terms of both their total number (704) and as a percentage of all outcomes (5.9 per cent).

Importantly, while the proportionate use of custodial sanctions for juvenile offenders has dropped from 10.3 per cent of outcomes in 1986-87 to 5.7 per cent in 1990-91, over the last two years the lowered use of custody appears to have "bottomed out" at around 6 per cent of outcomes. This may indicate that the courts have exhausted their diversionary powers and that no further reduction in the use of custody is possible. If this were true, then it

may be expected that the current clients of NSW juvenile justice centres represent, in general terms, the more extreme, serious and recalcitrant offenders for whom alternatives to custody could not be considered as either appropriate or viable.

This paper details the characteristics of juveniles held in NSW juvenile justice centres as at 13 April 1993, and provides a selection of information from a more comprehensive report currently being prepared by the Department of Juvenile Justice<sup>1</sup>. The larger report is the first in a series of yearly replications of an earlier study profiling the characteristics of juveniles in custody in 1992 (Cain 1993).

### **Aim**

This study provides information on the general characteristics of juveniles held in custody in order to examine whether those in custody are the more serious offenders for whom non-custodial penalties are wholly inappropriate. The study also examines the characteristics of remandees to shed light on the reasons for and appropriateness of bail refusals.

### **Method**

Data for this study were obtained principally from the Client Information System (CIS), a client management database providing statistical information on children ordered into the care and supervision of the Department of Juvenile Justice. The CIS provides for regular census reports on the number and characteristics of children detained in juvenile justice centres. The CIS also permits personal and criminal history information to be extracted.

This study accessed the records of all juveniles detained in juvenile justice centres as at 13 April 1993. The profiles of 367 detainees were examined. The criminal history information of each juvenile in detention was verified by matching records on the Children's Court Information System, a court-based statistical information system maintained by the Department of Juvenile Justice in parallel to the CIS.

The following characteristics were examined for each person in custody:

- status
- gender
- age
- ethnicity/cultural background
- offence/alleged offence
- number of previous proven offences
- most serious previous proven offence
- first proven offence
- whether the juvenile had previously received:

---

<sup>1</sup>. Office of Juvenile Justice became Department of Juvenile Justice in September 1993.

- (a) a supervised probation or supervised recognisance
  - (b) a community service order
  - (c) a term in custody
- number of custodial terms previously served.

**Results**

*Status*

Seventy per cent (70 per cent) of juveniles held in juvenile justice centres on 13 April 1993 were on control orders (that is, had been sentenced to detention), 28.1 per cent were on remand, and 1.9 per cent were on appeal.

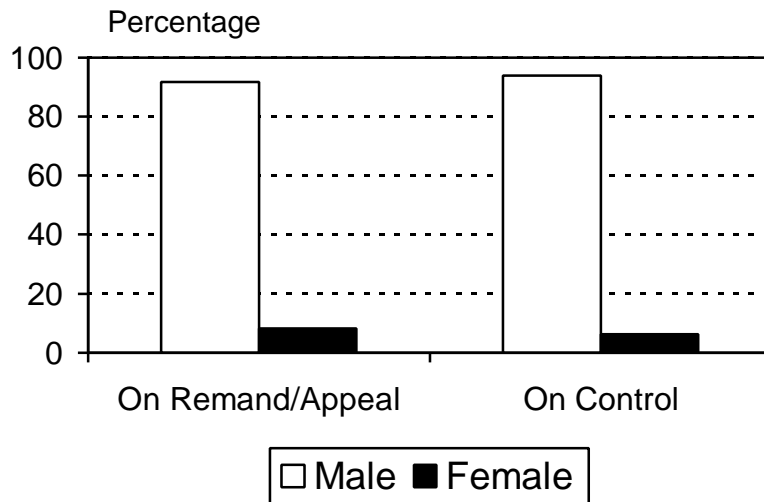
In the eighteen months since the original Office of Juvenile Justice was established as a separate department, juveniles on control have made up approximately three-quarters of the juvenile justice centre population, while juveniles on remand and appeal have made up the remaining quarter.

*Gender*

Males made up 93.2 per cent of the total juvenile justice centre population on 13 April 1993. Girls represent 6.2 per cent of juveniles serving control orders and 8.2 per cent of remandees, a significantly higher proportion relative to the number of females in the control population (see Figure 2).

*Figure 2*

**Status and Gender of Persons in NSW Juvenile Justice Centres, as at 13 April 1993**

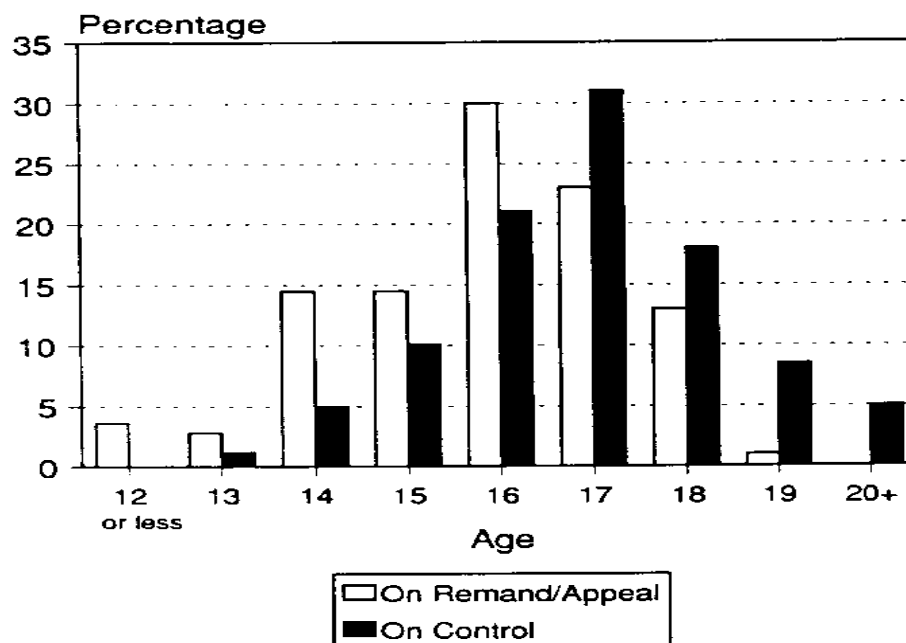


*Age*

The remand and control order groups have quite different age profiles (see Figure 3). Remandees are generally younger, with 33.6 per cent of remandees being less than sixteen years of age and 6.4 per cent aged 13 years or less. In contrast, only 16.3 per cent of full time detainees are less than sixteen years of age, and only 1.2 per cent of juveniles on control are aged 13 years or less.

Figure 3

**Age of Persons in NSW Juvenile Justice Centres, as at 13 April 1993**



*Ethnicity/cultural background*

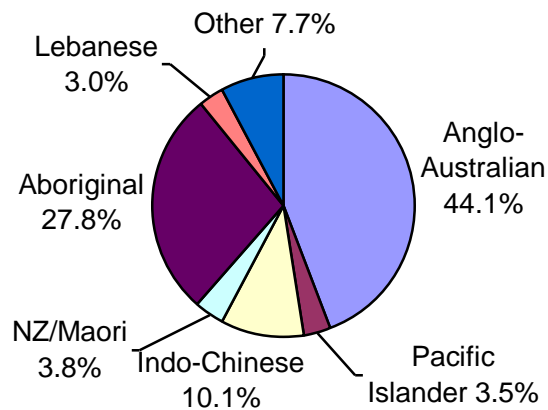
Figure 4 shows the main ethnic/cultural groups of juveniles in juvenile justice centres on 13 April 1993. While Anglo-Australians represent almost half (44.1 per cent) the detainees, it is the Aboriginal and the Indo-Chinese (ie Vietnamese, Cambodian, Laotian) groups that are grossly over-represented in comparison to their numbers in the general population.

Aboriginal people constitute less than 2 per cent of the general population of NSW but have consistently represented 20 per cent of the juvenile detention population. While 27.8 per cent is an "above average" figure for NSW juvenile justice centres, it highlights the disturbing profile of

Aboriginal youth in detention. It also raises questions concerning the adequacy of present juvenile justice measures to deal effectively and appropriately with young Aboriginal offenders.

Figure 4

**Ethnicity/cultural Background of Persons in NSW Juvenile Justice Centres, as at 13 April 1993**



Indo-Chinese young offenders are also prominent as a group in custody. Over recent years, the number of Indo-Chinese juvenile offenders has grown, and they now make up around 10 per cent of juveniles in custody. The current high number of Indo-Chinese offenders in detention, the sharp rise in their numbers over the last few years, and the weightiness of their sentences (which reflects the seriousness of their offending) poses a significant challenge for this Department in terms of providing effective and appropriate management strategies for this group of juveniles.

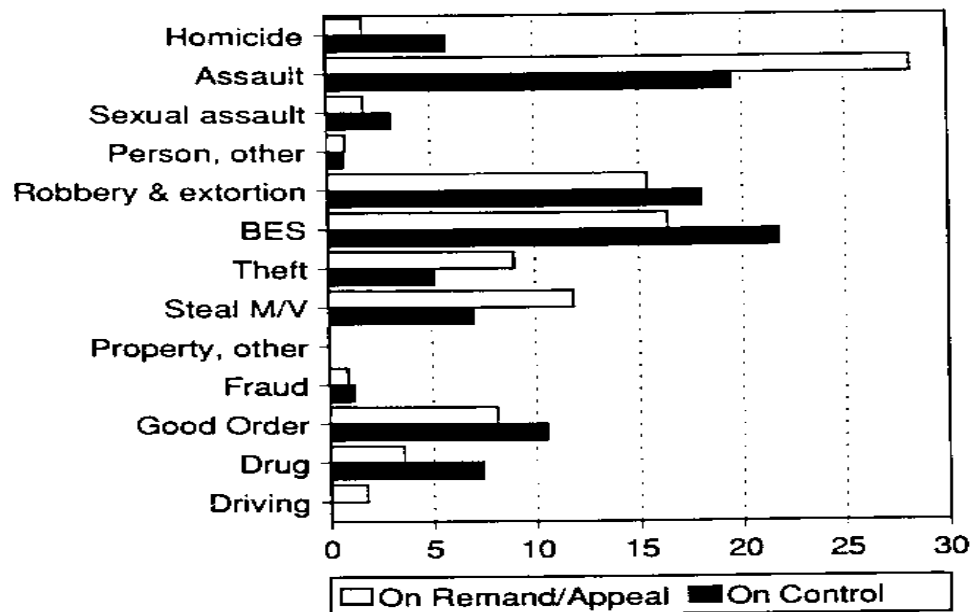
*Offence*

**Juveniles on control orders:** It is evident from figure 5 that courts tend to impose custodial sentences on juveniles who have committed acts of violence such as homicides, assaults and robberies. Close to half (47.1 per cent) of the juveniles on control orders had committed offences against persons, or robberies. Nineteen juveniles (7.1 per cent) were serving control orders in relation to drug offences, with supply/trafficking drugs outnumbering possession offences by nearly two to one.

Other juveniles serving control orders were incarcerated in relation to break and enter offences (21.8 per cent), motor vehicle theft (7 per cent) and other theft offences (5.1 per cent). Of those in custody on good order/justice offences, two-thirds (18 of 27) had been given an additional term for escaping/absconding, and another five had been placed on control for breaches of noncustodial orders. Of the remaining juveniles, one was in custody for offensive behaviour, a second for trespassing, and a third juvenile for a firearms offence.

Figure 5

**Principal Offence for Persons on Remand and Control in  
NSW Juvenile Justice Centres,  
as at 13 April 1993**



**Juveniles on remand:** Violent crimes also figure prominently in the alleged offences of remandees. Approximately half (48.2 per cent) the remandees were being held for alleged crimes of violence, including robberies.

Drug offences do not show up noticeably for juvenile remandees (3.6 per cent), but theft offences, particularly steal motor vehicle (11.8 per cent) and steal from person/shoplifting (9 per cent), are proportionately higher than for the group on control. Offences of escaping from lawful custody and breach of



existing court orders again typify the offences of the majority of juveniles held on remand in relation to good order/justice matters.

#### *Prior record*

One may argue that the juveniles in detention on 13 April 1993 are a highly recidivist group of offenders, with only one in eight children (12.7 per cent) on remand and fewer than one in twelve (7.8 per cent) on control having no prior proven criminal offence (*see* Table 1).

*Table 1*

#### **Number of Previous Proven Offences for Juvenile Detainees**

<i>No. previous offences</i>	<i>On Remand/Appeal</i> %	<i>On Control</i> %
None	12.7	7.8
1	5.5	7.0
2 to 5	26.4	20.6
6 to 9	16.4	14.0
10 or more	39.1	50.6

Over half (50.6 per cent) of the juveniles in full-time custody and almost 40 per cent (39.1 per cent) of all juveniles held on remand had at least ten prior proven offences (this excludes multiple counts of the same offence). In fact, almost 82 per cent of remandees and over 85 per cent of juveniles on control had two or more prior proven offences. This provides a very disturbing picture of the level of experience and sophistication of criminal activity of juveniles held in NSW juvenile justice centres, and of the continuing problems posed by juvenile recidivism for criminal justice administrators.

#### *Most serious previous proven offence*

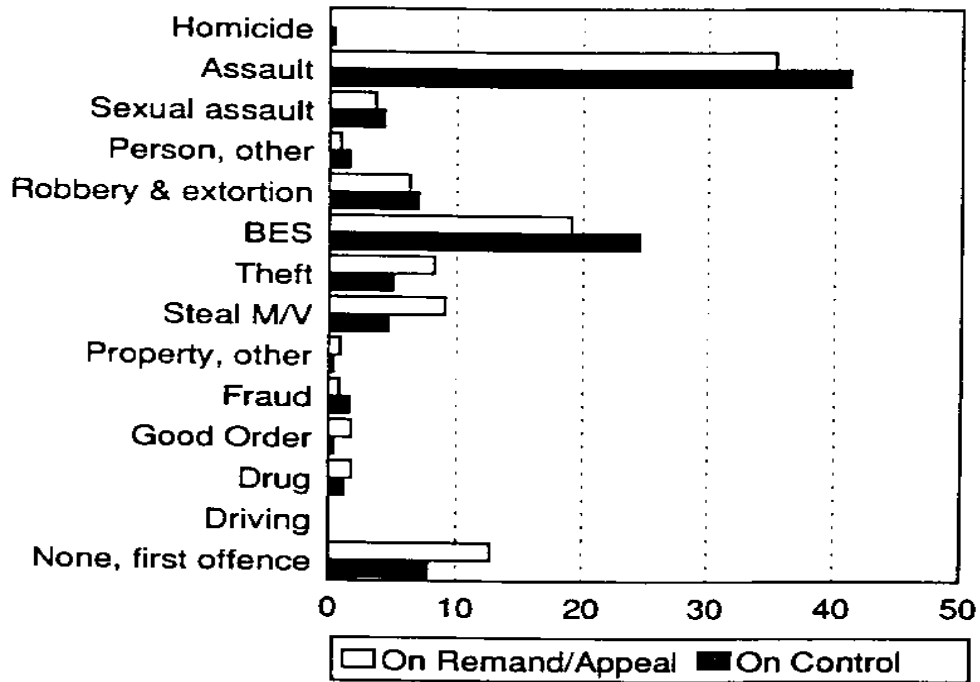
In terms of their most serious previous proven offence, both juveniles on control and juveniles on remand are likely to commit, at least at some stage in their criminal career, a crime of violence. Almost half the remandees (46.4 per cent) and over half of those on control (54.5 per cent) had at some time been convicted of a violent offence, with the control population having committed a slightly higher proportion of assaults (41.2 per cent vs 35.4 per cent) and a slightly higher proportion of robberies (7 per cent vs 6.3 per cent) than the remand group (*see* figure 6).

On the other hand, the remand group is more likely to have a property offence as the most serious previous proven offence. Car theft, theft from

persons and shoplifting figure in the profiles of almost 20 per cent of remandees, yet occur in fewer than 10 per cent of the profiles of juveniles in full-time custody.

Figure 6

**Most Serious Previous Offence for Persons on Remand and Control in NSW Juvenile Justice Centres, as at 13 April 1993**



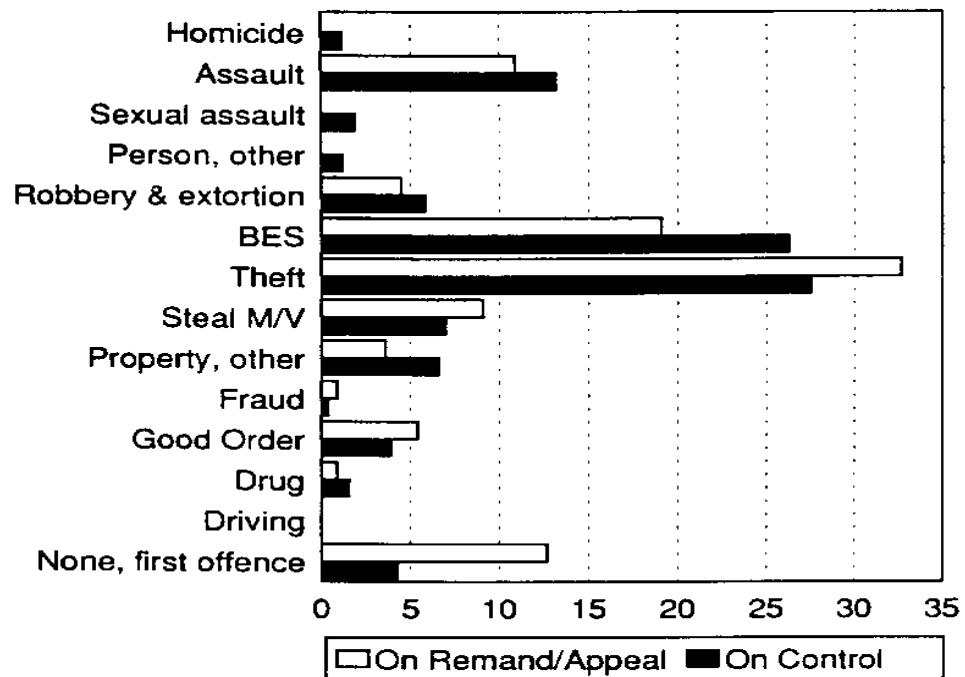
*First proven offence*

Figure 7 provides not only an interesting picture of the nature of the first proven offence committed by juveniles currently in detention, but in conjunction with figures 5 and 6 (indicating the current and most serious offence committed by detainees) shows the extent to which juveniles in custody have not just re-offended, but escalated or graduated in terms of the seriousness of their offending.

The profiles of first offences for both remandees and juveniles on control show a clustering towards break and enter and theft offences. However, as indicated earlier, violent crimes figure prominently in the profiles of juveniles on remand and control as either the most serious of subsequent offences, the current offence, or both.

Figure 7

**First proven offence for persons on remand and control in NSW Juvenile Justice Centres, as at 13 April 1993**



*Prior court orders*

Over one-third of remandees (36.4 per cent) and over half of all juveniles on control orders (54.1 per cent) had previously served a term in custody.

The principles of diversion and the discretionary powers of the courts to accord juvenile offenders opportunities for rehabilitation show up in the statistic which indicates that 70 per cent of juveniles in custody (remand and control) had previously been ordered to serve a supervised probation order or recognisance in relation to earlier offences.

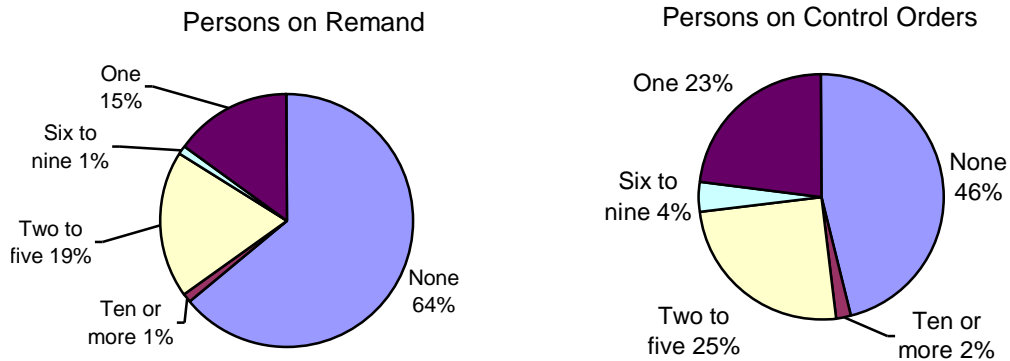
However, what is surprising, given the principles of diversion, "last resort" sentencing and the increased use of CSOs over the last five years, is the fact that only one-quarter of all children on remand (25.5 per cent) and slightly more than one in three (37.7 per cent) in full-time custody previously had the benefit of the more structured alternative to custody, the community service order, despite its status as the penultimate penalty.

*Number of times in custody*

Many juveniles in custody on 13 April 1993 had previously served time in custody. Figure 8 shows the extent of this problem.

Figure 8

**Number of Times in Full-time Custody**



Of the 36 per cent of juveniles on remand who had previously served time in custody, 15 per cent had served a single custodial term, 19 per cent had served more than one term and had up to five prior terms in custody, and 2 per cent had served more than six separate terms in juvenile justice centres.

Of the 54 per cent of juveniles serving control orders who had previously served a custodial term, 23 per cent had served time in custody once, 25 per cent had served two to five prior terms in custody, 4 per cent had served terms on six to nine prior occasions, and 2 per cent had served ten or more prior terms in juvenile justice centres.

**Conclusion**

This study presents a snapshot of the nature of juvenile offenders in NSW juvenile justice centres. As such, some caution must be exercised in making inferences about the nature of juvenile detainees across longer time periods. However, the following points are worthy of further discussion.

In comparison to juveniles on control, the remand group has a significantly higher proportion of females and younger detainees. Both the age and gender characteristics of juveniles on remand raises concerns about the possible inappropriate use of NSW juvenile justice centres as crisis accommodation for certain disadvantaged young offenders (particularly female offenders) who are homeless and/or lack community support.

There is a disturbingly high proportion of children of Aboriginal and Indo-Chinese background in NSW juvenile justice centres. Aboriginal youth have been over-represented in custody for many years, constantly making up some 20 per cent of the NSW juvenile detainee population, whereas the Indo-

Chinese have emerged as an over-represented group only in the last few years. It is time for criminal justice administrators at both the State and national level to realise the inadequacies of current justice and correctional measures, especially in relation to minority groups of different ethnic or cultural backgrounds, and to begin to provide more practical and effective means of dealing with, managing and rehabilitating juvenile offenders from different cultural and ethnic backgrounds.

While the problems presented by Aboriginal and Indo-Chinese juveniles in custody are significant, criminal justice administrators must also face the correctional, management and re-integration problems arising from the high and possibly increasing numbers of Lebanese, Pacific Islander and Maori juveniles coming into custody.

This paper largely vindicates the court's use of custody for the majority of juveniles who were in custody at the time of this study. It is important to remember that while the court has the power to accord juvenile offenders opportunities to change their ways, and is constantly exercising the application of diversionary measures, the court also has a role to play in protecting society. A great many juvenile offenders to whom the court refused bail or ordered into custody are violent, possibly dangerous individuals. Most juveniles in custody have been convicted of a large number of previous offences, and most have previously had the benefit of a wide variety of non-custodial alternatives to custody. Unfortunately, many have returned to full-time custody. The highly recidivist nature of juveniles in detention is without doubt a major concern for the NSW juvenile justice system. The high level of recidivism and increasing criminality of repeat offenders indicates not only the inadequacies of current judicial and correctional measures to effectively manage and rehabilitate juvenile offenders, it also highlights the inadequacies and failings of our society to address the many socioeconomic and socio-cultural factors that cause and maintain juvenile crime.

## References

- Cain, M. 1993, *Juveniles in Detention: A model for diversion*, Information and Evaluation Series No. 2, NSW Department of Juvenile Justice, Sydney.
- Cain, M. & Luke, G. 1991, *Sentencing juvenile offenders and the Sentencing Act 1989 (NSW): The impact of legislative and administrative change in the Children's Court 1982-1990*, Monograph Series No. 4, Judicial Commission of NSW, Sydney.

# MANAGING CULTURAL DIVERSITY: THE NSW EXPERIENCE

**Ian Graham**

THE YOUNG PEOPLE IN JUVENILE JUSTICE CENTRES (DETENTION CENTRES) in New South Wales come from over 60 ethnic and cultural backgrounds. These young people have a range of social traditions, personal histories, customs, cultural values and religious beliefs and practices. Many of them came to Australia from their countries of birth while others were born in Australia.

The ethnic and cultural composition of young people detained in juvenile justice centres in New South Wales reflects the multi-cultural diversity of the New South Wales population. This diversity poses significant challenges for the effective and culturally appropriate management of all young people who are detained in any of the nine juvenile justice centres in New South Wales.

The Department of Juvenile Justice recognises and respects the right of each young person to a personal and cultural identity and is committed to supporting the cultural identity of every young person during his or her time in a juvenile justice centre.

This paper profiles the ethnic and cultural backgrounds of young people who were in detention during the period 1 January 1991 to 31 May 1993 and focusses on the challenges and opportunities for the Department of Juvenile Justice in the effective and culturally appropriate management of one particular ethnic group: young Australians of Indo-Chinese origins. This group is appearing with increasing frequency in juvenile justice centres.

The data for this paper is taken from the Client Information System which records the ethnic/cultural background of young people in detention. Information on the Client Information System is compiled from the admission form which is completed when a young person is first admitted to a juvenile justice centre. The admission form includes a section on ethnic/cultural background. The young person's self-identification of ethnic/cultural background/nationality is entered on the admission form.

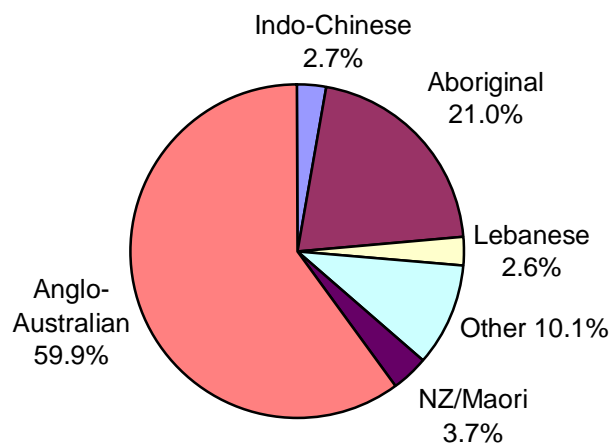
## Profile of Ethnic/cultural Background of Young People in Juvenile Justice Centres

### *Ethnic/cultural Background*

Figure 1 indicates the ethnic/cultural background of young people in juvenile justice centres in New South Wales for the period 1 January 1991 to 31 May 1993. The largest proportion of young people in custody over the 2½ year period was Anglo-Australians (60 per cent), followed by Aboriginal people (21 per cent), New Zealanders/Maoris<sup>1</sup> (3.7 per cent), Indo-Chinese (2.7 per cent), and Lebanese (2.6 per cent). Other ethnic/cultural groups comprised 10.1 per cent of young people in custody during the 30-month period.

*Figure 1*

### Percentage of Ethnicity/cultural Background Children in NSW Juvenile Justice Centres (1 January 1991 to 31 May 1993)



Source: Client Information System

The percentage of Aboriginal young people in detention remained relatively stable during the 2½ year period, at between 20 to 22.5 per cent of the total juvenile justice centre population. Needless to say, Aboriginal young people are grossly over-represented in New South Wales juvenile justice centres compared to their proportion of the overall NSW population aged

---

<sup>1</sup>. The Client Information System contains two entries for people from New Zealand: Maori and New Zealander. In this paper, these two entries have been combined into one category.

between 10 and 18 years (1.8 per cent at the 1986 Census; 1991 Census figures not yet available).

There has been a decrease in the percentage of Anglo-Australians in juvenile justice centres since 1992: from 61.6 per cent in 1992 to 54.6 per cent at 31 May 1993. In actual numbers, the decrease has been from 3 773 in 1992 to 1 262 at the end of May 1993.

The variations in the percentage of Lebanese, New Zealanders/Maoris and other ethnic and cultural groups in juvenile justice centres for 1991, 1992 and the first five months of 1993 have been minor. However, there has been a significant increase in the percentage of Indo-Chinese young people in juvenile justice centres: from 1.6 per cent in 1991 to 6.2 per cent at 31 May 1993. In actual numbers, the increase of Indo-Chinese young people in detention is from 87 in 1991 to 148 in 1992 (an increase of 70 per cent). As at the end of May 1993, the number of Indo-Chinese detainees (144) almost equalled the previous year's *total* figure. We may speculate that if the remainder of 1993 continues the trend of the first five months, then some 340 to 350 Indo-Chinese young people will pass through NSW juvenile justice centres before the year ends.

While it may be interesting to speculate on the reasons for the increasing number of Indo-Chinese young people in juvenile justice centres in New South Wales (for example, police targeting particular areas and specific types of criminal activity), it would be useful to describe the general characteristics of the detainee population before focusing specifically on Indo-Chinese young people in juvenile justice centres.

### *Gender*

Figure 2 presents the ethnic/cultural background of young people in juvenile justice centres by gender for the period surveyed. Males comprise over 80 per cent of detainees for each ethnic/cultural group, with Lebanese and Indo-Chinese representing the highest proportion of males in detention: 95.5 per cent and 95 per cent respectively.

Females comprise more than one in ten detainees for New Zealanders/Maoris (15.7 per cent), Aboriginal youth (11.7 per cent) and Anglo-Australians (10.7 per cent). Lebanese and Indo-Chinese females in detention represent 4.5 per cent and 5 per cent of the relevant populations.

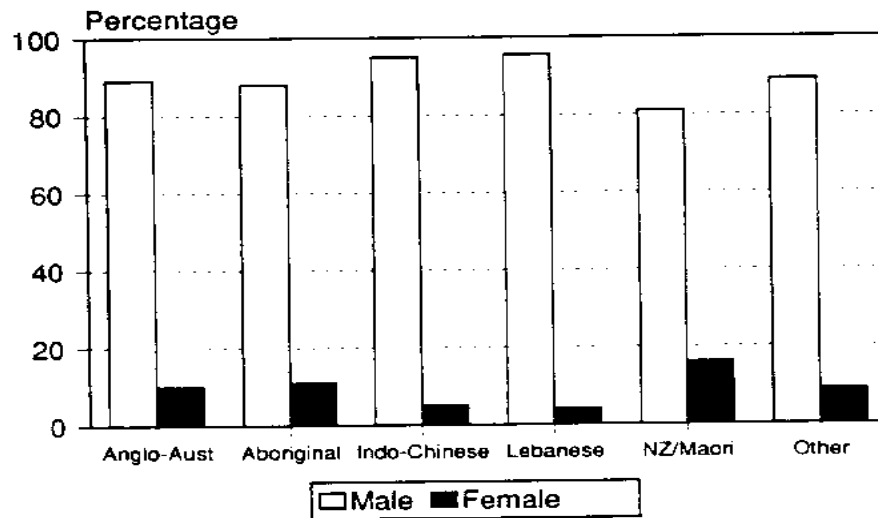
### *Age*

Over 60 per cent of the young people in detention are 16 years and older. This is the case for each ethnic/cultural group, with the percentage of Lebanese and Anglo-Australian young people in detention over the age of 16 years being 77.9 per cent and 74.3 per cent respectively. The highest percentage of young people in the 10 to 15 year age group appear amongst Aboriginal people (37.1 per cent) followed by Indo-Chinese (30.3 per cent) and New Zealanders/Maoris (30.1 per cent).



Figure 2

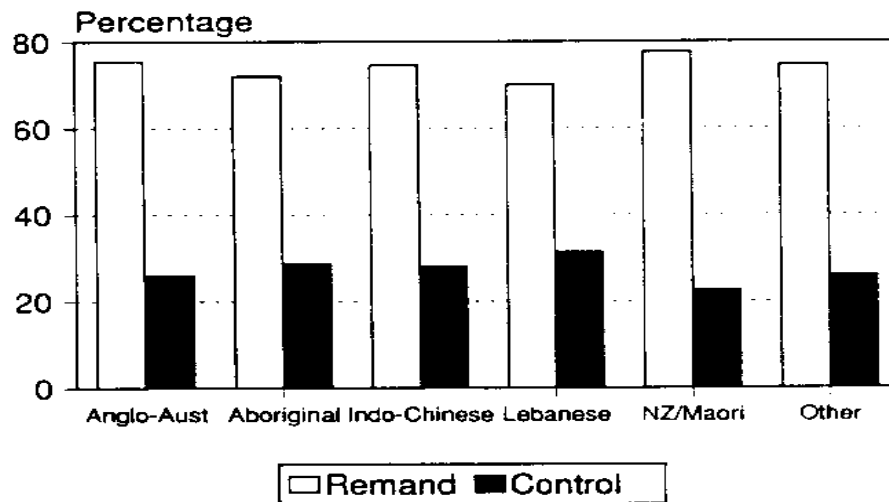
**Gender by Ethnicity/cultural Background - Children in Juvenile Justice Centres  
(1 January 1991 to 31 May 1993)**



Source: Client Information System

Figure 3

**Status by Ethnicity/cultural Background - Children in Juvenile Justice Centres  
(1 January 1991 to 31 May 1993)**



Source: Client Information System

### *Status*

Figure 3 shows the ethnic/cultural background of young people in juvenile justice centres by status (that is, whether they are on remand or control) for the period 1 January 1991 to 31 May 1993. Over 65 per cent of young people in detention for the 2½ year period were on remand. Of the New Zealanders/Maoris in detention during this period, 77.6 per cent were on remand—the highest percentage of any ethnic/cultural group—and, conversely, New Zealanders/Maoris represented the lowest percentage of those on control orders (22.4 per cent). Young people of Lebanese background represented the highest percentage of control orders (31.3 per cent), followed by Aboriginal youth (28.7 per cent) and Indo-Chinese (28 per cent).

The data on the general characteristics of young people in juvenile justice centres reveal that, as a percentage of their ethnic/cultural group, there are more Lebanese males, more Lebanese over the age of 16 years, and more Lebanese on control orders than any other ethnic/cultural group in juvenile justice centres in New South Wales.

The preparation of this paper has provided a unique opportunity for the Department of Juvenile Justice to examine the ethnic/cultural background of young people in juvenile justice centres. In light of the above findings, there needs to be a critical assessment of the ways in which each juvenile justice centre provides cultural support for every young person in its care. However, because the Department of Juvenile Justice has experienced a significant increase in the number of Indo-Chinese young people in juvenile justice centres over the past 2½ years, this paper will focus on this particular ethnic group.

### **Indo-Chinese Young People in Juvenile Justice Centres**

This section of the paper presents a profile of Indo-Chinese young people detained in juvenile justice centres in New South Wales for the period 1 January 1991 to 31 May 1993. The term "Indo-Chinese" applies to people whose ethnic/cultural background is either Vietnamese, Laotian or Cambodian.

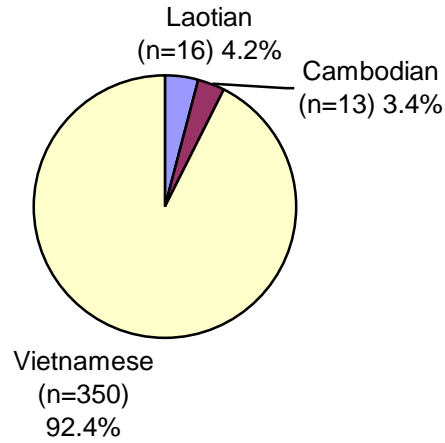
Figure 4 presents the percentage breakdown of Indo-Chinese young people in juvenile justice centres over the 2½ year period. Figure 6 shows that 92.3 per cent of the 379 Indo-Chinese young people in detention were Vietnamese, 4.2 per cent were Laotian and 3.4 per cent were Cambodian.

Between 1991 and 1992 there was a significant increase in the number of Vietnamese youth in juvenile justice centres: from 75 in 1991 to 140 in 1992, an increase of 86.7 per cent. For the first five months of 1993, the number of Vietnamese youth in juvenile justice centres nearly equalled the total number of Vietnamese in detention for the whole of 1992: 135 compared to 140.

The number of Cambodians in detention has decreased: from 11 in 1991 to zero for the first five months of 1993. The number of Laotians in detention has increased: from 1 in 1991 to 9 for the period to May 1993.

Figure 4

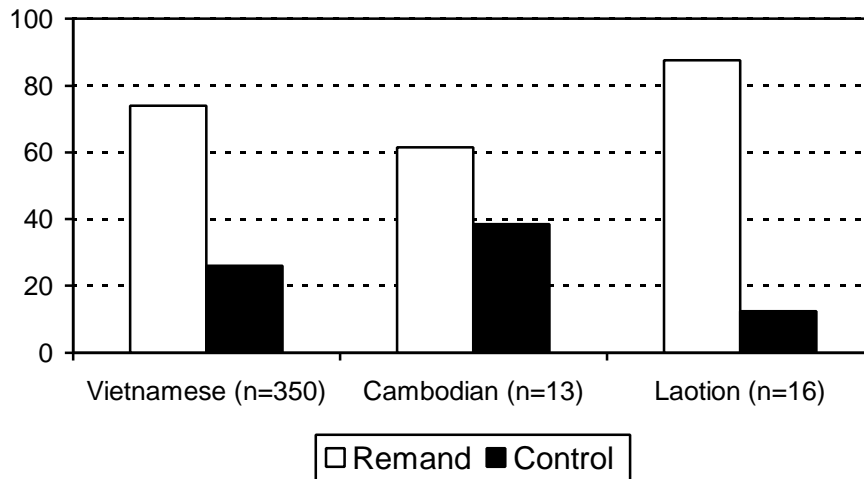
**Percentage Breakdown of Indo-Chinese Children in NSW Juvenile Justice Centres (1 January 1991 to 31 May 1993)**



Source: Client Information System

Figure 5

**Status of Indo-Chinese Children in Juvenile Justice Centres (1 January 1991 to 31 May 1993)**



Source: Client Information System

### *Status*

Figure 5 shows the status of Indo-Chinese young people in juvenile justice centres for the period 1 January 1991 to 31 May 1993. Figure 5 shows that 87.5 per cent of Laotians were on remand compared to 74 per cent of Vietnamese and 61.5 per cent of Cambodians. Conversely, 38.5 per cent of Cambodians, 26 per cent of Vietnamese and 12.5 per cent of Laotians were on control orders. It should be remembered that the actual number of Laotians and Cambodians in juvenile justice centres was small: 16 and 13 respectively. Of the 350 Vietnamese young people in custody during the period, 259 were on remand and 91 were on control orders.

While the percentage of remandees is significantly higher than those on control orders, it should be remembered that the data covers a 2½ year period. If a snapshot of those in juvenile justice centres was taken on a particular day, then the number on remand would be less than the number on control orders. This is because the flow of young people on remand through juvenile justice centres is far greater than the flow of young people on control.

### *Gender*

All of the 13 Cambodians in detention were male, while 95.1 per cent of Vietnamese youth and 87.5 per cent of Laotian young people were male.

Over the 2½ year period the number of Indo-Chinese young women in juvenile justice centres increased from two in 1991, to six in 1992, to eleven at 31 May 1993 (an increase of 450 per cent between 1991 and 1993). The Department of Juvenile Justice is closely monitoring the increasing number of Indo-Chinese young women in detention.

### *Age*

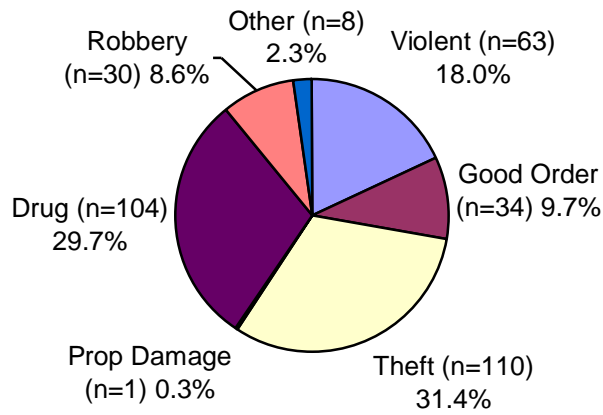
While over 70 per cent of Cambodians and Vietnamese in detention were 16 years and older, only 56.3 per cent of Laotians were in this age group. Almost half of the Laotians (43.7 per cent) were aged between 10 and 15 years.

### *Offence Profile*

Figures 6a, 6b and 6c present an offence profile for Indo-Chinese young people in juvenile justice centres for the period examined.

Figure 6a

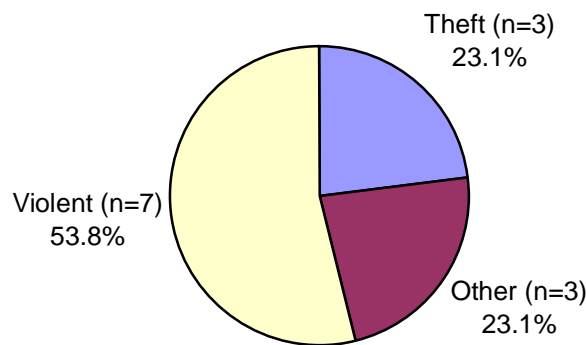
**Offence Profile for Vietnamese Children in NSW Juvenile Justice Centres  
(1 January 1991 to 31 May 1993)**



Source: Client Information System

Figure 6b

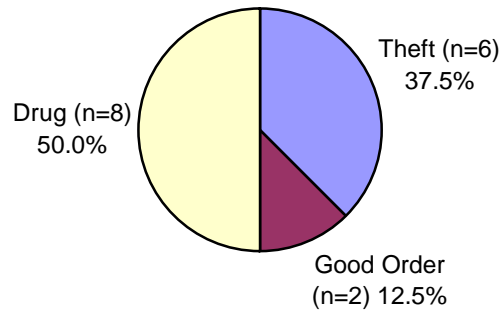
**Offence Profile for Cambodian Children in NSW Juvenile Justice Centres  
(1 January 1991 to 31 May 1993)**



Source: Client Information System

Figure 6c

**Offence Profile for Laotian Children in NSW Juvenile Justice Centres  
(1 January 1991 to 31 May 1993)**



Source: Client Information System

Figure 6a shows that 31.4 per cent of the offences for which Vietnamese young people were in juvenile justice centres were theft offences, 29.7 per cent were drug offences, and 18 per cent were violent offences.

Figure 6b shows that 53.8 per cent of the offences for which Cambodian young people were in juvenile justice centres were violent offences and 23.1 per cent were theft offences.

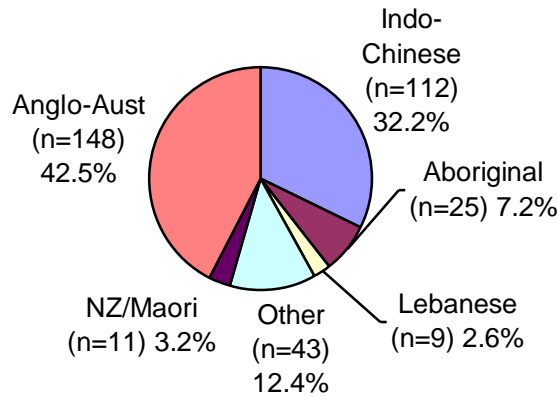
Figure 6c shows that precisely half of the offences for which Laotian young people were in juvenile justice centres were drug offences and 37.5 per cent theft offences.

A comparison of the offence profile of these three ethnic groups reveals the following:

- Cambodians, to date, have no recorded principal offence for robbery, property damage, good order/justice and drug offences;
- Laotians have no recorded principal offence for violent robbery and property damage offences; and
- Laotians had a higher percentage of drug offences than both Vietnamese and Cambodian young people.

Figure 7

**Drug Offences by Ethnicity/cultural Background in NSW Juvenile Justice Centres (1 January 1991 to 31 May 1993)**



Source: Client Information System

*Drug Offences*

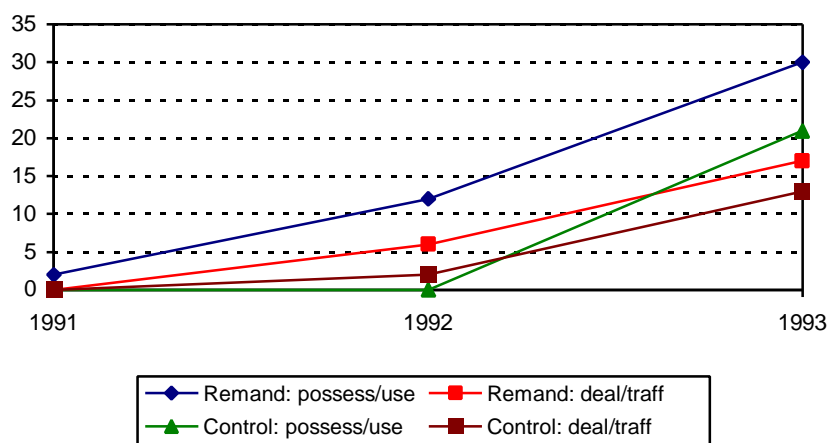
Figure 7 profiles drug offences by the ethnic/cultural background of young people in juvenile justice centres during the period 1 January 1991 to 31 May 1993. Anglo-Australians comprised 42.5 per cent and Indo-Chinese 32.2 per cent of all drug offenders placed in custody. Given that Vietnamese young people comprised only 2.4 per cent of the juvenile justice centre population between 1 January 1991 and 31 May 1993, but comprised 32.2 per cent of all drug offenders in custody, it is worth examining the general nature of the drug offences of Vietnamese young people in detention.

Figure 8 presents the drug offences and status of Vietnamese young people in juvenile justice centres for the 30-month period. Figure 8 shows the significant increase in the number of Vietnamese on remand for possess/use drugs (from 2 in 1991 to 30 at 31 May 1993) and the significant increase in those on control orders (from zero in 1991 and 1992 to 21 at 31 May 1993).

While the drug offences of Vietnamese young people in juvenile justice centres are primarily possess/use drugs, there has also been an increase in the number of Vietnamese young people placed in custody for dealing/trafficking drugs. Figure 8 shows that in 1991 no Vietnamese young person was placed on remand for dealing drugs, yet in the first five months of 1993, 17 Vietnamese juveniles were placed on remand for dealing/trafficking. So far in 1993 there have been thirteen Vietnamese on control orders for dealing/trafficking, whereas for the whole of 1991 there were none.

Figure 8

**Drug Offences for Vietnamese Children in Juvenile Justice Centres by Status and Year (1 January 1991 to 31 May 1993)**



Source: Client Information System

Significantly, while the average length of time in juvenile justice centres for young people on control orders is 5.5 months, the average length of time for Indo-Chinese young people is 16.3 months, which is a good indicator of the serious nature of their offending.

The discussion so far has revealed that:

- there has been a rapid and significant increase in the number of Indo-Chinese young people in juvenile justice centres during the period 1 January 1991 to 31 May 1993;
- the Indo-Chinese population of juvenile justice centres is comprised largely of Vietnamese young people;
- drug related offences feature prominently in the offence profiles of Vietnamese young people in detention; and,
- the average length of time in detention is significantly higher for Indo-Chinese young people, than for the general population of juvenile detainees.



## **Initiatives for Indo-Chinese Australian Young People**

The rapid and significant increase in the number of Indo-Chinese young people in NSW juvenile justice centres poses a challenge for the effective and culturally appropriate management of these young people.

Furthermore, many of these young people and their parents and families came to Australia as refugees, many have a Buddhist rather than Christian background, and their primary language is either Vietnamese, Khmer or Laotian. In addition, few staff in juvenile justice centres have an understanding of the language, culture and traditions of these young people, nor of the issues Indo-Chinese young people face in Australian society.

The Department of Juvenile Justice needs to respond in a flexible, innovative and meaningful way to this client group. Issues which the Department has to consider include:

- the offence profile of Indo-Chinese young people, particularly the large number of drug related offences;
- the longer time, on average, that Indo-Chinese young people will be in detention;
- the appropriateness of western models of counselling and treatment for Indo-Chinese young people;
- the involvement of the families of Indo-Chinese young people where there is a conflict of values between parents and children, where authority and respect for elders is important, and where family relationships may be impaired or severed; and,
- the social and cultural values of the young people.

The following focuses on the initiatives which the Department of Juvenile Justice has taken to date, to respond to its Indo-Chinese clients.

### *Survey*

In order to learn more of the nature of the problem, the Department of Juvenile Justice conducted a detailed survey of Indo-Chinese young people in custody to ascertain each person's views on the adequacy of existing service provision, gaps in service delivery, the attitude of staff to them, and their treatment by staff. The Department also conducted three focus group discussions with Indo-Chinese Australian young people in detention, to further explore the issues raised in the survey. Both the survey and focus group discussion were conducted by Vietnamese people.

While the results of the survey are currently being analysed, this innovative approach will probably provide valuable information for the culturally appropriate management of Indo-Chinese young people in custody.

### *Employment and Training*

One key way of providing effective and appropriate management for Indo-Chinese young people in custody is through the employment of Indo-Chinese people in juvenile justice centres. The Department is currently examining strategies to increase the employment of Indo-Chinese Australians in juvenile justice centres. It is also examining the most suitable role for these people. Currently, there is one permanent Vietnamese senior youth worker, two casual Vietnamese youth workers and a Cambodian clerical officer.

A second key to good management is to provide education and training for current staff on Indo-Chinese languages, cultures and traditions. Mt Penang juvenile justice centre has developed a pilot program on Vietnamese language, culture and traditions. The program includes Vietnamese language classes for two hours per week for ten weeks with staff learning basic language skills to assist their communication with Vietnamese residents.

Yasmar Juvenile Justice Centre conducted a seminar for Department of Juvenile Justice staff in May 1993 on Indo-Chinese young offenders. The seminar dealt with topics such as Indo-Chinese culture, street work with Indo-Chinese youth, working with Indo-Chinese families at risk, Indo-Chinese crime, and prevention and management of Indo-Chinese young people in juvenile justice centres.

### *Culture and Language Classes*

In recognition of the right of each young person to his or her cultural identity, the Department of Juvenile Justice has initiated Vietnamese language and culture classes for Indo-Chinese residents of NSW juvenile justice centres. These classes include:

- preparation and consumption of Vietnamese food;
- development of oral and written Vietnamese language skills; and,
- information on Vietnamese history, culture and traditions.

### *Education*

In addition to Indo-Chinese young people participating in generalist educational and vocational programs offered in juvenile justice centres, the Department of Juvenile Justice, in conjunction with the Department of School Education, provides classes in English as a Second Language to improve both written and verbal communication skills for detainees from a non-English speaking background.

### *Community Support*

The Department of Juvenile Justice encourages Indo-Chinese community organisations and, in particular, specialist community workers, to visit

juvenile justice centres to provide support to Indo-Chinese young people in detention.

### *Proposed Initiatives*

The Department of Juvenile Justice is in the process of developing two specific initiatives for Indo-Chinese young people: a pilot interpreter services program and a Vietnamese Australian program.

The aim of the proposed pilot interpreter services program is to provide every Indo-Chinese detained in selected juvenile justice centres with access to a qualified interpreter service through on-site visits by qualified interpreters and/or use of the Commonwealth Government's Telephone Interpreter Service. The pilot interpreter services program is being developed on the basis of the interim results of the survey of Indo-Chinese Australian detainees.

The aim of the Vietnamese-Australian Program is to provide a comprehensive program for the rehabilitation of juvenile offenders from a Vietnamese-Australian background, who have been granted leave from a juvenile justice centre or placed on a court order requiring the supervision of the Department of Juvenile Justice.

The program will involve individual counselling, group-work, supervision and vocational components as well as family counselling, pre-release preparation for parents and a parent support group. The Vietnamese Australian Program is being developed in consultation with the relevant Indo-Chinese agencies in the Cabramatta area.

### **Conclusion**

The rapid and significant increase in the number of Indo-Chinese Australian young people in juvenile justice centres in New South Wales provides an opportunity for the Department of Juvenile Justice to develop innovative and culturally appropriate responses to the needs of these young people which can become models of best practice.

The rapid and significant increase in the number of Indo-Chinese detainees tests the capacity of the Office to respond creatively, with flexibility, and quickly to an emerging trend. While the Office has taken some initiatives to meet the needs of Indo-Chinese young people in its care, further research, consultation and program development is necessary. However, the challenge for the Office of Juvenile Justice is not only to respond to Indo-Chinese Australians in its care but also to the multi-cultural diversity of the whole juvenile justice centre population.

# MANAGEMENT WITHIN YOUTH DETENTION CENTRES IN VICTORIA

**Vaughan Duggan**

## **Managing Youth Detention Centres in Victoria**

THIS PAPER DESCRIBES A NUMBER OF KEY INITIATIVES THAT THE Victorian Department of Health and Community Services (HCS) has introduced to ensure youth detention centres are better managed.

The approaches that are described in detail include:

- unit management;
- client service planning;
- health services management;
- structural review of youth worker category.

Victoria has three youth detention centres covering male and female populations of age 10-20 years. The functions of each are as follows:

### Parkville Youth Residential Centre (Parkville)

- 10-14 year old males and females (sentenced and remand);
- 15-16 year old females (sentenced and remand);
- 17-20 year old females (sentenced from adult courts).

### Turana Youth Training Centre (Parkville)

- 15-16 year old males (sentenced and remand);
- 17-20 year old males (sentenced from adult courts).

Malmsbury Youth Training Centre (South of Bendigo)

- 17-20 year old males (sentenced from adult courts).

Appendix 1 provides the client populations and staff levels of each centre as at 30 June 1993.

Detention centres are difficult facilities to manage for a number of reasons. These include:

- nature of the clients (and turnover);
- need for 24-hour direct client care (and minimum staffing levels);
- need for provision of total care for disadvantaged young people;
- need for security and accommodation;
- complexity of the task at hand (often not recognised);
- humans are involved—with all their unpredictability and individual differences.

Adding to these inherent difficulties and "givens" are some other exacerbating factors.

These include:

- run down physical condition of buildings;
- lack of interest in and low priority given to detention centres by management and the community;
- overcrowding and inappropriate admissions (dumping);
- poor work practices and inappropriate restrictive practices;
- inadequate recruitment, selection and training practices;
- poor networking and inadequate promotion of successful practices;
- weak facility management.

Fortunately, these matters can be addressed and are being addressed in every State and Territory of Australia in their various ways.

### **Unit Management**

Unit management is the management of all functions of one part of a facility (in our case Youth Training Centres/Youth Residential Centre) or business, with one final point of accountability and responsibility for these functions, particularly client services and outcomes. The aim is to improve the standard of care and efficiency.

Unit management is currently being introduced within all three facilities in Victoria. Procedures have been developed and training has been conducted for the nine unit managers. Management is committed to the proposition and it will take a further 12-18 months to ensure full and effective implementation.

Implementation of a unit based model of management represents both structural and cultural change to the YTC/YRC model of service delivery.

Structural change is concerned with new functional models designed to better meet the requirements of the wider organisation, environment and client group. Structural change impacts on roles, duties, hierarchies and systems. Structural change leads to redefinition of how business within the organisation is conducted and usually results in a clearly defined set of competencies, tasks and jobs.

Cultural change generally requires a shift in the organisation's shared understanding, values and beliefs to support the structural dimension of change. Ideally, cultural change results in individuals and groups integrating, accepting and supporting the organisation in ongoing change.

The key outcomes of unit management are seen to be:

- improved client outcomes through clearer responsibilities/planning;
- stronger and more motivated work teams;
- cultural change due to clear accountability and responsibility;
- improved integration of operations and programs;
- improved control over resources, services and visitors.

In the development of unit management a number of principles that underpin effective unit management have been identified.

These include:

- all management responsibilities are delegated to the lowest practical level in the facility;
- delegations for all aspects of facility operations are clear and documented;
- final accountability for client services and outcomes rests with the unit manager;
- management structures are flat, with one reporting point for each staff member;
- unit planning is essential;
- unit management principle operates 24 hours a day every day;
- staff roles and responsibilities are as broad as possible;

- unit managers are part of the facility's management team.

*Key features for effective unit management*

The features of the Victorian system of unit management cover the issues of accountability, delegation and management principles. Combined and fully implemented, the features can result in realisation of all of the outcomes listed above.

Some features of the unit management structure and organisational arrangements include the following (*see Appendix 2*):

- Key workers who have the central relationship with clients, are only two levels of supervision away from the unit manager who has final responsibility and accountability for client care and outcomes.
- In turn the unit manager is only at most two levels of management away from the CEO. One facility in Victoria has the unit manager reporting direct to the CEO.
- Unit managers can have responsibility for more than one accommodation setting or section or function. Additionally designated program workers can also be included in the unit to work across one or more sections to aid program integration.

The key features of unit management that are essential for its success include the following:

- There must be a single point of care, accountability and responsibility for each client within the "unit" across 24 hours. Quality of care and programming for clients therefore, is the key responsibility of the unit manager.
- Each team needs to have a delegated power to control its own operations. Delegations of all functions to unit staff must be specific and clear (and in writing).
- Unit staff have a broad range of duties and responsibilities in providing for the needs of clients including custodial duties, day-to-day care and supervision, individual case planning and program functions.
- All clients have a designated key worker and Client Service Plan (see below) endorsed by their unit manager.
- Each unit manager should have responsibility as far as is possible for all resources allocated to the unit including staff, overtime, program time, facilities, capital works, volunteers, and so on. Categories of responsibilities are at Appendix 3. These were developed from management competences prepared by the Staff Development Branch (H&CS 1992). The extent of delegation of these responsibilities is one

of the more important implementation issues facing us. The systems for delegating certain functions need to be in place, as does the skill level of the recipient of the delegation. One area that ideally should be delegated is that of finance. However, it is not a straightforward function to delegate, pending extensive training and information for the relevant staff.

- The chain of command between CEO and unit manager should be as short as possible—preferably direct or, at most, one level away.
- The management structure should be as "flat" as possible.
- The night supervisor, when the unit manager is not on duty, is the "agent" of the unit manager and should operate according to clear unit management guidelines and established procedures. Given that most critical incidents that occur in detention centres occur out of hours, this is an essential feature.
- The use of specialist services to meet clients' needs is by way of referral, and does not involve the delegation of authority. Unit staff still have responsibility for their clients, and cannot "dump" them on other supporting program workers.
- Unit managers should work at least nine days per fortnight to enable effective unit management and contact with all facility and unit staff. This overcomes past practices where middle managers tended to work shifts that shared unit management across more than one person on a three on and three off basis. The three/four day per week attendance of the former practice led to gaps in staff and client management and supervision.
- Unit managers operate according to a unit plan they develop in conjunction with their CEO. This ensures basic and developmental activities are introduced in an ordered, systematic and strategic manner.

While a large part of the success of any unit will depend upon the unit manager, shift leaders, key workers and all other personnel within each facility all have key roles in the delivery of effective and efficient custodial services.

Unit managers are at the interface between senior management and direct care workers of each facility and thereby have to balance the demands of client service standards and responsibilities and being a key manager of the facility.

While the unit manager may be absent from the "floor" from time to time while undertaking broader management roles, it is expected that unit managers will not lose touch with the pressures and "occurrences" related to direct client care operations.



Finally, it is important to stress that the creation of a unit manager with final responsibility for all client matters in the particular unit, does not reduce or absolve shift leaders and key workers of their respective responsibilities of effective and sound client care. If anything, unit management increases the role of all unit staff in the provision of professional supervision and care of young people in custody.

The challenges we see ahead can be summarised as follows:

- Staff acceptance and capacity to take up the new and broader responsibilities. Historically, we have not delegated as many functions and responsibilities from the CEO's desk at all levels. Accordingly, some staff may not be ready to take on the various responsibilities we expect of them without further information and training and role clarification.
- The production of clear delegation statements on all facets of the unit's business, with accompanying operational standards and procedures to measure compliance. To aid this process suitable proformas are being developed on all aspects of unit business.
- The dual role we expect of unit managers, as mentioned earlier. On the one hand they are managers of the entire unit and part of the management structure, while on the other hand, they represent the final accountability point in the unit for client outcomes. Their mix of management, supervision and floor responsibilities will require a judicious balance being struck with respect to priorities, emphasis, work location and delegation.

Unit management is seen as the central plank in our way forward to better management of our facilities.

### **Client Service Planning**

Just as unit management draws together all parts of facility business, client service planning manages the provision of all aspects of care and rehabilitation for clients.

Mansfield (1992) at the Australian Institute of Criminology's National Conference on Juvenile Justice in Adelaide outlined in detail the Client Service Planning (CSP) approach we are taking to young people in custody. This paper will only touch on some aspects of that paper.

In some respects the challenges of implementing CSP to youth facilities are similar to implementing unit management. Staff have been used to working in certain ways over a long period of time and now are being asked to apply management principles and systems to their work, particularly with clients.

If you ask twenty practitioners about their views on case planning practice and how they should go about it, there will be twenty different views, albeit mostly on the same theme and presumably achieving similar client outcomes in most situations. However, it was felt in H&CS that we

could do better than that in our most fundamental task of rehabilitating and caring for clients. Accordingly, a corporate client services planning framework was introduced throughout the Department.

The CSP model aims to achieve the following:

- The service provided is tailored to the needs of the client as identified by a systematic assessment process.
- The services provided for clients is continuous, linking both custodial and community based services and participation with a plan following young people through the system.
- Clients are considered in their totality (that is, all aspects of their life are assessed and developed).
- The match between existing services, user needs and staff expertise is improved.
- Accountability and responsibility for each client and their developmental needs are clear.
- By promoting a corporate model with clear steps and processes, all staff are more informed about effective case practices and client service planning.
- Young people have significant input into the planning process.

CSP enables facilities to manage and integrate all the services and programming in accord with the statutory requirements upon the Department. Individual goals set with the client can therefore comply with the responsibilities of the organisation and goals for each person in custody (or on a community based order).

In order to meet the various goals set for the young person it is necessary to have a wide range of services and programs. Not only does the person's access to programs and services require management, but the provision of such services within the facility also requires management. (This issue is discussed in a later section of this paper.) With respect to the management of individual client service plans, the three central players are the key worker, case manager and client service planner.

The roles of the key worker are well defined and involve direct client contact. While the young people have to feel empowered to make their own decisions and take action, the key worker is the person who actually implements the necessary action for and with the client. This can include arranging program access (for example TAFE programs or health programs), advocacy, or family visits.

The case manager has responsibility for the implementation of client service plans for all young people in the unit. In the unit management model presented earlier, unit managers assume this role. Unit managers may

delegate some oversight of the key worker's role to the shift leader as well as encourage support from the shift leader to the key worker.

The client service planner has overall responsibility for ensuring that the client service plan is developed. In view of the fact that young people return to the community with or without supervision after their custodial stay, managers of community based units assume the role of client service planner. This choice of client service planner ensures service continuity for each client when he/she passes from custodial to community based settings and vice-versa.

As with unit management, clear standards and procedures have been developed for inclusion in standards manuals being produced for the Victorian juvenile justice system.

Extensive training has also been necessary for every youth worker in the system. Additionally, to ensure that all stakeholders are familiar with the CSP and management of this process, various information and training sessions have been conducted to ensure the smooth implementation of the CSP process.

### **Health Services Management**

As part of the CSP process many "life" areas are covered in the young person's plan. The major areas include health, education, employment, recreation, family and confronting offending behaviour. To ensure that the relevant services are delivered to the young person in a measured and meaningful way, it is necessary to be clear about the management and delivery of each and every service.

In Victoria, to ensure proper management of a variety of client health services, this has been achieved through the appointment of a health services coordinator (a senior nurse) to chair a weekly health coordinator's meeting—*see* Appendix 4. At this meeting all relevant health practitioners meet with the health services coordinator and the health issues relating to the particular clients on the agenda are considered. Appropriate referrals are then made. This method, while appearing simple, has overcome the random method whereby visiting health workers would roam the units identifying the young people whom they thought needed attention.

By linking the delivery of health service to the young person's CSP, which contains a complete health assessment, the young person's primary health needs can be met in an efficient and effective manner. The added advantage of this management approach is that optimum use can be made of the health resources available to young people in custody. Additionally, particular health issues (for example, warnings about fatal conditions exacerbated by exercise etc) can be properly transmitted to the key worker by an addendum to the young person's Trainee Information File, which is kept in the unit.

By introducing early screening and a health services coordinator function and meeting, all health services are coordinated and integrated into the total operation of the facility and CSP. Given that health issues are one of the most troublesome areas of most young offenders' lives, professional and efficient delivery of health services are essential.

The referral of a young person to a health worker is for a specific purpose and not a vehicle for the key worker to abdicate his/her responsibility towards the client. While this sounds an obvious point, it is important that the key worker receives the "prescription" and recommendations of the health worker and acts on them in consultation with the young person.

### **Structural Review Of Youth Worker Category**

The Youth and Child Care Officer Occupational Category Agreement (H&CS 1993) reflects another area of change that will ensure the better management of Victoria's facilities.

Over the past five or so years a number of work practice changes have occurred in exchange for various employee benefits as part of Government wage fixing arrangements. However, the latest agreement allowed a category review which led to the redefinition of all youth worker levels and minimised the ambiguity associated with certain work practices.

The various duty statements were all rewritten to ensure that CEOs had a clear mandate to operate their facilities in accordance with unit management guidelines and to implement the more complex and demanding features of the CSP process.

While it may appear to be a fairly pedestrian reform, H&CS has made a number of obvious gains with respect to the management of its facilities. Some of these include:

- Flexible redeployment of staff;
- Varying levels of staffing depending upon the demands of the tasks;
- Changed shift work arrangements for enhanced flexibility and cover (for example, varying shift lengths, part time);
- Rosters of reduced hours per week;
- Casual and part time employment;
- Revised leave arrangements and sick leave management;
- Skeleton staff during industrial disputes.

### **Conclusion**

This paper has covered some major reforms in some detail but has not addressed some others.

Some other issues that should not be neglected in the better management of facilities such as youth detention centres include:

- Sound discipline and industrial relations policies and procedures;
- Provision of unqualified support to CEOs in all aspects of their work;

- Judicious appointments to senior facility positions (prior facility experience is not a mandatory qualification—management experience is!);
- Linkage of facilities to the outside world;
- Systematic training and development opportunities for all managerial and supervisory staff—particularly team building and strategy planning skills;
- Availability of user friendly operating manuals;
- Protocols for service delivery to external providers (for example, visiting doctors, volunteers, clergy).

If the various management initiatives outlined in this paper are implemented, youth centres will be more effective and efficient for both the good of clients and staff.

### References

Health & Community Services 1992, Youth and Child Care Officer Occupational Category Agreement between CSV and SPSF, Victoria.

Jones, G. 1993, *Health Promoting Approaches to Juvenile Justice in Victoria*, Health & Community Services, Victoria.

Mansfield, P.A. 1992, *Client Services Planning for Young Offenders in Victoria*, Health and Community Services, Victoria.

Staff Development Branch 1992, *Health & Community Services Management Competencies*, Health & Community Services, Victoria.

### Acknowledgements

I would like to acknowledge the work and ideas of the following colleagues of my Section.

Gerard Jones	Health Services Management
Pam Mansfield	Client Services Planning
Johan Top	Occupational Category Agreement
Marilyn Minister	Unit Management
Diana Batzias	CEO, Management in Practice

# APPENDIX 1

*Table 1*

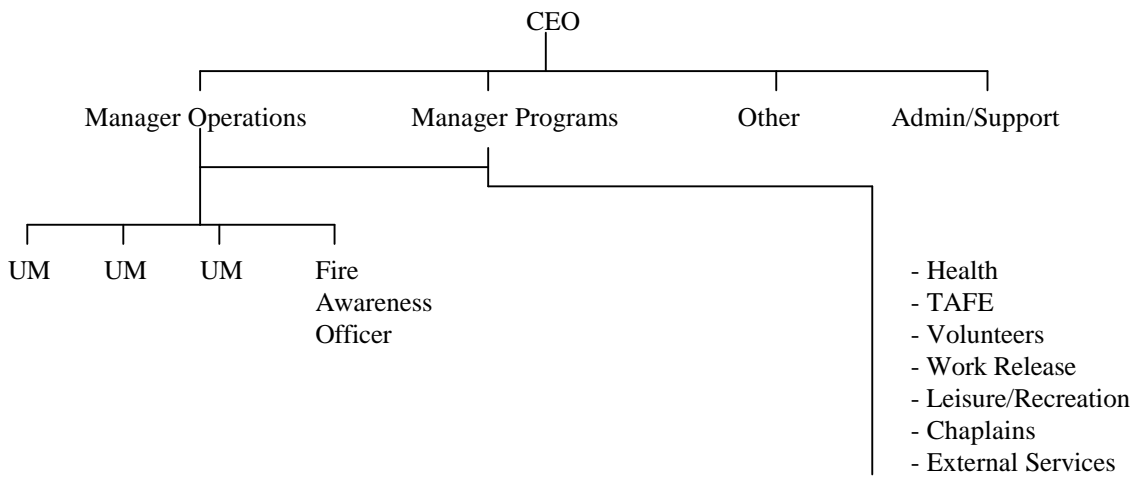
## Victorian Youth Detention Centre Data (30 June 1993)

	<i>Male</i>	<i>Female</i>	<i>Total</i>
<i>Parkville</i>			
* 10-14 years			
Sentenced	1	-	1
Remand	4	-	4
* 15-16 years			
Sentenced	n/a	-	-
Remand	n/a	2	2
* 17-20 years			
Sentenced	n/a	1	1
Sub-Total:	5	3	8
<i>Turana</i>			
* 15-16 years			
Sentenced	26	-	26
Remand	8	-	8
* 17-20 years			
Sentenced	21	-	21
Sub-Total:	55	-	55
<i>Malmsbury</i>			
* 17-20 years	45	-	45
Sub-Total:	45		45
<i>Totals: (Sentenced and Remand)</i>			
10-14 years	5	-	5
15-16 years	34	2	36
17-20 years	66	1	67
<i>Total:</i>	<i>105</i>	<i>3</i>	<i>108</i>

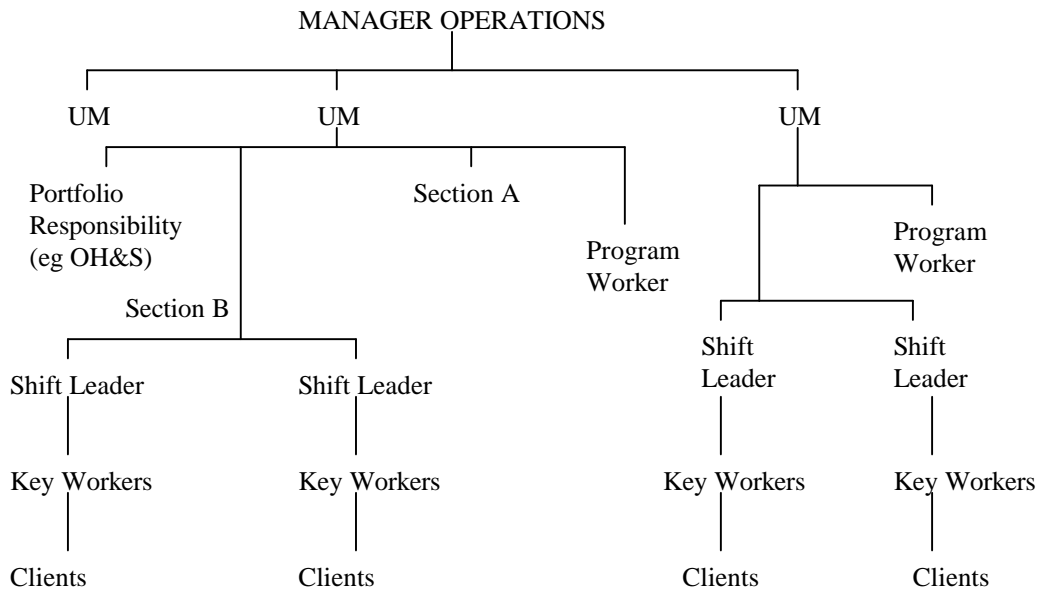
# APPENDIX 2

## Facility and Unit Management Structures

### FACULTY MANAGEMENT



### UNIT MANAGEMENT



# APPENDIX 3

## Unit Manager Responsibilities

### 1. Business Management

- 1.1 Service Delivery Management
  - a) Operations (safety and security, rosters, critical incidents)
  - b) Basic client care, accommodation and advocacy
  - c) Client Service Planning as per standards and procedures
  - d) Integration of program resources as part of CSP (including Temporary Leave)
- 1.2 Personnel management for Unit (recruitment, WorkCover, discipline, leave etc)
- 1.3 (Select) Financial Management as delegated by CEO (petty cash)
- 1.4 Portfolio responsibilities (eg promotions, OH&S)
- 1.5 Securing resources (funding, volunteers etc)

### 2. People Management

- 2.1 Team management (including supervision and delegation)
- 2.2 Communication and distribution of information
- 2.3 Staff development and counselling
- 2.4 Leadership and motivation including cultural change initiatives

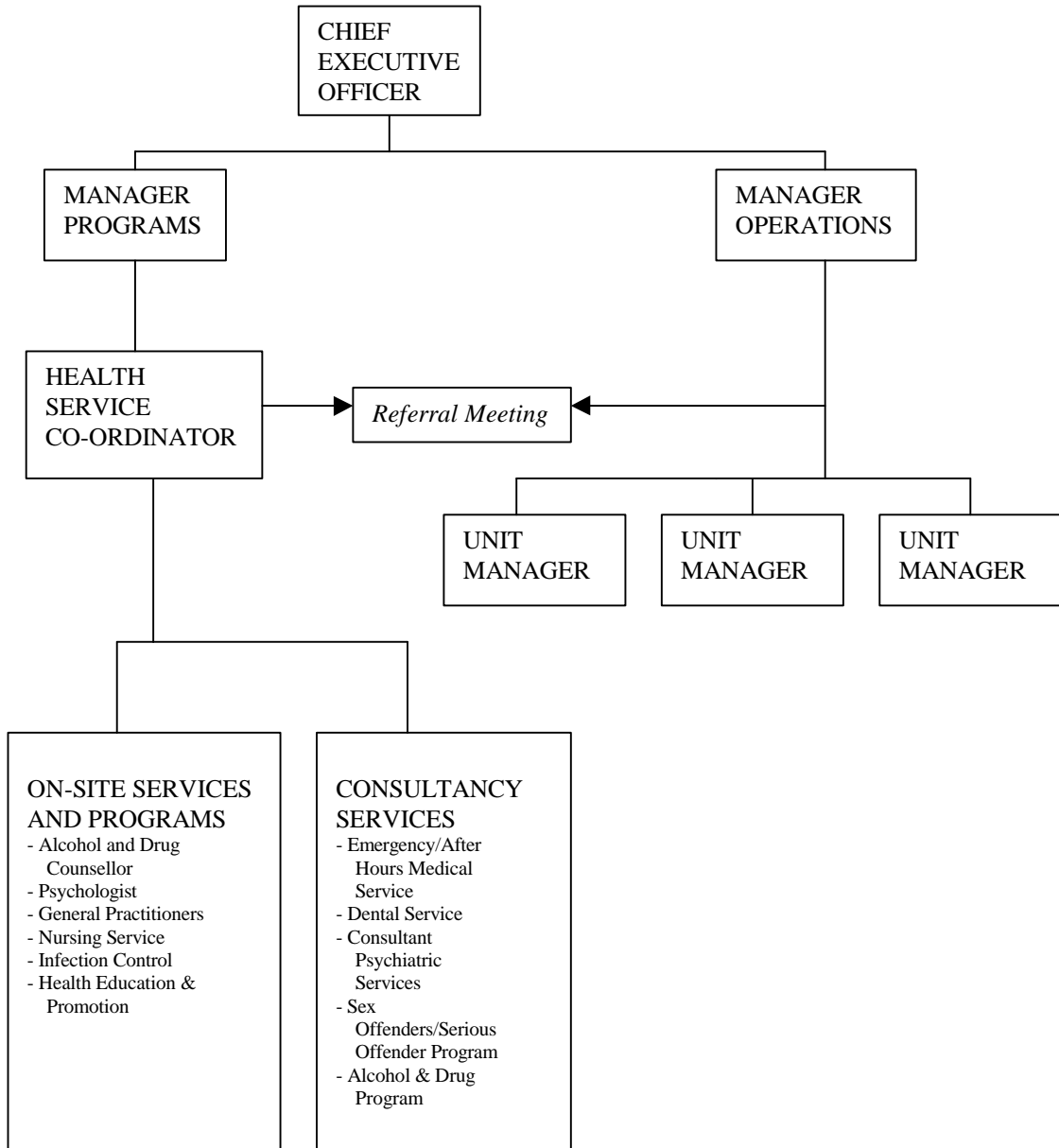
### 3. Strategic Management

- 3.1 Unit Planning including strategy development
- 3.2 Strategic decision making and implementation
- 3.3 Managing stake holders (including volunteers, parents, police, community)
- 3.4 Workload management for self and team
- 3.5 Introduction of new initiatives/change



# APPENDIX 4

## Integrated Health Services in YTCs



# SECURE DETENTION OF YOUNG PEOPLE IN RESIDENCES IN NEW ZEALAND

**David J. Harvey**

IN CERTAIN CIRCUMSTANCES YOUNG PEOPLE MAY BE PLACED IN SECURE care in a Social Welfare residence in New Zealand. Secure care is a form of close confinement. It is not solitary confinement. But it is confinement in a residence in a locked room or enclosure with visible physical barriers.

It is not viewed as a standard procedure for the confinement of young people in a residence. It is considered to be an extreme course of action with safeguards imposed to ensure that its use is justified and is not imposed arbitrarily.

It is the purpose of this paper to describe the circumstances in which young people in residences may be detained in secure care. This paper also briefly discusses the nature of a residence and its purpose, the overriding principles of the Children, Young Persons and Their Families Act 1989 and the provisions and principles that govern retention of a young person in secure care.

## **Definitions and Principles**

It is important to note that young people should not be held in custody pending disposition of their cases where that can be avoided. Even where offenders between the ages of 17 and 20 are held in custody in the remand wing of a prison it is common for the judge to order that the young person be kept apart from adult prisoners.

There is a statutory prohibition upon the imposition of a sentence of imprisonment in respect of a person under the age of 16 years unless the offence is purely indictable (Section 8, Criminal Justice Act 1985).

The sentence of corrective training, which is a full-time custodial sentence lasting 3 months for offenders between the ages of 16 and 20 is available in certain restricted circumstances.

### *Residences*

It is important to understand the concept of *residence* as it applies to the Children, Young Persons and Their Families Act.

A residence is any residential centre, family home, group home, foster home, family resource centre, or other premises approved by the Director-General of Social Welfare. The function of a residence is as a place of care or treatment for the purposes of the Act.

Not all residences have facilities for secure care. Two residences in the North Island, one at Weymouth just south of Auckland, and one at Epuni near Lower Hutt, have secure care provision. Only one residence in the South Island has secure care facilities.

**Purposes of residences:** The major purpose of residences is to provide for the care and control of children and young persons. The Director-General must endeavour to establish a sufficient range of residences to cater effectively for the variety of special needs of such children and young persons.

In particular, residences are to be established and maintained for:

- Remand observation, assessment, classification and short-term training purposes;
- The provision of a variety of programs of special training and rehabilitation;
- The provision of periodic training, of recreational, educational, vocational activities, or of work either in a residence or in the community under supervision.
- The provision of secure care.

(Section 364 Children, Young Persons and Their Families Act 1989)

Mr Campbell and Ms Neilson will be dealing with the question of detention in Social Welfare residences (*see* pp. 83-95 of this volume) and this paper does not intend to cover that aspect of the matter in any detail.

### *Principles of Children, Young Persons and Their Families Act 1989*

**General:** By way of introduction, however, it is important to note that the Children, Young Persons and Their Families Act has three specific sections relating to general objects, principles and duties. The objects and principles that are apposite for our consideration are contained in sections 4, 5 and 6 of the Act.

The objects of the Act are set out in section 4. In the context of youth justice, section 4(f) is significant. The object of the Act is to promote the wellbeing of children, young persons and their families and family groups by:

. . . ensuring that where children or young persons commit offences:

- (i) They are held accountable, and encouraged to accept responsibility, for their behaviour; and
- (ii) They are dealt with in a way that acknowledges their needs and it will give them the opportunity to develop responsible, beneficial, and socially acceptable ways.

Section 5 sets out the general principles that are to be applied in the exercise of powers conferred by the Act. These sections are helpful from the judicial perspective.

In summary, the principles are:

- participation by the family in the making of decisions affecting the child and young person;
- the maintaining and strengthening of relations between a child and his or her family;
- the consideration of how a decision affecting the child will affect the welfare of the child and the stability of the child's family;
- the principle that the wishes of the child as far as they can reasonably be ascertained should be given weight appropriate to the circumstances having regard to the age, maturity and culture of the child;
- the principle that endeavours should be made to support of the parents, guardians, or other persons having the care of the child;
- the principle that decisions affecting a child should wherever practicable be made and implemented within a time frame appropriate to the child's sense of time.

The focus therefore in terms of section 4 is on accountability and responsibility on the part of the youthful offender and in terms of empowerment for families in terms of general principles.

In relation to secure residential care, section 6, which provides that where there is any conflict interest arising, the welfare and interests of the child or young person should be the deciding factor.

The Youth Justice provisions of the Act are contained in Part IV. The secure care provisions are contained in Part VII. Section 6 makes the interests of the child the deciding factor only where there are conflicts in the administration or application of certain parts of the Act. Part IV is not one of those specified.

However, it is my view that the general principles must always be kept in mind in the discharge of one's duties under the Act and certainly, the Youth Justice principles are subject to section 5 of the Act. But the interests of

the child may be the deciding factor where there are conflicts in administration or application within the secure care regime.

**Youth justice principles:** The youth justice principles contained in section 208 are subject to section 5 of the Act. In examining the issue of secure care, a constant philosophical thread is present—that close custody may only be used in certain limited circumstances. For this reason an examination of other circumstances where a young person may be held in custody is helpful.

Youth justice principles emphasise:

- that alternatives to criminal proceedings should be considered unless the public interest otherwise requires;
- that criminal proceedings should not be used solely as a means of obtaining assistance or services to advance the welfare of the child or his/her family;
- that any measures for dealing with a young offender be directed to strengthen the family group and foster its ability to deal with its young;
- that a young offender be kept in the community as far as is practicable having regard to the safety of the community; recognising that age is a mitigating factor in determining whether or not to impose sanctions, and the nature thereof;
- that when sanctions are imposed they should take the form most likely to promote the development of the young person within his/her family, and also that such sanctions should take the least restrictive form appropriate;
- that the interests of the victims should be taken into account; that the particular vulnerability of young people entitles them to special treatment during any investigation relating to the commission or possible commission of an offence by that young person.

It is quite clear therefore that the focus of the principles is upon empowering families, maintaining the child in the community, delivering appropriate sanctions, taking into account victims, and recognising the particular difficulties that a child may have experience in an encounter with investigative authorities.

### **Custodial Situations**

It is with these principles in mind therefore that there are certain limited circumstances where a young person may be arrested without a warrant and kept in custody. But there are restrictions upon these powers. I shall refer to them in a cursory manner, for the circumstances demonstrate the application

of the principles and also demonstrate certain ways by which a young person may reach a residence.

*Arrest without warrant-generally*

In certain limited circumstances a young person may be arrested without a warrant. There is a difference in the approach based on arrest for an offence that is not purely indictable and an arrest for a purely indictable offence.

If a child or a young person is arrested without a warrant the enforcement officer making the arrest must within three days furnish a written report to the Commissioner of Police stating why the child or young person was arrested without warrant. The circumstances by which a child may be taken into police custody are strict and limited.

*After arrest*

After an arrest either with or without a warrant has been effected, the young person should be released from police custody and placed in the care of his or her family or a person approved by the Department of Social Welfare or the police.

*Placement with Department of Social Welfare*

In certain circumstances a young person may be placed with the Department of Social Welfare in a residence.

Placement of the child in the custody of the Director-General should be sufficient authority for the detention of the child or young person by a social worker or in a residence under the Act. It is expressly prohibited for the police to exercise the power merely because the police believe the child or young person is in need of care and protection.

*Police custody*

In very rare circumstances a young person may be detained in police custody. Approval must come from a senior social worker and a senior sergeant or commissioned officer of police. The preconditions for police custody are that there is a likelihood that the young person may abscond or be violent and that suitable facilities for detention and safe custody are not available to the Director-General of Social Welfare.

*Powers of the Court as to Custody*

Where a child appears before the court and pending a hearing the court shall either:

- Release the child or young person; or
- Release the child or young person on bail; or

- Order the child or young person be delivered into the custody of the parents or the guardians or other persons having the care of the child or young person or any person approved by a social worker; or
- Order that the child be detained in the custody of the Director-General, an *iwi*<sup>1</sup> authority or a cultural authority (s. 238(1)(d)); or
- Order the child or young person be detained in police custody. Effectively, section 238(1)(d) will place the child in a residence.

### *Restrictions*

There are restrictions on the power of the court to make an order under section 238(1)(d). It must appear to the court that:

- pending the determination of the charge the child or young person is likely to abscond or commit further offences, or
- it is necessary to prevent the loss or destruction of evidence relating to the offence or to prevent interference with witnesses.

The young person shall not be ordered into police custody unless the child is likely to abscond or be violent or suitable facilities for the detention in safe custody of the child or young person are not available to the Director-General.

The provisions of section 238(1)(e) effectively amount to secure care in police custody. However, when a child or young person is placed in a residence, secure care does not automatically follow.

## **Secure Care**

### *Grounds*

The grounds for placement in secure care are contained in section 368 of the Act:

A child or young person may be placed in secure care in a residence if, and only if, such placement is necessary:

- (a) To prevent the child or young person absconding from the residence where:
  - (i) The child or young person has, on one or more previous occasions, absconded from a residence or from Police custody; and
  - (ii) There is a real likelihood that the child or young person will abscond from the residence; and

---

<sup>1</sup>. "Iwi" or "bene" refers to the extended family group, where members are related by blood (*see* Brown 1993, p. 99).

(iii) The physical, mental, or emotional wellbeing of the child or young person is likely to be harmed if the child or young person so absconds; or

(b) To prevent the child or young person from behaving in a manner likely to cause physical harm to that child or young person or to any other person.

An examination of the grounds emphasises the significance that Parliament has attached to the question of secure care and that it is a remedy to be exercised only in extremis.

- The placement must be necessary.
- It is seen as a step of last resort by use of the words "if, and only if".
- Under the grounds contained in section 368(a) all the criteria must be satisfied.

There has to be a previous absconding from a residence or from police custody on one or more previous occasions. There must be a real likelihood that the young person will abscond from the residence. Furthermore, the judge must be satisfied that the physical, mental or emotional wellbeing of the child or young person is likely to be harmed if he absconds.

The question of previous absconding has been dealt with on the basis that there must be some proximity to previous absconding to the present application for that ground to be satisfied. The fact that a young person showed a tendency to abscond some two or three years before will not satisfy section 368(a)(i).

The question of real likelihood is demonstrated by propensity. There must be evidence of the likelihood of harm to the physical, mental or emotional wellbeing should the child abscond.

Section 368(b) again requires the necessity of placement as a last resort to prevent the child or young person from behaving in a manner where he or she is likely to cause physical harm to him or herself or to any other person.

#### *Duration of care*

The young person is not to be kept in secure care for a continuous period of more than 72 hours or on more than three consecutive days unless approval is granted under section 376 of the Act. That approval can only be given by a court presided over by a Youth Court Judge. Where approval is given by the Youth Court Judge the approval is only for continued custody in secure care for a period of 14 days. At the end of that period of time, if it is considered necessary for a fresh secure care application to be made, approval must be sought for a further 14 days. Effectively, the application for continuation of detention in secure care amounts to a fresh hearing and it is not enough that the young person has been kept in secure care for the previous 14 days. The grounds must be established for a renewal.



If the young person is being held pending disposition of proceedings, secure care orders will expire on the next court day, if that is within the 14-day period. The reason for that is that there may be some disposition of the matter by the Court which would render secure care to be nugatory or which may be complicated were the young person to remain in secure care.

**Statistical information:** The following information may be of assistance in considering the way in which secure care is used. The figures below are derived from the Weymouth Residential Centre and cover the period 1 January 1992 to 31 December 1992. During that time 418 young persons were admitted to the Secure Unit at Weymouth.

The length of stay of young people in the Secure Unit was:

Less than one day	113
One day	71
Two days	104
Three days	34
Four days	19
Five days	8
Six days	22
Over six days	47

The number of times that a young person was admitted to the Secure Unit are as follows:

Once	80
Twice	38
Three	21
Over three	29

The number of admissions where a continued retention in secure care was sought was 112.

The number of continued retentions approved by the Youth Court was 103 and nine were declined. There were 29 applications based on section 368(a), 48 based on section 368(b) and 35 based on both grounds.

#### *The secure care regime*

Before a young person is placed in secure care, he or she may be required to undress and be searched for any articles, drugs or other substances which could be harmful to the young person or others.

Once a placement in secure care has been made, it must be reviewed daily by the person in charge of the secure care unit. In addition, it must be reviewed weekly by the principal of the residence or some senior member of the staff designated for that purpose.

A young person in secure care is entitled to mix with other residents in the unit between 9.00 am and 5.00 pm. This includes eating meals with other residents and having access to appropriate forms of sporting or recreational

activity. Generally, therefore, secure care is not a form of solitary confinement.

However, these rights may be restricted. The young person may be confined to his or her room where such confinement is necessary:

- on account of any illness, injury or extreme emotional disturbance suffered by the child or young person; or
- in any case of emergency, or in order to maintain or restore order in the residence.

#### *Steps to be taken*

If the Director-General wishes to continue the detention in secure care for more than 72 hours, application must be made and if a hearing cannot be promptly scheduled the Registrar on ex parte application may make an order for secure care of up to three days, but only if the Registrar is satisfied that it is necessary on either or both of the grounds specified in section 368 to detain the child and young person in secure care pending the determination of the application.

**Notifications:** Where a young person is to be kept in secure care, a parent, or a guardian or a previous caregiver must be notified, together with any person nominated by the child, and the child's barrister or solicitor or youth advocate. Notices are to be given where practicable by telephone forthwith, and by letter within 24 hours of the child's secure care placement. The letter must specify the basis upon which the young person has been placed in secure care and contain a clear statement of the right to apply under section 380 for a review of the placement of the child in secure care.

**Hearing:** Where there is a hearing before a Youth Court Judge, no one shall be present apart from

- officers of the court,
- the child or young person,
- any parent or guardian or near relative of the child or young person, or any member of the child's *whanau*<sup>2</sup> or family group, or any person who was the caregiver immediately before the child was placed in the residence,
- a barrister and solicitor or youth advocate and any lay advocate who represents the child,
- the director of the residence,
- any social worker, witnesses or any person whom the court permits to be present.

---

<sup>2</sup>. "Whanau" is the smallest social unit within the biological family and literally means "to give birth". The term covers the two preceding generations of grandparents and parents, the generation of the person concerned and the two succeeding generations of children and grandchildren.

The hearings have to be held at the residence where practicable and this occurs in almost all cases in South Auckland. However, in Lower Hutt the hearings take place in the Youth Court at the courthouse. Where the hearings are unopposed, they may be conducted by teleconference.

**Evidence and procedure:** The court has the power to take into account any oral or documentary material that it considers relevant, whether or not it would be admissible in a court of law, and the Judge must record in writing the reasons for granting the approval and may impose such conditions relating to the continued detention of the child or young person in secure care as it sees fit.

Before an application is made for continued detention there may be an application for review of the Director-General's or Registrar's decisions. This may be carried out by a Family Court Judge, a Youth Court Judge or a District Court Judge. The High Court has a power to review a decision authorising continued secure care made by a Youth Court Judge.

### *Judicial decisions*

Most of the decisions interpreting the secure care provisions of the Act are made by Youth Court Judges at hearings on applications for secure care. These are not always granted. There are occasions at a hearing where it becomes perfectly clear that secure care is being used for disciplinary purposes. In such a case an application will be refused. There have been occasions where there has been no evidence of mental or emotional or psychological harm, and generally evidence will be required from a specialist to support this ground.

The significance of the guiding principles of the Act are important. I held that section 6, which requires the Court to take into account the welfare of the child where there is a conflict in principles or interests, justified the placement in secure care where the young person was in the Director-General's care pursuant to the care and protection provisions of the Children, Young Persons and Their Families Act 1989. It was established that the young person had absconded, was likely to do so again and that if she absconded her well-being could be at risk from the use of drugs (*DSW v. TF* 8 March 1993).

However, in another case I held that the grounds for secure care were not established where the young person had been compliant in both the open and secure care units, had made no attempt to run away, but had told a residential social worker that he would do so. He later said that the earlier statement had been a joke. Furthermore, there was no evidence that the young person's well-being was likely to be harmed if he did abscond (*DSW v. RF* 11/3/93).

This emphasises the fact that all of the ingredients must be made out, and the Judge must be satisfied that secure care is necessary. The court will require evidence supporting all of the elements that must be established.

Evidence of the risk of physical or emotional harm must be from a source more substantial than a newspaper report (*DSW v. BC* 11/6/93). In the same case I held that a Judge need not look only at a past history of absconding to demonstrate a propensity to abscond but may also take into account other incidents of behaviour that demonstrate a wilfulness of attitude where the young person absents him or herself from a place where she or he ought to be.

Judge McElrea had to deal with a similar issue. All the absconding mentioned was from placements in the community, either with the young person's father, her uncle or *whanau* placements. The question was whether her previous history of absconding in the community was something that could be taken into account in deciding whether she may behave in a manner likely to cause harm to herself or any other person. He noted that the regularity with which she had absconded from placements within the community raised very real concerns that she may well abscond from Weymouth, and she had shown a likelihood of getting involved in offences of aggravated robbery—that is, offences involving violence or threats of violence (*DSW v. MM* 4/6/93).

However, secure care cannot be used merely to manage a difficult young person. In *DSW v. NK* (11/6/93) I said:

It is not appropriate in my view for the Judge to take on the role of a social worker or a social analyst. One must deal with this matter in accordance with the law as it has been stated by Parliament and although evidence may be admitted that would not otherwise be admissible in a Court, although one may take into consideration such extraneous circumstances that one would be unable to take into account in a fully constituted District Court hearing, nevertheless, there are some basic parameters that have to be set in these type of applications. If Parliament intended that secure care be used to stop people from absconding per se it would have said so. If Parliament had intended that secure care be used as a form of management it would have said so. If Parliament intended that secure care be used to deal with questions of discipline it would have said so. But, against that, Parliament has decreed in the Children, Young Persons and Their Families Act certain principles which basically put the balance in favour of the child and the young person, recognising the susceptibility and vulnerability of children and young people and it is against that background and having regard to those principles that these applications must be considered along with the very stringent requirements of s. 368.

As I have already indicated it is not sufficient merely to rely upon a previous grant of an application for secure care to support a further application for continuation of secure care. In one of the few High Court cases *T v. DSW* (1989) 6 FRNZ 100 there was an application for review of a decision of a Youth Court Judge detaining the applicant in secure care. Gault

J reviewed the legislative provision and the history of the matter, observing that: the welfare and interests of the child or young person were paramount factors and that the very fact that the Act limits the period for which an order can be made to maximum of 14 days indicates that it is not intended as a long term form of detention unless that is shown to be necessary.

Gault J also referred to the principle that decisions affecting a child or young person should wherever practicable be made and implemented within a time frame appropriate to the child or young person's sense of time. He referred to a duty imposed upon the Director-General under section 7(ii)(e) to establish procedures to ensure that the cases of children and young persons in respect of whom action has been taken under the Act are regularly reviewed in order to assess the adequacy and appropriateness of that action. He held that upon an application for renewal of approval he would expect the Department to present the court with its assessment of the appropriateness of continued detention in light of the detention under the previous order or orders, any response to counselling and other programs, and any relevant changes in the attitudes of the family or *whanau* and to bring to the court such material as will assist it at the time of the application for renewal in determining whether continued secure care is necessary.

The learned Judge also considered the question of the location of the hearing. Quite clearly the direction that the hearing should be heard in the residence was, when read with the guiding principles in section 5, "to avoid the threatening or inhibiting environment of a court when dealing with issues of care of a child or young person".

He held secure care is not to be approved as a punishment for absconding or otherwise nor is it merely to prevent the nuisance of young people absenting themselves. Unless the grounds are made out an order cannot be made. The considerations relevant to applications for bail, such as the seriousness of the charges, likely failure to appear, likely reoffending and likely interference with witnesses can be taken into account only to the extent that they fall within one or other of the statutory grounds and it is to be noted that there are other provisions in the Children, Young Persons and Their Families Act (section 238(1)(e)) which cover such a situation. Section 368(a) requires not only previous absconding and a real likelihood of future absconding but also a likelihood of harm to the physical, mental or emotional wellbeing of the child or young person if he or she absconds. This last requirement is very broad. It extends the impact on the child or young person, not only of the further absconding but also of his or her likely conduct, company and lifestyle, having absconded.

However, secure care does not only apply to young persons in a residence awaiting disposition of their cases. It may be imposed upon young persons who are in a residence pursuant to an order for supervision with residence, or who are in a residence as a result of having been sentenced.

This latter situation was the case in *Director-General of Social Welfare v. V* (1992) 8 FRNZ 598 where the young person was found guilty of murder and received a mandatory sentence of life imprisonment. He was placed in the

Epuni Residential Centre pursuant to the provisions of section 142A of the Criminal Justice Act 1985 and was transferred to the Weymouth Residential Centre in South Auckland. It was the view of the Director-General of the Department of Social Welfare that V should be retained in secure care but that the maximum amount of time that he may remain in secure care was 14 days. It was the Director-General's contention that a fresh application must be made every 14 days to continue his retention in secure care. The Justice Department differed.

I heard the case at first instance. V had been transferred to a residence pursuant to section 142A of the Criminal Justice Act which provided that where a child or young person who was serving a sentence of imprisonment may be detained not only in accordance with the Penal Institutions Act 1954 (in a penal institution) but also in any residence for the time being approved by the Director-General of Social Welfare and the Secretary for Justice.

The Superintendent of a penal institution has legal custody of the person detained in that institution, but where the detention is in a residence the Director of the residence has legal custody of the person detained in that residence. The case focussed on the question of custody. Since V had been sentenced to a term of life imprisonment it was implicit in such sentence that it was of a custodial nature and confinement was an ingredient of the sentence of imprisonment. Apart from secure care the concept of confinement could not be guaranteed at the Weymouth residence. I made the comment:

In my view the care of a young person vested in the Director-General pursuant to section 142A comprises an entirely unique situation. It arises of course because of the inappropriateness of the prison environment pursuant to the Penal Institutions Act for a child or a young person. It is considered that a Social Welfare residential environment is perhaps less harsh on a young person from the psychological and physical point of view and is more appropriate towards that person's age. But the concept of confinement is not eliminated. What the Director of the residence is being asked to do is to keep the young person in secure confinement in the residence as an institution rather than having that person retained in a prison as the institution. If it had been the legislative intention under s. 142A for the provisions of the Children, Young Persons and Their Families Act to apply, including those provisions relating to secure care, then I believe the legislature would have said it. It is quite clear that the legislature intended that the concept of incarceration in a penal institution would predominate and for that reason has put the emphasis in s. 142A upon the provisions of the Penal Institutions Act together with modifications. It is significant that there is no provision in the Penal Institutions Act relating to secure care.

That case went on appeal and was largely upheld.

The only qualification that the learned Judge Mr Justice Fisher made was as to the concept that the Director-General is *required* to keep a young person such as V in secure care and in confinement at a residence. The true position appears to be directed to the overriding control of the Director-General. The principal of a children and young persons' residence has a discretion whether or not to physically confine. Although physical confinement in some form

would no doubt be the normal expectation, it is not mandatory. The important point is that if the principal does physically confine there are no procedures or preconditions to satisfy and multiple applications for secure care need not be made.

### **Conclusion**

It will be seen that the concept of secure care or close confinement both for convicted persons and for young persons held in a residence pursuant to the provisions of the Children, Young Persons and Their Families Act is very limited. Stringent preconditions must be satisfied. Such an approach is entirely consistent with the principles and goals of the children, young persons and their families legislation. The thrust is against confinement. It is towards allowing, on the contrary, as much liberty to the young person as possible recognising that without such liberty, rehabilitation, reintegration, a recognition of responsibility and the necessary empowering of the family group cannot take place where the young offender has been isolated from the family group and cannot take an effective part in such reintegration and rehabilitation.

### **References**

Brown, M. 1993, "Juvenile justice in New Zealand", in *National Conference on Juvenile Justice*, Conference Proceedings No. 22, eds. L. Atkinson & S. Gerull, Australian Institute of Criminology, Canberra.

# **DEVELOPMENT OF A NEW ZEALAND NATIONAL SECURE PROGRAM FOR SENTENCED OFFENDERS AGED BETWEEN 14 AND 17 YEARS**

**Peter Campbell and Liz Nielsen**

THIS PAPER DESCRIBES HOW THE NEW ZEALAND CHILDREN & Young Persons Service is responding to the need to provide secure custody for sentenced offenders aged between 14 and 17 years of age.

It outlines the situation in New Zealand in the 1980s prior to the Children Young Persons and their Families Act becoming law in November 1989 and the recent developments in the management of young offenders since its enactment.

The reasons for the establishment of a national secure program will be highlighted and the goals and objectives that have been established for the program will be outlined.

## **Incidents Which Led to the Development of a National Secure Program**

In 1991 there were three murders committed by children or young persons in New Zealand that shocked the nation. The fact that the three murders occurred within a few months of each other, and that two were committed by 15-year-old youths and another by a 14-year-old, created an enormous amount of media attention.

The murder of a 12-year-old boy in the South Island provincial city of Timaru (population 35 000 approximately) by a 15-year-old youth created the most media attention and public outcry. The reasons for this were twofold:

- The incident had no apparent motive as the boy was unknown to his assailant.



- The offender, who was a short time later arrested and charged with the murder, was on home leave from Kingslea, a Social Welfare youth justice residence located in Christchurch.

The Children, Young Persons and their Families Act became law in New Zealand on 1 November 1989. For the Department of Social Welfare, the government department with the responsibility for administering the Act, it brought very significant changes. The Act was seen as a reinvestment in the power of families and is the first comprehensive attempt by a New Zealand government to take account of the cultural values and perspectives of Maori & Pacific Island peoples in dealing with issues of care and protection or offending.

### **Social Welfare Residences in the 1980s and 1990s**

In the mid-1980s the Department had faced a considerable amount of criticism for the way it operated its residential programs. Much of this criticism came from Maori groups who were concerned about the very high proportion of young Maori, particularly in the North Island, who in some youth residences comprised 80 to 90 per cent of the residences' clientele. The young people who were in long-term training were often detained hundreds of miles from their homes and were placed in what was to them, a very "foreign" environment where they could remain for one year or longer.

To the Maori people, the way the Department dealt with their young people was distasteful and disempowering and they sought the right to develop programs to care for their own young people.

The Human Rights Commission was also critical of the Department in a report presented in 1982.

The Department of Social Welfare acknowledged that the concerns raised by the Maori Groups and the Human Rights Commission were real and that the residential programs needed to change. The Department of Social Welfare responded to the concerns in two ways:

- By sponsoring the development of *Matua Whangai* programs. Essentially, these are fostering programs run by Maori for Maori with the aim of keeping young Maori out of institutions and within the extended family structure.
- By developing community based alternatives using funds freed up by a massive reduction in the number of residences and residential beds provided.

The process of restructuring residential services began in 1986. Services were reduced gradually from 23 institutions nationally, with an open bed capacity of 721 and a secure bed capacity of 161. There was a final restructuring in May 1990. At this point the Department felt it had sufficient capacity and geographic spread in its residential facilities to meet the demands created by the new Act.

The shape of Department of Social Welfare residences following the 1990 restructure was:

- Youth justice facilities
  - 20 beds at Weymouth - Auckland
  - 20 beds at Epuni - Wellington
  - 20 beds at Kingslea - Christchurch
- Care and protection facilities
  - 8 beds at Weymouth - Auckland
  - 6 beds at Kingslea - Christchurch
  - 8 beds at Elliot Street - Dunedin

All these residences are mixed gender facilities and all have secure units. The details of the secure facilities are:

#### *Weymouth*

A 13-bed, 1970s purpose built facility designed for adolescent girls. Nine beds are for youth justice use and four are for care and protection purposes.

#### *Epuni*

A six-bed facility of outmoded design suitable only for short-term care, due to cramped living space. There are plans to build a new secure unit within the next two years. The proposed unit will have fourteen beds in total.

#### *Kingslea*

A 15-bed modern unit opened in 1989 comprising three high containment rooms; eight medium containment rooms; and four low containment rooms as well as one time out room. Eleven of the rooms have been used for youth justice purposes and four for care and protection clients. Since 1 July, the resource has effectively been collapsed into a single purpose youth justice unit. This was possible due to low care and protection use, averaging one resident at any given time. Care and protection clients now receive one to one staffing and are separated from the youth justice residents for some activities.

#### *Dunedin*

A three-bed modern purpose built facility introduced in 1990. It was designed to meet care and protection needs but some short-term youth justice remand clients have been held there.

In 1992 the bed capacity at the Weymouth Youth Justice Centre was increased to 25 beds and Kingslea's youth justice capacity to 24 beds, including those designated for the National Secure Program. Also a five-bed

secure unit at Hamilton has been opened to handle short-term secure remands for the Central North Island area.

Thus, in 1991, when faced with the prospect of having to provide secure facilities for serious offenders, such as the three youths convicted of murder, the Department had no designated facility providing a secure program for sentenced youth offenders. In New Zealand, young people under 17 years, who are sentenced to terms of imprisonment can, by agreement between the Secretary of Justice and the Director-General of Social Welfare, spend, by way of formal transfer, the period up to their seventeenth birthday in a Social Welfare residence.

### **Mason Report**

Two separate occurrences ultimately led to the Department deciding to set up a National Secure Program. The first arose from the public outcry relating to the abovementioned murders committed by young people but, more importantly, mounting pressure from the police to have the new Children, Young Persons and their Families Act tightened up. This led to the Minister of Social Welfare commissioning a review of the Act. The police had not been happy with aspects of the Act since its inception and had been particularly embarrassed in a rather well publicised murder case. In 1991 they charged a young person, aged 15 years, with the murder of a farmer in a rural area of New Zealand but due to the police not correctly following procedures laid down in the law, the case was dismissed. The police officer interviewing the young person had failed to warn the young person in terms of Section 215 of the Children, Young Persons and their Families Act. This section requires that before questioning any child or young person in relation to an offence allegedly committed by that child or young person, an enforcement officer must give the child or young person specific information about his or her rights.

A retired Judge, Ken Mason, was appointed to chair the review. In carrying out the review, the Mason team not only looked at the new Act from the viewpoint of possible changes to the legislation, but also looked at the processes and mechanisms the Department had in place to resource the Act. A number of recommendations made related to the Department's residential resources.

The Mason review team reported to Government that it was greatly supportive of the work being done in the residences but considered that the Department did not have sufficient residential resources to meet the demands of the Act. The team was especially concerned about young serious offenders. They recommended the Department develop a "stand alone" unit with therapeutic programs for such young people.

In its funding for the Department of Social Welfare in 1992-93, the Government provided funding to develop such programs.

### **Weymouth Situation**

A second and totally unrelated situation was developing at Weymouth in Auckland where the local community had become increasingly vocal about

the type of clients the Department was housing in their community. A number of abscondings where houses were broken into and cars stolen had been the catalyst for community unrest. The community challenged the Department's right to use the facility for potentially dangerous young offenders and were able to force the issue through town planning procedures. The result was an out of court agreement that the Department would not keep young people at Weymouth who had been charged with violent offences. Effectively, this means Weymouth is unable to provide programs for young persons on remand or sentenced for offences such as murder, rape, violent assaults and serious aggravated robberies.

The Weymouth situation meant Kingslea was the only suitable residence the Department of Social Welfare was operating that could run the National Secure Program.

### **Youth Justice Residences 1990-93**

In April 1992 the Department of Social Welfare was divided into five business units. The social work division became known as the New Zealand Children & Young Persons Service and it was shortly after the formation of this service that the decision was made to develop a National Secure Program at Kingslea.

Planning for this unit started in September 1992 and Liz Nielsen was appointed in October 1992 to lead and manage the development.

In essence, what Ms Nielsen found on taking over this role was a youth justice residential program at Kingslea which, although doing some very good work, did not have a clear youth justice focus. The program was "youth justice" in principle but "welfare" in practice. In 1989 when the new Act came into force the residential programs in New Zealand did not change in practice overnight, but rather carried on using a welfare model of care, based on the previous Act. Residential programs were offered in both boys or girls units. It was not until the May 1990 review of residential services, that the Department effectively created separate youth justice and care and protection residences.

Once the units became operational in September 1990 they were staffed by residential social workers whose work experience was based on a welfare model of residential care. On top of this, restructuring meant that a large number of staff left, so about one-third of the staff of the restructured residential services were new recruits. As the focus of this paper is on youth justice, we will refer only to developments in that area. Essentially, the managers of the residences had only the new Act and its principles to follow when they set up their new programs.

The results of this have been that the youth justice residences in New Zealand have struggled to develop youth justice residential programs particularly in their open units, that meet the requirements of the Act, specifically keeping remanded and sentenced young offenders in safe custody.

The most obvious manifestations of this struggle are the unacceptably high rates of absconding that occurred in all the residences. Although these

rates of absconding have been reduced, for example at Kingslea, we had an average of 20 abscondings per month in the first year of operation. The rate now is down to around six to seven abscondings per month; however, this still remains a problem.

A primary objective of the national secure program and the changes for the youth justice residential program associated with it will be the development of a youth justice model of residential work that recognises the responsibility to keep young people in safe custody while at the same time to address their needs through excellence in programming.

### *National secure unit*

The national secure unit is not a prison, nor is it a residential home. It is a safe and secure environment in which the developmental and rehabilitative needs of a select group of young people are addressed. Our foci are the effective containment of young offenders and addressing the developmental needs of these young people with a specific emphasis on recognising the consequences of their criminal behaviour.

### *Philosophy*

It must be remembered that these young people are serious, high profile offenders, but it is equally important to recognise that they are first and foremost young people with all the developmental needs common among their peers in the community, regardless of their legal status. These young people have come from the community and will eventually return to the community. Many will serve the majority of their sentences in adult penal facilities before their return to the community. Kingslea strives to prepare these young people for successful integration into their future environments by adequately equipping them with the skills necessary to meet the everyday challenges, complexities and uncertainties of life in either prison or society. The focus of our programming is on activities, interactions, interventions and responsibilities designed to enable our clients to:

- function at their age appropriate levels;
- behave in responsible, independent, self-interested and autonomous fashions;
- learn to recognise risk and develop skills in order to keep themselves safe and functioning effectively; and
- address their offending and the antecedent factors that led to their conflict with the law.

Our aim is to reduce the likelihood of reoffending through practical, targeted interventions in a structured environment, while at the same time minimising the negative effects of long-term incarceration.

Central to our philosophy is the belief that young people:

- require proper guidance, support and supervision from adults who provide positive role models;
- need opportunities to exercise reasonable control over their own lives;
- have developmental needs in the social, educational, emotional and spiritual areas;
- are part of cultural, family and peer systems which influence their behaviour;
- can be expected to learn reasonable decision making, problem solving, communication and coping techniques;
- often have special needs based on ethnic or family background as well as physical, mental or emotional condition;
- are capable of making amends for their actions; and
- can learn to make choices to act in ways that are in their own best interests without compromising the interests of others.

An environment which accurately reflects and supports community values and is conducive to growth is essential. Programs are designed to assist young people achieve a greater degree of personal control, self-esteem, autonomy, responsibility and accountability. Practical opportunities to learn and acquire skills and knowledge are provided through the implementation of educational, recreational, leisure and life skills training programs. The development of positive and healthy relationships between staff and clients and between clients and the community, along with the maintenance of the security aspects of the unit, provide the structure within which prosocial attitudes and behaviours are fostered.

### *Objectives*

The national secure unit provides services and programs tailored to both the individual and collective needs of the residents. The primary objective is to meet our statutory obligations under the Act and provide effective containment of serious offenders within a humane environment.

Our secondary objectives are:

- To maintain the physical and psychological health of residents by providing a positive and safe environment through adequate care, appropriate supervision, timely interventions, stable routines, clear expectations and the enforcement of rules.

- To provide effective and comprehensive case management from the orientation process through to release/transfer and beyond with specific attention to the individual needs of each resident.
- To provide for the educational needs of the residents regarding basic literacy and numeracy skills so that they are better able to pursue other interests and further their education.
- To assist residents develop and enhance their skills in the areas of communication, cooperation, problem solving, decision making and other fundamental social and life skills.
- To ensure prosocial attitudes and behaviours are reinforced through appropriate behaviour management training and incentive programming.
- To ensure that young people who transfer into the adult penal system are adequately prepared.
- To assist residents develop skills in the areas of recreation and leisure so that they may learn to pursue appropriate activities in their spare time.
- To meet the special needs of young people in our custody from the initial assessment to intervention and treatment.
- To meet the developmental needs of residents in the areas of social, cultural, emotional, relational, and personal skills enhancement so that individuals may become more empowered to function successfully once released from the unit.
- To encourage family and community involvement and support them in the development of supplementary caregiving skills so that they may provide residents with care and support that extends into the new environment upon release/transfer.
- To minimise the negative effects of incarceration by providing opportunities to live as normal a life as possible within the institution.
- To ensure the well-being of staff by providing for their safety and by meeting their training and professional developmental needs.

### *Security*

There needs to be an appropriate level of security in an environment which houses serious offenders. However, security measures should not be excessive nor detrimental to active and positive interaction between staff and residents.

The primary goals of our security measures are:

- Protection of staff
- Protection of residents
- Protection of the community
- Prevention of unauthorised activity
- Removal of temptation from residents

Staff, management and residents share the responsibility of creating a safe environment. Rehabilitation requires that residents not be distracted by problems of personal safety and survival that they may have encountered in past dysfunctional environments.

Particular attention is directed at:

- The physical environment and ensuring the unit is safe, secure, free of contraband and able to be monitored adequately.
- Emergency response where drills are conducted regularly, staff support each other and situations are debriefed.
- Checks, inspections and searches of rooms, the unit and residents form part of the daily routine and are either planned or randomly completed.
- A proactive behaviour management approach serves both to avert potential breaches as well as ensure cooperation during crisis situations.
- Suicidal awareness—the custodial population includes many who are at risk of harming themselves. Often the reality of being in custody in itself is an event disposing some young people towards suicidal behaviour.

### *Behaviour management*

Young people are granted custody orders, not only for the protection of society, but to provide the young person with an opportunity to develop the self-reliance and discipline necessary to successfully integrate back into the community or into another environment to which they may be transferred, and in order to address the antecedent problems which precipitated the incarceration. It follows then that the goal of behaviour management in a secure facility should be to facilitate the learning and development of prosocial behaviour by young people.

The primary goals of the behaviour management program in the national secure unit are to control behaviour, to facilitate learning on the part of the young person, to reinforce appropriate standards of conduct, and to establish



clear and effective techniques for addressing problematic behaviours. Positive, healthy, supportive and mutually respectful relationships between staff and residents is absolutely the most effective behaviour management tool available to staff.

The program ensures open, honest communication and adult role modelling; peer interaction and cognitive reasoning within a safe environment becomes the normal and accepted way of life. Social existence requires a willingness to compromise due to the understanding that the goals of the community as a whole must be considered vis-à-vis personal interest. Through empowering interaction, residents' contributions have real significance in actively influencing positive change among the peer group. The aim of full participation of all residents and staff in daily life decisions must be recognised as the key to the socialisation of residents in preparation for their return to the community or transfer to an adult institution.

### *Daily rhythms*

A structured lifestyle of clear guidelines, expectations and responsibilities sets limits within which flexibility can be negotiated. Routines provide the framework for stability and normality and encourage responsible lifestyle development and define limits and expectations for residents. The rhythm provides a balance between regularly scheduled activities that cannot be altered and program time within which flexibility may occur.

### *Client services*

Programs are offered which challenge and encourage young people to learn to overcome problems and further develop strengths. The focus is on areas which will improve the societal circumstances from which the youth may have come and to which that youth will ultimately return/transfer. Programs are reviewed and evaluated regularly for effectiveness and to ensure they remain targeted appropriately.

The primary goals of client services are

- To increase the specific skill level of residents.
- To provide an opportunity for volunteers, community agencies, families, staff and others to interact with residents.
- To provide an opportunity for family and significant others to develop and/or enhance relationships.
- To enhance the young person's level of self-awareness and confidence, and to stimulate growth and contribute to the young person's willingness to assume responsibility for his/her actions.
- To identify personal strengths and provide opportunities for their development.

- To facilitate change in clients' attitudes and behaviours through proactive educational measures and awareness activities.
- To assist residents overcome the barriers to developing independence and a crime free lifestyle.
- To assist young people address their own needs in a systematic, organised and coordinated fashion.

Programming options include but are not limited to, vocational training, lifeskills, literacy/numeracy, treatment, addiction/deviance counselling, family projects, community resources, cultural experiences, leisure pursuits, prison preparation, recreational activities and volunteer opportunities.

**Community resources program:** It is important for the social normalisation of institutionalised young people that a community presence exists in such a closed environment so residents do not become further isolated and alienated from the community. Also, because these young people are, quite literally, captive, it is essential that they have provided for them access to the "outside world" should they feel they are not being treated fairly. This provides the appropriate checks and balances in a world that can appear to young people to be completely controlled by others, leaving them often feeling vulnerable and powerless over their own circumstances and over the decisions which affect them. Of course certain personal, cultural, spiritual and educational needs will need to be addressed on a case by case basis.

Community agencies provide the vital link between institutions and the community. A certain amount of assistance must come from outside the institution and not from those responsible for keeping them incarcerated. Community agencies also can make the transition from the institution to the community less traumatic since community agencies can be accessed from within the institution and can continue to be accessed once the resident is discharged from the institution.

Agencies must be thoroughly screened to ensure they offer services in a manner that promotes full involvement of the client in the decision making process which affects them. A Community Resource Manual is being developed which contains all relevant information available on the entire range of community resources for potential clients. It must be understood that crime, and especially youth crime, is not entirely a single individual's problem. Crime is a community problem and the best work any justice institution can perform is in the area of community awareness about the effects of crime on all involved and the responsibility communities have to their members.

**Education program:** The school at Kingslea is well resourced. It allows those held in custody for long periods of time to maintain or advance their academic levels; it identifies aptitudes and needs; it provides remedial programs; and it encourages students to continue their studies once they leave the centre.

**Family program:** Consistent with our governing legislation, families, where appropriate, are afforded the fullest possible consultation and involvement in the case management of each client. Involvement includes an initial introduction and orientation to the program, opportunities to visit on a regular basis, consultation regarding treatment and referrals, and support to develop tertiary care giving skills.

The Family Visitation Program involves travel to the centre by prearrangement. Accommodation is provided. There is access to the family therapist for caregiving skills training and to address issues of communication and relationships within the family. Active steps are taken to foster and encourage family involvement while the young person is in custody (here and elsewhere), so that transition from the centre to the new environment is supported by family involvement.

The Children, Young Persons and their Families Act 1989, acknowledges that, in all cultures, the family has the first responsibility and is the main authority in matters concerning its own children and young persons. Better support networks can be established if adequate attention is focused on the family. Assistance must be provided for families to access appropriate resources. Staff must remain sensitive to the possibility of family stress which may be caused in part by the Department.

**Health care program:** Clients undergo a complete physical examination upon admission to the centre and a medical profile is completed that summarises each resident's medical history to date. Appropriate medical interventions are pursued.

**Leisure programs:** Some time is spent by residents developing their own interests and self-reliance. Residents should be introduced to the notion of "time alone" and assisted by staff in the exploration of leisure activities that will assist them to make more constructive use of their free time both in and out of custody. These activities could involve music, homework, letter writing or crafts.

**Lifeskills programs:** The focus here is on long-term planning and addressing issues that are most relevant to detainees' current and future situations. Programs are sensitive to the reality that most clients will not be reintegrated into the community for some time so it is important that staff do not promote any unrealistic expectations. The primary focus should be on fundamental skill development in the areas of communication, anger management, self-awareness, decision making, problem solving, self-discipline, emotional and sexual development and coping skills. This can be achieved through a variety of methods either overtly or covertly.

## **Conclusion**

This paper has outlined why the New Zealand Children and Young Persons Service decided to develop a national program for sentenced offenders under 17 years of age. The purpose of the program and how it operates on a day-to-day basis has also been described. This is the first time in New Zealand that a

program of this type has been established. Sufficient funding and good staffing structures ensure that the program begins with strong hopes of success. The development of the national secure program at Kingslea has been achieved in conjunction with significant changes to the youth justice open program.

The changes that have been made should ensure that we are service leaders in the area of secure and open programs for youth offenders.

# DETENTION<sup>3</sup>/<sub>4</sub> LAST RESORT OR JUST ANOTHER STEP IN THE REHABILITATION PROCESS?

**Chris McRobert**

THE SENTENCING OF JUVENILE OFFENDERS TO CUSTODY IS AN OPTION which is accompanied by considerable community condemnation and stigma. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) has as one of its central values the least possible use of institutionalisation for young offenders. Rule 19.1 prescribes: "The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period".

Freiberg et al. (1988), in Sentencing Research Paper No. 11, quoted the above passage and, at paragraph 420, stated:

Custodial options in general, but imprisonment in particular, have been criticised as being both economically and socially costly. Disillusionment with prison as an effective correctional measure is widespread. The dangers of institutionalising younger offenders have been well documented. They include the contaminating effects of exposure to other more experienced offenders, thus creating a criminogenic, rather than a prophylactic environment, and the physical and psychological consequences of brutality and overcrowding (Freiberg et al. 1988).

Section 33(2) of the *Children (Criminal Proceedings) Act 1987* (NSW) provides "The Children's Court shall not deal with a person under subsection (1) (g) [that is, sentence of detention not exceeding two years] unless it is satisfied that it would be wholly inappropriate to deal with the person under subsection (1) (a)-(f) [that is, non-custodial options]". Section 35 requires the court to give reasons both as to why detention has been imposed, and why the lesser options were "wholly inappropriate". If the foregoing were not sufficient to deter courts from imposing custodial sentences, we have the community attitude represented, for example, by the rather emotive title of a

paper delivered by Associate Professor Kenneth Polk at the National Conference on Juvenile Justice in Adelaide in 1992 in the following terms "Jobs, not Gaols: a New Agenda For Youth". It is suggested here that virtually no juvenile offenders go to gaol—with few exceptions, those sentenced to custody are held in juvenile detention centres, which are mostly far removed from the style of adult gaols.

Juveniles sentenced to custody are likely to experience a degree of social stigma resulting from their incarceration. If this flows from community perceptions of their criminal behaviour, the result is probably inevitable, but if the stigma flows from the detention per se, there is a need for community attitudes to change. For detention to be seen as an integral part of an overall provision of rehabilitative services, the community should not see detention as an expression of failure or as a "throwaway" option. Rehabilitation can be as effective in an institution as in the community, and may even have some advantages. Arguably, the only difference should be between part-time community work and full-time detention work. Removed from the community pressures which promoted the offending behaviour, and faced with little to do other than participate in rehabilitation oriented programs, an offender ought to have his or her chances of successful intervention maximised. If there is an obvious shortfall in present systems, it is more likely to be in the area of inadequate post-release programs than in the area of custodial rehabilitation.

The principle objective of sentencing in the juvenile justice system should be to ensure that the offender is free of criminal behaviour as soon as possible, and in any case before reaching adulthood and the threat of adult gaols. As the then NSW Minister for Justice, Mr Terry Griffiths (1991) said "The time to deter a person away from a life of crime is when they are young, not once they have become entrenched in the system." In the same article, he also said, "Another of the failures of the juvenile justice system is the lack of post-release programs. All too often, juvenile offenders are being released back to the same environment from which they came. Therefore, the likelihood of them committing further crimes, of a far more serious nature, is increased." The Minister correctly identified that it is the pressure of the offender's environment, rather than a history of incarceration, which leads to increased risk of re-offending.

This view is supported by a study (Brown et al. 1991) which found:

Of 243 juveniles adjudicated delinquent in juvenile court on their first referral to juvenile justice, 20% went on to adult prison after the age of 18. Of 233 juveniles not taken to juvenile court on their first referral to juvenile justice, 43% were imprisoned in adult life after the age of 18.

The study concluded, in part:

Thus, the human cost of "giving the kid another chance" by not taking him/her to juvenile court on the first referral for a delinquent act and not having him/her adjudicated delinquent and put on probation or in placement, appears to be doubling the likelihood of his/her going to prison in adult life.

This study appears to lend support to my view that it is better to adopt seemingly harsh sentencing options for young offenders, if that is more likely to produce the result that they learn to accept responsibility for their criminal behaviour as juveniles, than not "getting the message" until they face Long Bay Gaol or its local equivalent. At the Australian Institute of Criminology's juvenile justice conference in Adelaide in 1992 there was much debate between proponents of the welfare model on the one hand and the justice model on the other. However, the two schools of thought are not mutually exclusive: the welfare model is most appropriate to first or minor offenders, the justice model should apply to the entrenched or serious offenders, with overlap where necessary.

In seeking guidance from the judgments of the higher courts as to appropriate sentencing principles, a somewhat confused picture appears. To assist comparison, only decisions of the NSW Court of Criminal Appeal will be quoted although a more draconian attitude may prevail in some other States. For example, in an unreported decision of *R v. Collins*, 17 July 1987, the court said that persons convicted of attacks of robbery on defenceless people may inevitably, notwithstanding their ages, expect custodial sentences. The Court, in *R v. GDP* (1992) 53 A Crim R 112, said:

Quite different principles apply in the sentencing of young offenders . . . If general deterrence were a substantial consideration . . . then a custodial order would almost certainly be called for . . . rehabilitation must be the primary aim in relation to an offender as young as this applicant.

The Court substituted 12 months probation for the previous custodial order, in an offence relating to malicious damage to property, with a loss amounting to over \$550 000. In a later decision (*R v. XYJ*, unrep. 15 June 1992), the Court said:

. . . considerations of punishment and of general deterrence of others should, and may, properly be largely discarded in favour of individualised treatment of the offender, directed to his rehabilitation . . . This is not to say that considerations of general deterrence should be ignored completely when sentencing young offenders.

The Court went on to impose two cumulative terms, each of 18 months, for robbery offences, the defendant having an extensive prior record, with a recommendation for community youth centre release. In the case of *R v. Sherbon*, (unrep., 5 December 1991), the Court had substituted a sentence of one year's imprisonment for a non-custodial sentence on a charge of culpable driving causing death. The Court said:

. . . there comes a point in the seriousness of the matter where objective features do not stand in the way of a resort to strong coercive punishment as the proper sentence to be imposed.

The difficulty with these decisions lies in the suggestion that it may at least be inferred that their Honours equated a custodial sentence with the

idea that rehabilitation stops as you enter the detention centre gate. If there is any foundation for this inference, then perhaps the courts have failed to draw an adequate distinction between the conditions of custody in adult gaols and in juvenile justice centres. As a current Children's Court Magistrate, and former Local Court Magistrate, I have visited both adult gaols and juvenile justice centres on a number of occasions. I am certain that conditions in the former are far more harsh and less conducive to rehabilitation than in the latter. This possible lack of distinction may be a carryover from community stigmatisation—after all, the courts are supposed to reflect community attitudes!

Community misconceptions are not aided by a comment which appeared in the *Guardian Weekly* of 14 March 1993. The British Government, in response to community outrage over the killing of two-year-old James Bulger, proposed the building of a network of secure detention centres. The journalist suggested that the Home Secretary, Mr Kenneth Clarke, "gave up the attempt to understand, and opted for locking up." Whilst I am happy that the Home Secretary's proposal should be the subject of vigorous public debate, such comments do little to aid the progress of informed commentary.

*Sentencing Trends* (Judicial Commission of NSW 1991) provided some valuable statistics. We in the Children's Court are heard to say "A small number of juveniles are responsible for the commission of a large number of the crimes we see in court." The report says:

The vast majority of juvenile offenders in custody have a history of prior offending, with 95% having at least one criminal matter previously recorded against them. Approximately 12% had one prior proven offence, over 40% had two to five priors, over one quarter (28.2%) had six to ten priors, and the remainder (17.7%) had between eleven and thirty four offences on record (1991, p. 6).

These statistics would suggest that the dangers contemplated by Freiberg et al. (1988) are less serious than originally contemplated.

A common myth is that detention centres are colleges for crime. The statistics show, as do the sentencing practices of the Children's Court, that it is rare for any young offender to be sentenced to detention unless he is already experienced in crime. It is reasonable to suppose that, for many of those sentenced, the detected crimes do not fairly represent the whole range of their criminal activity. In simple terms, most detainees are already well skilled in crime. I am unsure as to what Freiberg et al. were referring to in using the term "brutality" (*see* quotation on p. 97 of this chapter). Did it refer to violence between inmates, or to a perception that the environment in detention has a brutalising effect? If the former applies, I would suggest that too little credit is given to the staff of the centres who maintain effective levels of internal security and discipline. In any case, the level of violence in the centre is likely to be considerably less than that experienced by inmates in the "outside world". If the latter applies, then I question the basis for such a conclusion. It seems to me that many detainees come from broken homes, are "street kids", have little recent experience of a secure, stable environment or are otherwise more at risk of environmental brutalisation than in the secure environment of



a detention centre. As to overcrowding, my most recent information is that centres in NSW at least are operating at only about two-thirds of capacity. It is unfortunate, to say the least, that the sentencing research paper referred to contained language that tends to promote, rather than diminish, the process of social stigmatisation inherent in community misunderstanding.

An edition of the ABC current affairs program "Attitude" dealt with juvenile crime. The common perception of young offenders interviewed on the program was that they expected far less lenient punishment than was actually meted out to them, and that lack of an effective deterrent may contribute to re-offending. Perhaps it is far better to get the message across of the need to accept responsibility for the consequences of offending behaviour while still part of the juvenile arena.

The "last resort" concept of custodial sentencing is not being questioned. However, any directions intended to give effect to that principle should not be expressed in terms that imply that custody is something apart from the rehabilitation process. It is an integral part, and must be recognised as such. If the persistent offender's perception is that community based options are a "slap on the wrist", then his or her most effective rehabilitation will come from a period of incarceration. The programs offered will ensure that the offender loses nothing more than freedom to commit further crimes for a period of time, and should provide more than one useful alternative, including an opportunity to improve often deficient literacy skills.

The rehabilitative programs pursued in the juvenile justice centres use a range of options and innovative ideas. With all of the help being offered to young offenders in detention, the time is ripe for removal of the stigma and for this sentencing option to be seen as "just another step in the rehabilitation process".

## References

- Brown, W.K., Miller, T.P., Jenkins, R.L. & Rhodes, W.A. 1991, "The human costs of 'giving the kid another chance'", *International Journal of Offender Therapy and Comparative Criminology*, New York/London, Winter, vol. 35, no. 2.
- Freiberg, A., Fox, R. & Hogan, M. 1988, *Sentencing Young Offenders*, Sentencing Research Paper no. 11, Australian Law Reform Commission, Sydney.
- Griffiths, T. 1991, *Corrective Services Bulletin*, 2 October, no. 149.
- Guardian Weekly*, 14 March 1993.
- Judicial Commission of NSW 1991, *Sentencing Trends: an analysis of NSW sentencing statistics*, No. 1, Judicial Commission of NSW, Sydney.

Polk, K. 1992, "Jobs, not gaols: A new agenda for youth", in *National Conference on Juvenile Justice*, eds L. Atkinson & S. Gerull, Conference Proceedings No. 22, Australian Institute of Criminology, Canberra.

# DETENTION AS A LAST RESORT ¾ END OF THE LINE OR A NEW BEGINNING?

Laurie Myers

THE MOTIVATION FOR THIS PAPER HAD ITS GENESIS IN THE PROCESS of change in juvenile justice policy, which saw detention centres, after being acceptable as the mainstay of juvenile justice for decades, suddenly become the "last resort", and the work of the staff appeared to be devalued and marginalised.

Whilst the negative feelings towards this marginalisation of detention centres remained, they were overshadowed by the need to do the job—not just sit around believing we did not really do anything for young offenders, and that it was only other people who could really help them.

When I commenced working in detention centres in the early 1970s, my colleagues and I believed that we had a lot to offer the young people in our care, and could actually help them achieve change in their lives. We were positive and committed, as were many other people working in such situations. We were constantly suffering statements such as ". . . if a young person leaves a Centre no more damaged than when he arrived, you have done a good job . . .", and other writings such as those cited by Borowski and Murray (1985, pp. 74-5). They were apparently unable to find any positive writings about institutional treatment, and could only identify deleterious effects from incarceration. This was real morale building stuff! Apart from our own belief in what we were doing, there did not seem to be a lot of support for detention centres being a positive treatment option.

In 1992, the Australian Institute of Criminology (AIC) held its first conference on juvenile justice—a conference which was so heavily focussed on community based alternatives, that detention practitioners felt alienated and devalued for most of the conference. The final session, however, revealed a surprising point from the conference proceedings. That point was that we should concentrate resources at the point where juvenile offenders are most at risk of making a penetration into the adult correctional system. It seemed that people were actually saying that we were worth resourcing; that people actually believed that we could do something for these young people; that change, whilst in detention, really was possible. And so out of that

conference, and its findings, and out of discussions between detention practitioners from around the country and staff from the Australian Institute of Criminology, came this conference.

Detention has to be seen as a positive and realistic option for some juvenile offenders, not just something you do because everything else has failed. There is a range of options available within the juvenile justice "system", which provides a continuum of tariffs for intervention. Detention is an integral and productive part of that continuum.

It is important that it is clearly recognised and understood, that many of the young people who come under the umbrella of juvenile justice services are severely damaged. They have been "got at" by society, their families, and a myriad of other forces, which have inter-played with the processes which have shaped the development of their personalities to the point that their coping mechanisms have skewed away from what society prescribes as acceptable.

Many of these young people do not want to be counselled. They do not want some well meaning "professional" telling them what they need; or have to do; or how they have to change. Many of them have their defences tightly set around them, as their only means of coping with a society which they perceive as hostile and antagonistic.

Many of them just need something in their lives that they can rely on. They long for a time when things will be consistent; when they can wake up in the morning and find things are the same as the night before; when there are adults around who are congruent—who say what they mean, and mean what they say; when they do not have to use all their personal resources just trying to survive. For many of them, a detention centre is such a place: it is a place where they can slowly relax and stop fighting the world; where they can feel safe to let a few of their defences down, and not be "got at" when they do so; where they can actually take a few risks without the fear of suffering if they fail.

In Wagga Wagga, the Riverina Juvenile Justice Centre provides a very positive option for those young offenders who have not responded to other forms of less intrusive intervention. Whilst it has received substantial criticism, and has been referred to as the "Riverina Hilton", the simple fact is, that it is a comfortable and pleasant environment in which young people can serve their sentences. What that means is that young people do not have to expend their energy fighting the system and environment. They can therefore use it to make some positive use of the facilities, programs and staff expertise, to work towards an effective reintegration into the community at the end of their sentence. The positive responses, lack of damage, graffiti, low incidence of escapes, are due testimony to the merits of such a program and environment.

Detention centres have a chequered reputation in the annals of juvenile justice history. There is no doubt that there are some negative stories to be told of the treatment of incarcerated young people in years gone by. There is likewise no doubt, that there are some very positive stories of rehabilitation and growth and change, which for some reason, never seem to gain such

notoriety! Unfortunately, working in detention is akin to straddling razor blades.

- If we are too easy on young people we should be harder.
- If we are too hard on them we are brutalising them.
- If our centres are too comfortable we are pandering to them.
- If they are too austere we are accused of being inhuman.
- If we provide lots of programs we are spoiling them.
- If our programs are limited we are not doing enough.
- If we show care and concern we are trying to alienate them from their families and communities.
- If we are detached and procedural we do not really care.

From discussions held with detention practitioners from most jurisdictions, there is a desire across the nation to provide positive and realistic programs for young people who are incarcerated, to help them break the cycle of offending and return to the community as responsible citizens. It is not an elitist position which holds that detention centres are the only places where young people can be helped. It is a position which recognises that there must be a variety of media available to try and reach these young people, to help them break the cycle of offending, and have the chance of living a full and productive life. Detention is one such medium.

The people we are talking about are children. Children who may have robbed, stolen, cheated, raped or murdered—but still children. Children who think, feel and have dreams, and who do not want to be abandoned to pessimism and hopelessness in a hostile and rejecting world.

Detention centre staff do not want to talk about "last resorts": if incarceration is the "last resort", what do you call it when a youth gets locked up again? "Last resort plus one"? "The ultimate resort"? We do not want these young offenders to think that they are at the end of the line. We do not want them to see themselves as beyond hope. We do not want to see them pre-destined to transition into the adult system. We want the time they spend with us to be a new beginning and for them to see that they do have choices—and chances. We want them to achieve their positive potential, not bide their time and just accept whatever comes along.

In New South Wales, since the establishment of the Office (now Department) of Juvenile Justice in particular, a renewal has taken place in regard to the role of detention centres. This does not mean that there has been a slide back to the old mentality, which held detention centres as the main means of dealing with juvenile offenders. Rather, it has meant a recognition that detention centres have an important role to play, in the concept of "best practice" in juvenile justice.

There has been criticism of the New South Wales Government for moving juvenile justice away from the "welfare" administration, into its own department. Practitioners, on the other hand, think the move has been overwhelmingly positive. No longer are we part of a mish-mash of competing priorities, in which juvenile justice always seemed to get the short straw. We now have an administration which is responsive to our needs—because it is

interest focussed, rather than being multi-focussed, as was the case in the past.

The manner in which such centres are resourced has been re-evaluated. It is no good just paying lip service to the concepts, if the resources are not there to back up the theory with practice. Our centres have been significantly upgraded to provide high quality facilities for education, vocational training, recreation and personal development programs. Additional staff have been provided to develop programs to maximise the use of these facilities. A strong emphasis has been placed on individual casework to ensure that the real needs of each young person in care is addressed. Young offenders from special needs groups have been properly catered for with interest-specific programs.

Resources have also been provided for assessment, counselling and support services. Each centre has a psychologist; an alcohol and other drugs counsellor; seven-day nursing staff and casework coordination staff. Resources are also provided for families to visit their children whilst in custody. Travel assistance and suitable accommodation is provided, so that in Wagga Wagga we have been able to assist families from the far north coast, south coast, the far north-west, Queensland, Victoria, and other places, who otherwise would not have seen their children for the whole of the sentence. Obviously this is beneficial to the children's responses to the program, and in turn, their future.

There has been criticism of the Department for the construction of a dedicated high security centre—Kariong, at Gosford. In the past, the Department had to cast around trying to find a suitable means of working productively with the most difficult young people in the system. By establishing Kariong, a very positive and successful alternative has been established.

As manager of a juvenile justice centre which takes young people on first placement out of Kariong, I have found them to have a very clear understanding of their responsibility for their actions, and quite positive views of the benefits they can accrue from the system. I have not found young people who are brutalised, or coerced into compliance—as has in the past often been the case with centres with such clientele. Rather, I have yet to have a single failure from that program, which is a significant credit to the staff who are working with these extremely difficult young offenders.

Young people in detention in New South Wales will have the best chance possible of making a successful reintegration as a positive member of the community on discharge. The Department's policy and practice says we are going to do everything we possibly can to ensure that these young people do not end up in detention centres. Now that does not sound defeatist. It does not sound like end of the line/last resort sentiment. It sounds like there is a belief that progress is possible. And these are sentiments which have been expressed, at least at a practitioner level, throughout Australia. Nowhere have I encountered a pessimistic view of what detention centres can achieve; a view that these children are beyond help, or that we are their last resort. Rather, there is an enthusiasm and commitment to help these children find

new hope, to believe that this is their world too, and that they have a place in it, and a positive contribution to make.

Young people who come into our care are not being abandoned, they have not been dismissed as being beyond help, and they most certainly are not being brought into a system to learn how to commit more serious crimes, as inferred by Lynn Atkinson in her keynote address. These young people are not at the end of the line. They have 75 per cent of their lives to live! I do not see detention as a "last resort". It can be a positive alternative to help young people make an important first step towards a new beginning . . . and we are proud of it!

### **References**

Borowski, A. & Murray, J. 1985, *Juvenile Delinquency in Australia*, Methuen Australia, North Ryde, NSW.

# INDIVIDUAL CASEWORK IN JUVENILE JUSTICE CENTRES

**Liam Guilfoyle**

SINCE ITS INCEPTION IN NOVEMBER 1991, THE OFFICE OF JUVENILE Justice<sup>1</sup> has moved towards implementing a program of rehabilitation in juvenile justice (detention) centres. Appendix 1 summarises the various educational, vocational, recreational and skills programs developed in conjunction with the development and implementation of casework at Mount Penang during 1992.

The concept of casework not only leads to the notion of providing services to each individual according to his or her identified needs, it also provides a better approach to the management of juveniles in custody. It provides youth workers with the opportunity to develop insight into the problems experienced by juvenile offenders and the probability that they will learn to communicate with young detainees in a much more effective way. The relationships that develop from appropriate levels of acceptance and empathic understanding can lead to a much more effective control in juvenile justice centres. The option described here is sometimes referred to as a "soft option" yet it is probably the most demanding option for juveniles, because it requires personal commitment and direct involvement from them.

There are many people working with juveniles who lack understanding of what might be achieved using a casework approach to the management of juveniles in custody. For example, the use of casework as a management tool by youth workers requires an understanding of human development, communication and relationships. Because of their lack of understanding, youth workers sometimes have difficulties with the introduction of casework as a legitimate approach to managing juveniles. To overcome this problem a very intensive staff training program was implemented before casework was introduced.

The introduction of casework has also led to the development of a professional services team. This resulted from the coordination of all the existing professional services such as:

- psychological services;

---

<sup>1</sup>. Office of Juvenile Justice became Department of Juvenile Justice in September 1993.



- health care services nursing;
- alcohol and other drug counselling;
- casework services;
- living and social skills trainers.

This professional services team takes a very active role in the guidance and supervision of casework services.

The introduction of casework services has also meant that each young person admitted to Mount Penang has benefited from an individual plan, based on identified need, for training and development during the period of detention, and beyond to his or her eventual return to the community. For many young people, this has been the first time in their lives that authorities have focused on the difficulties they were experiencing, or identified the specific needs to be met.

The introduction of casework services at Mount Penang has specifically included the development of a casework services team as part of the overall professional services approach, under the supervision of the Director of Psychological Services. The casework services team includes:

- one casework manager;
- five casework service officers.

In addition, each youth worker is allocated responsibility for the casework planning for a number of juveniles. This ensures that each detainee from the time of admission, is under the supervision of a key worker who is referred to as the juvenile's caseworker.

Each casework services officer is in charge of an accommodation unit which houses up to 30 young people and is responsible for the supervision of six youth workers carrying out casework duties including the development of each juvenile's casework plan.

### **Staff Training**

To support the introduction of casework at Mount Penang, a review of the staffing structure was undertaken and a new model of management developed.

The review also highlighted a need for the introduction of structured staff training in casework management. Each youth worker was provided with extensive training and tuition in casework assessment, casework planning and implementation.

In addition, TAFE and the Department of Juvenile Justice introduced a tertiary study course in youth work, which is attended by 56 of the 70 youth workers currently at Mount Penang. This study program will lead eventually to a Diploma in Youth Work.

Training in a variety of areas relating to the appropriate management of young people in juvenile justice centres was provided for all staff. Specific "train the trainer" courses were offered to the living skills trainers, social skills trainers and caseworkers. Casework services officers were provided with advanced training in assessment, planning and implementation processes.

### **Casework Supervision**

A model of supervision for casework services was developed to ensure the maximum services to persons in detention were maintained.

Following admission and preliminary assessment, each young person is assigned to an accommodation unit. The unit team leader appoints a youth worker as the caseworker who is then responsible for the initiation of the needs assessment and the development of the casework plan in conjunction with the casework services officers.

Each caseworker has a formal supervised session with the casework services officer in matters of casework at least once each week, and at other times as the need for advice arises. Casework services officers attend weekly meetings with the manager of casework services. The casework supervision session each week requires that all casework conducted during the preceding week be discussed in some detail, and that all transactions are appropriately recorded on the casework file. This is an essential part of the casework supervision process. It gives a clear indication of the rate of casework progress for each juvenile, and tends to highlight any difficulties that are being experienced.

Further, an opportunity to discuss individual cases is provided at the professional services meeting each week. The professional services forum is also used to discuss potential suicide risks and the critical incident counselling process is put in place should this be considered necessary.

An additional check of the casework program takes place each month when the Unit Administration is required to report on progress at a formal supervision session. This action ensures that casework for each juvenile is completed and kept up to date. Further, it reinforces the process of accountability for each officer involved in the delivery of casework services.

The process of supervision described above ensures that each juvenile admitted to Mount Penang receives the best possible care and attention whilst in custody. Further, it ensures that casework planning occurs for each juvenile in a highly professional manner.

### **Information Gathering**

Casework planning commences the day the juvenile is admitted. During the admission and induction process, information is collected for the development of an individual's casework plan.

- The juvenile is interviewed by the duty administrative officer and a determination is made concerning which dormitory would best suit his<sup>2</sup> individual needs.
- The admissions officer completes the induction procedure, collecting information about the family, including family dynamics; the young person's educational history; and any prior contact with the juvenile justice system. Parents/guardians are contacted and advised that the juvenile is in custody. In the case of Aboriginal boys, the relevant Aboriginal Legal Services and liaison officers are contacted. Those people are also advised that they are welcome to make a contribution to the young person's casework plan. A list of critical dates is prepared. This list outlines dates when the juvenile will be eligible for inclusion in community based activities, when leave will become available and so on. The induction process includes the completion of questionnaires about the use of alcohol and other drugs. This questionnaire is processed for follow up by the alcohol and other drugs counsellor.
- Within 24 hours of admission, the resident psychologist is expected to interview the juvenile for the purpose of compiling a psychological screening report. This report provides information on intelligence, literacy skills, social skills and personality. The report is expected to include recommendations concerning urgent casework intervention that might be required.
- Following admission, each juvenile undergoes a preliminary medical assessment. Recommendations from this are included in the casework plan.
- The juvenile is then assigned to an accommodation unit, introduced to the staff and provisions are made for appropriate introduction to other juveniles.

### **Developing the Plan**

To ascertain and meet the individual needs of detained juveniles extensive assessments are made, as mentioned above. Other contributors towards the development of the casework plans include the Juvenile Justice Officer (Community) who supervised the adolescent during the court proceeding, family members, and significant others. Reports from welfare agencies are also referred to. The young person makes a major contribution in terms of the details of the plan: those things that he considers important; setting aims and objectives to be achieved during the period of detention; establishing priorities for the implementation of the casework plan; and, taking action on critical issues. The case plan includes information on:

---

<sup>2</sup>. Mt. Penang has male clients only.

- future accommodation needs, social needs and legal needs;
- factors which will affect the juveniles whilst in custody: how they are likely to fit into the group to which they have been assigned; and how they will be affected by being in detention;
- current emotional needs, including indicators of stability or instability;
- educational, vocational, recreational and physical health needs.

Other factors considered before proceeding include the role of the caseworker in developing the plan. Casework planning is essentially a subjective event. It is difficult, if not impossible, to prevent our own personal characteristics from at times clouding our views of juvenile offenders whose criminal activities we might find offensive. While this may seem to be a statement of the obvious, it is important that we keep in mind that at every stage of developing the case plan, this subjective influence is at work.

It is also important to note that during the data collection interviews, the caseworker's personality and background can and will determine what he/she sees; what he/she overlooks and how he/she perceives the juvenile's predicament and, importantly, how the juvenile responds. So even during the early stage of collecting the demographic data on admission, the information about the juvenile can be consciously or unconsciously selected, pruned and coloured. Because of the probability of unconscious bias occurring, it is necessary to ensure that intensive staff training is provided to help restrict if not eradicate the effect of negative bias. Further, the introduction of training for intensive casework supervision will also help keep this to a minimum.

In preparing a casework plan, further selection occurs. The caseworker selects from all the information available, that which fits the background for which that person professes some understanding, and sifts away information that is considered unnecessary. To a significant degree, this sifting, selecting and interpreting is influenced by the caseworker's interpretation of human behaviour. It is important to point out that although the caseworker's theory may not be blatantly apparent, he/she still has a theory and interprets the juvenile offender's predicament from that point of view. As noted above, constant monitoring and evaluation of case plans will help keep such selective interpretations of casework information to a minimum.

The first step in developing the casework plan is to establish aims and objectives for the juvenile during the period of detention. The plan should take into account factors which could restrict the implementation of any part of the plan. For example, internal planning should take account of tasks which can be accomplished by involvement in individual unit programs. These tasks include any skills training, and in particular, educational training, vocational training, social and living skills training, and recreational skills training.

There are some tasks and activities which require approval for involvement in community-based activities. In such cases the juvenile will be expected to move in and out of the community, and to engage in activities

which will contribute to the achievement of his aims and objectives. This part of the plan should be programmed for implementation in the middle or late stages of the juvenile's period in detention. For example, job seeking or work experience is only to be planned for when the juvenile has been approved to go on leave into the community.

### **Implementation**

Casework plans should be both practical and possible. For example, it would be pointless to include long-term counselling in a casework plan if the young person is only going to be at Mount Penang for a few weeks. In fact, all actions included in the casework plan should be considered from the point of view of implementation.

Needs which are critical or life saving should be given priority for action. For example, if a young person is to see a doctor, this should be done in the early stages. Similarly, suicidal or self-harm tendencies clearly require immediate attention and intervention.

Needs which are identified and included in the casework plan should be achievable within the period which the young person will be at the Centre. Young people on remand will have specific needs which must be met within the period of remand. In many cases, this could be limited to fourteen or twenty-eight days. In any event, casework for remanded children should be undertaken from the day of admission.

The casework for remand children should culminate in the preparation of a shelter report to the juvenile justice community officers.

Implementation of casework plans is an ongoing process which requires that stages or objectives are set at regular intervals. These intervals should coincide with the weekly supervision sessions, but need not depend on these sessions. Action which is urgent should be taken as soon as possible. In all cases, a record of both the action required and action to be taken should be committed to the young person's casework file. This action of file development and maintenance is an essential part of the Mount Penang casework process, and is subject to regular review as described above.

### **Conclusion**

The development of a casework model in juvenile justice centres has provided youth workers and other staff with a central focus, one that draws together all aspects of care and rehabilitation for detainees. The introduction of casework services has resulted in some difficulties for the management of juvenile justice centres. Some staff are entrenched in their attitudes and practices. Now they are being asked to apply professional principles to the management of juveniles in custody.

However, the Department of Juvenile Justice in New South Wales, has a commitment to the fundamental task—that of rehabilitation and caring for juveniles in custody. The development of an individual casework approach has created a high level of awareness of the need for all staff to be

appropriately trained if the Department aim is to be realised. The individual casework model is designed to:

- meet the specific needs of juveniles as identified by the assessment process;
- link both custodial and community based services and maintain contact with the juveniles through the whole of the period of supervision by the Department;
- promote a holistic view of the detainees (that is, all aspects of their lives are assessed and major difficulties identified);
- improve the match between existing services, user needs and staff expertise through extensive staff training and considerable extensions to available programs. Staff accountability and responsibility for each detainee and his or her rehabilitation needs are made clear;
- help detainees feel empowered, by allowing them a significant input into the case planning process.

Individual casework is a function by which juvenile justice centres can manage and integrate all the programs and services that assist the Department in meeting its statutory obligations.

# APPENDIX 1

## **Mount Penang Programs¾ Educational, Vocational, Recreational and Social Skills 1992**

Mount Penang currently has a school education campus which caters for approximately one-third of all young persons admitted to Mount Penang. It has a very competent and organised Vocational Training Centre.

The Vocational Training Centre during 1992 offered courses in Apprenticeship and Pre-Employment training in seven separate areas:

- carpentry;
- metalwork;
- printing;
- Fibreglass;
- mechanics;
- painting; and
- upholstery.

Boys were accredited by the awarding of TAFE Certification for the completion of these courses.

Other achievements for the past year of young persons at Mount Penang included:

- 33 School Certificates;
- 2 Higher School Certificates;
- one young person completed his first year at university, through a correspondence program;
- Rover Scouts and Venture Scouts were commenced. There were 29 members. These were run in association with the Duke of Edinburgh Award Scheme;
- 56 Duke of Edinburgh Awards were gained during the year;
- 80 TAFE Certificates were awarded for the completion of:
  - a) Modules in apprenticeship

b) Pre-employment

c) Completion of specific programs;

- there were 32 Aboriginal boys who completed the Basic Certificate of Numeracy and Literacy;
- a specific program was developed in driver safety training;
- introduction of living skills programs;
- specific living skills for minority ethnic groups such as Vietnamese;
- community based life-saving program;
- riding for the disabled;
- specific Aboriginal programs;
- CABE Basic Numeracy and Literacy Certification;
- the planned establishment of an Aboriginal Culture Centre;
- drug & alcohol counselling and education;
- parenting skills;
- living skills;
- social skills;
- recreational services.



# **IN NEED OF CARE: DELINQUENT YOUNG WOMEN IN A DELINQUENT SYSTEM<sup>1</sup>**

**Jenny Barga**

PERPLEXING ISSUES ARISE IN ANY CONSIDERATION OF THE MEANINGS attributed to notions of delinquency and detention when these are applied to young women. Some of these issues are raised in this paper by telling stories about reports, young women, and reform in juvenile justice in NSW. Questions about just who or what is "in need of care", and who or what is "delinquent" inevitably arise. Are the young women in whose lives "the system" intervenes delinquent? Do the underlying philosophies from which justifications for interventions by "the system" are drawn need more careful and overt articulation? Does the interaction between young women and the system of juvenile justice contribute towards or minimise the production of young women's delinquency? Some of the questions raised are at present without satisfactory answers. They provide fertile ground for future research. Others elicit superficially easy responses which require further interrogation.

Nevertheless, it is clear that a concentration only on issues related to detention is misplaced. We need to consider the reasons why young women enter, and often re-enter, secure detention, and whether the outcomes of detention practices bear any relation to the reasons stated for detention. Underlying justifications for officially sanctioned acts should be scrutinised carefully.

A number of young women have died in recent years soon after release from youth custody in New South Wales; many reports on juvenile justice have been released over the same period. Will implementation of the recommendations contained in these reports minimise the possibility of death

---

<sup>1</sup>. The advice and assistance of Elaine Fishwick and Lisa Maher in the preparation of this paper is gratefully acknowledged.

in future? Are the recommendations designed to ensure, so far as is possible, that this will be the case? My conclusions on this point are somewhat pessimistic.

Most Australian jurisdictions can cite numerous reports on juvenile justice related issues (*see* Seymour 1988; Blackmore 1989; Youth Justice Project 1990b). New South Wales alone has seen the release of three reports since 1990. All have been part of the continuing debate on juvenile justice issues and all contain an agenda for "reform". Unfortunately, "reform" has often meant recycling recommendations from previous reports, recommending further research, rearranging some practices and conditions at the bureaucratic level and implementing changes at the practice level only on the basis of parsimonious, and/or economic, pragmatism (*see*, for example, Naffine, Wundersitz & Gale 1991 in relation to South Australia).

The reforms made at "ground" level, such as those currently occurring in New South Wales, at least where young women are concerned, are usually directed towards the better "management" of young women and the establishment of further and more effective programs designed to better reintegrate young women into the community (*see*, for example, Office of Juvenile Justice, March 1993). Few changes which can be directly related to report recommendations seem to have occurred in underlying structural conditions which may play a significant part in the entry and continued re-entry of young women into juvenile justice detention.

The processes by which gender issues have been included in juvenile justice report and reform exercises, and the relatively low level of importance accorded to these issues, provide a possible link with the concentration on program reform rather than structural change where young women are concerned. The major structural determinants of juvenile justice intervention in young women's lives tend to be marginalised, particularly in aspects of reports which are released to the media. Marginalisation has occurred, not only in young women's particular experiences with juvenile justice, but also in the experiences of those seeking to ensure that gender issues are not relegated merely to considerations about detention centre management and programs. Gender, together with race and class, has not consistently been part of the research agenda for reports on juvenile justice. The variable impact of all of these factors has not permeated reports on juvenile justice designed as blueprints for reform of legislation, policies and practices.

Aspects of gender often neglected in thinking about strategies which could provide a measure of justice within juvenile justice interventions directed towards young women include the gendered ways in which poverty, violence and homelessness affect their lives. While measures to address these structural problems are generally outside the direct powers of juvenile justice agencies, this should not prevent interdepartmental cooperation in doing so. Attention needs to be focussed on these issues by agencies working in the fields of education, housing and social welfare. Other neglected gender issues include the ways in which young women enter the net of juvenile justice, and the multiplicity and complexity of race and class issues intersecting with these gender issues. While these issues are not given equal attention in the processes of preparation, presentation, and

implementation of reports on juvenile justice, there is a sense in which the practice of juvenile justice where young women are its object can be said to remain "delinquent".

### **The Context**

Research in Australia and elsewhere indicates that many young women who are drawn into the juvenile justice net have generally experienced violence in their lives prior to contact with the system (*see* Women's Coordination Unit (NSW) 1986). Race, class and socioeconomic status are further important factors which intersect with the violence experienced by these young women. Research also indicates that most of these young women are victims of sexual and/or physical assault at home, or have left home because of such assault, or for other reasons which make it impossible for them to remain there. Many become homeless, and, as "street kids", particularly vulnerable to state intervention. These young women are more likely than young men to have encountered the state system of care, and to be either wards of the state or subject to some form of implicit control by welfare agencies (Women's Co-ordination Unit (NSW) 1986). Many are likely to enter the net of juvenile justice because of their subjection to the state care system (*see*, for example, Carrington 1989). Indeed, some research suggests that female state wards are forty times more likely to proceed into juvenile justice institutions than non state wards (O'Sullivan 1991). Anecdotal evidence indicates that approximately 70 per cent of the complainants in criminal matters concerning young women are state welfare personnel (Carrington 1993). Incidents of "acting out" in institutions or foster placements can result in the laying of criminal charges for property damage (Women and Girls in Custody Advocacy Group 1990). Police are more readily called than would be the case for children outside state control. Bail refusals, guilty pleas, control orders, and characterisation as "serious offenders" almost inevitably follow.

Such contact with juvenile justice agents often means continued violence towards young women (Cunneen 1991). For many young women, and in particular Aboriginal young women, police interrogation often involves both physical and sexual assault (Alder et al. 1992; Cunneen 1991). The violence is further exacerbated as young women are drawn deeper into the net to become the often marginalised and always managed objects of juvenile justice practice.

Young women suffer violence during their incarceration in detention centres—often at their own hands (although it is uncommon for young Aboriginal women to engage in self-mutilation in these circumstances (personal communication with official visitors 1993)). This experience of violence is often exacerbated on release from incarceration, as the following stories indicate. The few programs available within detention centres which claimed to provide lessons in post-release survival strategies for young female detainees were apparently ineffective for these young women. An alternative reading of juvenile justice intervention and treatment which challenges conventional understandings that these young women are delinquent is that such intervention constitutes a criminalisation of young women's survival strategies. This response is taken up later in the paper.

Between May 1990 and January 1991 six young women died shortly after leaving juvenile justice custody in Sydney. Four of these young women were Aboriginal. At least one had been sexually abused in police custody, and had felt suicidal while being held in detention (Cunneen 1991). The coroner found the immediate cause of death in each case was a drug overdose.

Other young women who had also been in custody in Sydney died of drug overdoses elsewhere in Australia in the same period (Harvey 1991; McDermott 1991). Media representations of these young women were of "silly girls who had thrown away their lives".

In January 1993 a young woman of 17 who had recently been released on bail from state detention was allegedly murdered by a client after a sexual transaction. She was a ward of the state but had had little or no contact with the Department responsible for her welfare for some months prior to her death. Her parents had no knowledge of her whereabouts, having reluctantly agreed to her wardship after she had run away from home. This young woman was also known to have had "serious drug and alcohol problems" (*Sydney Morning Herald* 1993).

### **State Reactions**

None of the 44 young women for whom the Children's Court found a prostitution offence proved during the period between July 1991 and June 1992 was committed to custody. Most (35) received a fine; a small number of cases was dismissed (Office of Juvenile Justice 1992, pp. 104, 107).

However, since the last death, increasing numbers of young women have been committed to juvenile justice custody. In January 1993 there were 11 young women in juvenile justice (detention) centres in New South Wales. Since that time, the numbers have risen steadily. By June 1993, 27 young women were subject to custodial orders. Only one of these young women was officially committed to custody for a prostitution offence (Office of Juvenile Justice, unpublished statistics, July 1993).

Despite this, the offences with which young women are presently being charged may include those related to prostitution. Official statistics give no indication whether this is the case because of the counting and ordering rules employed. (Court statistics indicate only the most serious charge for which an offence has been found. Prostitution offences are placed lower in the level of seriousness than, for example, break and enter offences or riding in a stolen vehicle (information from OJJ statistics officer, July 1993)). The conclusion that police may be arresting young (homeless) women for soliciting more frequently than was the case prior to January 1993 is almost irresistible. Further research investigating the available anecdotal evidence must be undertaken to examine this disturbing hypothesis. On the assumption that soliciting forms part of the background for the increasing numbers of young women in custody, then one can reasonably speculate that section 19 of the *Summary Offences Act 1988 (NSW)* is being utilised, together with the usual public order provisions such as offensive language and resist arrest, as easy and convenient justifications for interference in the lives of young women. The underlying justifications may have their source in a concern about young

women's engagement in unacceptable lifestyles, or possibly on the basis of an underlying assumption that they are homeless and in need of care. If this is the case, very little has changed in the official (paternal) response to the survival strategies of young women since the seventies. Then, the moral transgressions of young women were the most significant factor in decisions giving rise to state intervention in the lives of young women, whether these interventions were for care or criminal matters (Carrington 1989). Now, status offences, the route by which numbers of young women formerly entered the juvenile justice system, have been abolished (Blackmore 1989). But the underlying assumptions and justifications for the imposition of control orders on young women seem remarkably unchanged.

### **Young Women's Reactions**

Most of the twenty or so young women sentenced under control orders at Reiby detention centre in April 1993 knew some or all of the young women who died. This information emerged from my discussions in early 1993 with juvenile justice centre official visitors and Community Youth Centre (CYC) workers. Not surprisingly, these young women claimed that they felt "safer" in secure custody than on the streets (*see* Saville 1992). Clearly, this information requires careful interpretation. Even if young women do consider that the only "safe" place for them is in a detention centre, this belief on their part provides little justification for increasingly punitive responses to young women on the part of police and magistrates, particularly when so many young women experience high levels of distress and engage in self-mutilation during their periods in custody. In the next section I attempt to move beyond this simplistic justification for control and management.

### **Readings of Young Women's Delinquency**

Feminist analysis of the law-breaking of women and girls which utilises a social constructionist approach suggests that many young women subject to juvenile justice intervention can be characterised as "criminalised" rather than "delinquent" (*see* for example Maher 1992). Cohen (1988, p. 257) discusses the process of criminalisation as follows:

Criminalization is a particular reaction to a defined social problem. The empirical question is: Under what conditions do certain people consider that a given conflict requires state intervention, and if it does, should this intervention take the form of criminal justice . . . ? The political question is why and how this preference becomes reality. The pragmatic question is, what do we gain by defining the problem in terms of crime?

Indeed, what do we gain by criminalising the survival strategies of young women? It is a familiar claim that only young women who have committed serious offences are currently held in secure custody. These "serious offences" may well be the result of acting out behaviour in welfare institutions or inappropriate foster placements, as suggested earlier. The practice of viewing such young women as (seriously) delinquent/criminal, and hence as, subjects for criminal justice intervention, reflects a failure to understand "the

structures, processes and relations that mediate individual agency in specific contexts" (Maher 1992, p. 153). If, in addition, any of these young women are now being held in secure custody for prostitution related offences, as suggested above, then, in effect, it is their survival strategies which are being criminalised. In addition to harms resulting from institutionalisation and other juvenile justice interventions such as arrest, remand and trial, the targeting of young women engaged in sex-work for arrest and incarceration may be rendering them more vulnerable within the context of the street economy. Possibly such targeting may be forcing them to engage in high risk practices in the context of sex-work and drug use which increase vulnerability to HIV infection. Research elsewhere has suggested that this is the case. We have little other than anecdotal information and the media to rely on in Australia to date (although *see* Davis 1993; Howe 1990).

### **Reports, Young Women, and Juvenile Justice Policy and Practice: A Brief Discussion of Recent Attempts to Reform Juvenile Justice in NSW**

The following remarks are confined to the recommendations concerning young women to be found in reports on juvenile justice and on young women since 1985. The purpose here is to attempt to draw connections between the relative emphases on gender issues in the reports and the outcomes for young women referred to above. In some of the reports discussed below sex and gender *issues* are not thoroughly explored, even where extensive *recommendations* are made concerning young women. At one time the subsuming of young women into the broader and more superficially understandable category of "young people" was said to be justified because the number coming to official notice and being drawn into the net of juvenile justice was too low.

Currently, gender concerns cannot be said to be generally absent from reports or present policy and practice. However, the concerns tend to be focussed on issues arising in the custody of young women, with the emphasis on appropriate management. The more recent reports discussed below have succeeded in convincing juvenile justice personnel that, while few in number, young women constitute one of the groups with pressing needs which juvenile justice practice to date has failed adequately to address. Unfortunately, the focus on young women, while welcome as long overdue, may have the unintended outcome that more young women, rather than less, are drawn into the juvenile justice system, because of the narrow concentration on detention issues. Perhaps the available research findings and theoretical analyses of young women's delinquency in this country (for example, Alder 1986; Carrington 1989, 1990a, 1990b; Goodall 1990; Howe 1990) which suggest that preventive measures can be implemented to minimise the risks of criminalisation for young women, have not played a prominent part in the final formulation of the reports or current policy. This should not come as a surprise, given that traditionally, policy formulation in juvenile justice in Australia and elsewhere has occurred in an androcentric research context. Research findings based on male samples are generalised as applicable to females. Rarely are such generalisations tested for their

applicability to young women generally, and more rarely for their applicability to a multitude of diverse subgroups of young women.

### **Girls at Risk Report (1986)**

This report drew on a range of feminist research evidence then available about young women and the results of the research carried out by the project team. It was not specifically concerned with young women in the juvenile justice system, but rather sought to explore the factors which contributed to the entry of young women into state care. The "central concern" of the project was to "give the girls a voice and to outline what girls in care and girls at risk see as their issues and concerns" (NSW Women's Coordination Unit 1986, p. 30).

Prepared by the New South Wales Women's Coordination Unit, *Girls at Risk* was published in 1986, and provided a detailed picture of the lives of young women "at risk", who were defined as those who "[were] homeless or living in untenable housing, . . . [who] had experienced or were experiencing physical, sexual or emotional abuse, . . . [or] were pregnant and unsupported or lacked adequate income and were unsupported" (NSW Women's Coordination Unit 1986, p. 28).

One hundred young women spoke with the project team about matters of concern to them. A distressing picture of violence, family break-up, constant moving, inappropriate placement and often unhelpful or negative contact with welfare agencies and the police emerged (NSW Women's Coordination Unit 1986). The report considered the relationships between family breakdown, sexual assault, homelessness, state care and delinquency for girls. It envisaged that the programs and policies recommended would go some way towards breaking this vicious cycle, by ensuring that the problems were addressed (rather than exacerbated through criminalization via juvenile justice intervention) *before* the risk faced by these young women materialized. The press release stressed that:

. . . a girl who has left home because of incest should be helped to establish a new life before she leaves school and becomes vulnerable to drug addiction and prostitution (NSW Women's Coordination Unit 1986).

The report overwhelmingly succeeded in its central concern and remains the most detailed exposition of the lives of girls at risk in NSW, from the perspective of the young women themselves. Few of the recommendations in *Girls at Risk* were implemented.

Nonetheless, there is merit in the claim that the findings and recommendations contained in *Girls at Risk* remain pertinent to today's young women at risk. The specific young women may have changed, but the picture painted in 1985 has not faded. If anything, the picture has been magnified, particularly through the lens of increasing youth unemployment and the specific disadvantaged position of young women in the labour market, which, since 1985, has deteriorated alarmingly. The loss of full-time jobs has affected young women more markedly than young men (State and Territory

Youth Affairs Councils and Networks 1992). The scale of homelessness among young people generally remains high and continues to grow. Despite calls for adequate income support through the availability of immediate allowances for this increasing number of young homeless people (Human Rights and Equal Opportunity Commission 1989), the Young Homeless Allowance continues to require that strict and often unreasonable eligibility conditions be met. Consequently, it can be said with some degree of confidence that the dangers that young women's survival strategies will be criminalised have increased since 1985, while the mechanisms to avoid such dangers remain to be established.

### **Kids in Justice (1990)**

Four years after the release of *Girls at Risk*, the Youth Justice Coalition (YJC), a small group of youth workers, lawyers working with young people, and academics, initiated another research project. YJC's objective was to "independently review" the New South Wales system of juvenile justice. Their focus was on "the experiences and perspectives of the users of the system—primarily the young offenders and their families, as well as victims, members of the public, and community workers involved with them" (Youth Justice Coalition (NSW) 1990a, p. 1).

*Kids in Justice* dealt with five "key areas": the social context of juvenile crime and juvenile justice; the "system" of juvenile justice; the policing of young people; community based options; and detention centres. It is one of the most detailed analyses of juvenile justice systems produced in Australia to date, drawing on project research, in addition to research from other Australian and overseas jurisdictions.

The *Kids in Justice* researchers found that young women were "amongst the most distressed and resentful of all [their] respondents", and that:

[a] higher proportion of girls than boys . . . had serious drug problems, for which there was little or no treatment available. Of the six girls from one detention centre interviewed by the project, two girls had mutilated themselves; one had been cutting her arm; [an]other had smashed a window and cut herself "for something to do" (Youth Justice Coalition (NSW) 1990b, p. 314).

Despite this the final report devoted comparatively little space to analysing gender issues. Few recommendations relating to young women were included. Only three of the 233 recommendations in *Kids in Justice* are specifically concerned with young women. These suggest the establishment of community based accommodation for girls on remand, pre-release and on parole, and a special detention centre for girls, with appropriate policies and programs. The third recommendation is that, where a detention centre holds girls (and boys), the ratio of men and women on staff should be proportionate to the number of males and females held in the centre. All of these recommendations concentrate on requirements for girls *within* juvenile justice practices. All three are directed towards detention. None consider how to address issues surrounding the entry of girls into the juvenile justice system.



*Kids in Justice* succeeded, more than any previous report, in getting juvenile justice on the political agenda in New South Wales. The energy with which those involved in preparing the report publicised its "findings" in the media and actively and persistently lobbied politicians to move on their recommendations contributed to this outcome. The project had been funded by the Law Foundation, whose director had strong links with the Law Society and key government figures. Many recommendations, particularly those concerned with the formation of committees within cabinet, separate bureaucracies, and advisory bodies, were capable of immediate implementation without fundamentally changing the practice of juvenile justice. Nonetheless, while juvenile justice was on the (political) agenda, the fact remains that little consideration was given, by lobbyists, politicians, or public servants, to the importance of investigating the ways in which young women enter the juvenile justice system and the outcomes of their experiences within juvenile justice, despite the fact that one of the primary impetuses for change in juvenile justice was the deaths of some young women who had been subject to juvenile justice intervention. The concentration on issues arising in the treatment of young women within juvenile justice practices, particularly detention, narrows the domain of action to those aspects where control practices can be more easily adjusted. To seek to remedy criminalisation practices involves political choices which may be unpalatably difficult.

### **Social Issues Committee Report (Standing Committee of the Upper House of the NSW Parliament) 1992**

The announcement of the Social Issues Committee's reference on juvenile justice was a further response to concerns about the state of the juvenile justice system. Yet another inquiry was considered necessary—this time by the Parliament itself!

The Social Issues Committee commenced hearings for its reference on juvenile justice just prior to the release of *Kids in Justice* in 1990. This work was suspended for some months when Parliament was prorogued after the calling of an election. The hearings recommenced in late 1991, were completed by early 1992 and the report was released in May of that year (Standing Committee on Social Issues 1992). This Committee received numerous representations stressing the need to consider young women's issues. Consequently, some time was spent investigating these issues. Young women who had been subject to juvenile justice intervention and those who had been or were working with similarly situated young women, were among those who gave evidence at Committee hearings. *Girls at Risk* was part of the research material which the Committee examined. Importantly, the Committee considered that, together with Aboriginal people, people from non-English speaking backgrounds, and rural young people, girls were among:

[t]he most pronounced groups which are either disproportionately represented, or have a set of needs which sets them apart from the bulk of the juvenile justice population (Standing Committee on Social Issues 1992, p. 21).

The committee made 134 recommendations, many of which concerned young women. Some simply reproduced unimplemented recommendations from *Girls at Risk*. By taking up such recommendations, the Committee overtly recognised and reiterated the need to establish services outside the immediate domain of juvenile justice practices which would ensure that girls who were unable to remain at home because of violence or abuse were provided with accommodation and programs designed to meet their specific needs (Recommendations 4 and 5). They recognised the importance of an effective voice for girls at the policy level by recommending that the Policy Officer (Girls) position, recommended in *Girls at Risk*, implemented and then abolished in a departmental reshuffle (Moore 1990), be re-established within the (then) Office of Juvenile Justice (Recommendation 12). The crucial issue of means of entry into the system is reflected in the recommendations that police and magistrates should be specially trained to develop specific skills for working with young people (Recommendation 102). Ways in which the damaging effects of juvenile justice intervention can be minimised were also considered. A fostering scheme for both remanded and sentenced young people was suggested (Recommendation 116). Recommendations were made about sentencing options, and policies and programs within and as adjuncts to detention centres (Recommendations 76-85; 102-3).

The Committee thus recognised that the needs of young women were not confined to management or treatment within detention centres but that preventive action could be taken to minimise the possibility of criminalisation. The recommendations directed towards police training also recognised that overt action is required to reverse the negative behavioural trends apparent in the work of some police officers with young women.

### **Green Paper on Juvenile Justice (1993)**

Two of the most significant "bureaucratic rearrangements" implementing recommendations in *Kids in Justice* were the creation (in 1991) of a separate office, the Office of Juvenile Justice (OJJ), within the portfolio of the Minister for Justice, and the establishment of the Juvenile Justice Advisory Council (JJAC). The JJAC is composed of a range of "experts in juvenile justice", whose brief is to advise the Minister on juvenile justice issues. One of the first tasks carried out by the JJAC at the request of the Minister was the preparation of a Green Paper, *Future Directions for Juvenile Justice in New South Wales* (1993). The Green Paper was the result of work over many months by a variety of working parties convened to consider the formulation of recommendations on specified areas of juvenile justice. The parties were directed to consider the recommendations contained in *Kids in Justice*, and recommendations made in previous reports which had touched on juvenile justice issues. The previous reports included the National Report of the Royal Commission into Aboriginal Deaths in Custody (1991), the report of the

Standing Committee on Social Issues of the New South Wales Legislative Council (1992), and the Human Rights and Equal Opportunity Commission reports of the National Inquiry into Racist Violence (1991), and the National Inquiry into Homeless Children (1989), but did not generally include *Girls at Risk*.

The document was released by the Minister for public comment, after some delay during which the recommendations were costed, in February 1993. The result of this costing exercise has not, to my knowledge, been released for public scrutiny.

A Charter of Principles for juvenile justice in New South Wales is set out at the commencement of the Green Paper. This contains the "key principles" said to "underpin the juvenile justice system in New South Wales". These principles recognise the primary importance of prevention, diversion and reintegration, emphasise that detention should be a last resort measure, and call for the development of a "comprehensive range of pre- and post-release services" for young offenders. The principles acknowledge that specialised programs and services are required to address the "unique requirements and special needs" of young women (Juvenile Justice Advisory Council of NSW 1993, pp. 5-6).

This acknowledgment is somewhat curious, given that the JJAC did not establish a separate working group to consider, report on and make recommendations about the treatment of young women in juvenile justice. *Kids in Justice* and, more obviously, the Social Issues Committee's report, had stressed that young women were a group with "a special set of needs". This finding called for the establishment of a separate working party on young women to consider how to meet these needs. Admittedly, there are rarely more than 25 young women out of a total of around 400 young people in custody at any one time. A mere one-fifth of the young people subject to juvenile justice intervention between July 1991 and June 1992 were young women (Office of Juvenile Justice 1991/92). Nevertheless, the small proportion represented by young women of the total numbers of young people in detention centres and the juvenile justice system does not provide a compelling justification for the lack of a special working party to consider issues surrounding young women's involvement in the juvenile justice system when their needs have repeatedly been identified as urgent. In contrast, and properly, given the high proportion of Aboriginal young people in detention centres—over 20 per cent in 1992 (Juvenile Justice Advisory Council of NSW 1993, p. 218)—the interests of Aboriginal young people were clearly addressed by a separate working party which ensured continued emphasis on these special needs, not only in a separate chapter but throughout the Green Paper. (However, it should be noted that no distinction is made between Aboriginal young people and Aboriginal young women. These two sets of young people do not necessarily constitute mutually inclusive categories. (See, for example, Goodall (1990) and Carrington (1990b)).

Twenty-three of the 429 recommendations of the Green Paper specifically concern young women. Others are impliedly applicable to young women. These twenty-three recommendations, particularly those on programs within detention centres, draw heavily on the recommendations contained in *Girls at Risk*. This is not surprising, since the working party on sentencing options

was specifically instructed to consider *Girls at Risk* in formulating its recommendations. The source of these recycled recommendations could equally be said to be the Social Issues Committee report, available to all working parties.

While the first "key principle" of the Green Paper recognises the importance of "crime prevention" generally, no recommendations in the chapter on crime prevention refer specifically to the preventative programs for young women recommended by the Social Issues Committee and *Girls at Risk*. I have previously noted that the latter recommendations were directed towards the provision of drug and alcohol programs, housing programs, education, improvement in the nature of police contact and so on. They were measures designed to ensure that young women who had been forced to leave home had the opportunity to develop the skills and resources to establish new lives *before* they left school and became vulnerable to drug addiction and prostitution. The Green Paper's chapter on crime prevention has some sensible comments on the nature and causes of juvenile crime, talks broadly about the establishment of bureaucratic and community structures for crime prevention and makes recommendations which, if implemented will improve cooperation between relevant state government agencies in the "development, implementation and monitoring of juvenile crime prevention strategies" (Juvenile Justice Advisory Council of NSW 1993, p. 85).

However, the overt recognition of the importance of measures directed towards the minimisation of the possibility of criminalisation of young women found in both *Girls at Risk* and the Social Issues Committee report is lacking in the Green Paper. The bulk of the recommendations specifically about young women in the Green Paper are directed towards programs to be established in detention centres *after* the young women have been subject to the processes of criminalisation. Chapter 3 of the Green Paper, "Juvenile Entry into the Juvenile Justice System" largely concentrates on police practices concerning juveniles. It is pleasing to note, however, that one recommendation in this chapter recognises the need for police training in understanding the special needs of young women in an interview situation. The Green Paper contains little discussion focussed on the ways in which young women enter the juvenile justice net. These omissions may well have been remedied by the presence of a specific working party on young women, given the interactive process undertaken in the preparation of the Green Paper. Each working party was required to comment on the drafts from all other working parties and these comments were incorporated into the final version of the document.

### **Recycled Recommendations?**

We have seen that both the Social Issues Committee report and the Green Paper repeat many of the recommendations from *Girls at Risk*, but that only the former overtly addresses the risks of criminalisation of young women through juvenile justice intervention. Only the former acknowledges, by reference to *Girls at Risk*, that these risks are different for diverse groups of young women and young men. Unless the forthcoming White Paper

acknowledges these differences and outlines the steps necessary to implement strategies to minimise these risks, then the outcome of this present "reform" process, at least where young women are concerned, may well be a perpetuation of the present problems.

### **Gender Issues Within the Process and the Outcomes of Report Writing**

This section briefly sketches some of the gains and losses for women which were connected with the production of two of the above reports, *Kids in Justice* and the Green Paper. Connections are then drawn between gains and losses directly attributable to processes or outcomes, and possible gains and losses for young women in the juvenile justice system.

A number of women participated in the *Kids in Justice* project. The research included interviews with young women in and outside of detention centres. A position paper reflecting the observations from this part of the research was prepared by the project coordinator. These observations suggested that young women were victimised as well as criminalised within juvenile justice processes. This material warranted more than mere inclusion in the final report (add women and do not stir?). Any thorough analysis of "the system" would surely reflect the gender biases, in addition to the race and class biases which research implicates as inherent in juvenile justice policies and practices. Whilst this argument was generally accepted by the steering committee, the final report included only one small section on gender issues. Gender issues were not incorporated into the analysis in every part of the report. Consequently, a major failing of the report is that it contains no discussion or analysis of the applicability to young women of findings based on male research samples. For instance, the application of the asserted link between unemployment and crime to women has recently been challenged (Alder 1986; Naffine & Gale 1989). I know of no research testing the assertion that young people "grow out of crime" with young female subjects.

The formation of the JJAC and the preparation of the Green Paper were not accomplished without some compromises. In particular, requests for inclusion in the working parties from some community groups who were concerned that the interests of young women would be marginalised were refused. The outcome is described above. At present, no member of the JJAC specifically advocates for the concerns of young women.

One reading of these responses is that the processes and procedures utilised in formulating reports and the responses to recommendations designed to ensure that the interests of young women are considered in every instance of juvenile justice intervention, are themselves reflective of the shifting knowledge/power relations between men and women generally, and of the negative outcomes for young women in juvenile justice interventions specifically.

Further, the unproblematised presentation in recent reports of young *people* (and, although differently, Aboriginal young *people*) as an aggregate category, "devoid of specificity, context and particularity" has continued the tradition of constructing an essentialist analysis of juvenile justice, based on

"theories, paradigms and accounts of male 'crime'" (Maher 1992, p. 153). By failing to incorporate gendered understandings into juvenile justice recommendations, policies and practices, report writers, politicians and bureaucrats with the power to implement reports contribute to the perpetuation of (mis)understandings about the nature of criminalisation/ delinquency in young women, reinforcing dominant paradigms which present juvenile justice policy formation and practice as androcentric—de-gendered, de-classed and de-raced. The consequences include continued harm to young women.

### **Concluding Remarks**

*Girls at Risk* drew on empirical and other research information available at the time, was based on extensive consultation with young women, and was grounded in the contexts of their daily lives. This project was fundamentally concerned to give these young women "a voice". However, is it justifiable, eight years on, to continue to reproduce (and misplace) their recommendations? Can we assume that the "little sisters" of the original *Girls at Risk* remain the "little sisters" of today? Do young women today speak in the same voices? Are they similarly positioned within a similar cultural, political and economic context?

The answer is probably no. But more research needs to be done. Certainly, the young women of today face multiple risks; not only the criminalisation of their survival strategies and marginalisation of their issues in the processes and outcomes of reform exercises, but also the possibility of premature death hastened by subjection to juvenile justice practices, as illustrated by the stories set out in the second section of this paper. Since *Girls at Risk* was published much good feminist work has been undertaken in Australia on, for example, prostitution (Allen 1990; Perkins 1991), and we also have more information on child sexual assault and violence against women. All this work was available and could usefully have been drawn on in the preparation of the Green Paper.

We do know that, for the most part, the structural variables identified in *Girls at Risk* remain unaltered, and that violence, poverty, homelessness in the lives of young people generally have worsened. What we cannot yet state with any degree of certainty is the relationship, if any, between these variables and the criminalisation of young women.

Nonetheless, the recommendations in *Girls at Risk* remain valid, since they were grounded in a feminist framework which presupposed a recognition of the need for fundamental shifts in gender relations—especially as they affect the gendered/sexed nature of violence, homelessness and poverty.

Even if these recommendations specific to young women remain valid, their adoption as they appear in the Green Paper is doomed to failure, because they have been removed from the context of the feminist vision in which they were made. To reiterate, until juvenile justice policy and practice specifically acknowledges the multiplicity of gender, together with class and race, issues intersecting this field, young women will continue to be criminalised by these very policies and practices. Until the dominant

power/knowledge paradigm is successfully challenged in the processes of preparing and presenting reports, there can be little hope that this will occur.

## References

- Alder, C. 1986, "Female youth unemployment and delinquency", *Youth Studies*, vol. 5, no. 12.
- Alder, C., O'Connor, I., Warner, K. & White, R. 1992, *Perceptions of the Treatment of Juveniles in the Legal System*, National Clearinghouse for Youth Studies, Hobart.
- Allen, J.A. 1990, *Sex and Secrets: Crimes Involving Australian Women Since 1880*, Oxford University Press, Melbourne.
- Blackmore, R. 1989, *The Children's Court and Community Welfare in NSW*, Longman Professional, Melbourne.
- Carrington, K. 1989 (unpub.), *Manufacturing Female Delinquency: A Study of Juvenile Justice*, PhD thesis, Macquarie University, Sydney.
- Carrington, K. 1990a, "Feminist readings of female delinquency", in *Feminism, Law and Society*, ed. J. Grbich, La Trobe University Press, Melbourne.
- 1990b, "Aboriginal girls and juvenile justice. What justice? White justice", *Journal for Social Justice Studies*, no. 3, p. 1.
- Cohen, S. 1988, *Against Criminology*, cited in Maher, L. 1992, "Reconstructing the female criminal: Women and crack cocaine" *Southern California Review of Law and Womens Studies*, no. 2, p. 131.
- Cunneen, C. 1991, "Aboriginal young people and police violence", *Aboriginal Law Bulletin*, no. 49, p. 6.
- Davis, N.J. 1993, "Systemic gender control and victimisation among homeless female youth", *Socio-Legal Bulletin*, no. 8, p. 22.
- Goodall, H. 1990, "'Saving the children' gender and the colonization of Aboriginal children in NSW, 1788 to 1990", *Aboriginal Law Bulletin*, no. 6, p. 44.
- Harvey, D. 1991 (unpub.), "Young women, drugs and the juvenile justice system", research paper prepared for UNSW LLM course in juvenile justice.
- Howe, A. 1980, "Sweet dreams: Deinstitutionalising young women", in *Dissenting Opinions*, ed. G Graycar, Allen & Unwin, Sydney.

- Human Rights and Equal Opportunity Commission (HREOC) 1989, *National Inquiry into Homeless Children: Our Homeless Children*, Australian Government Printing Service, Canberra.
- Juvenile Justice Advisory Council of New South Wales 1993, *Future Directions for Juvenile Justice in New South Wales*, Green Paper, Sydney, February.
- Maher, L. 1992, "Reconstructing the female criminal: Women and crack cocaine", *Southern California Review of Law and Women's Studies*, no. 2, p. 131.
- McDermott, L. 1991 (unpub.), untitled research paper for UTS communications course.
- Moore, E. 1990 (unpub.), *Options for Girls in Juvenile Justice: A Study Tour*, Interim Report to the Winston Churchill Memorial Trust and Department of Family and Community Services, May.
- Naffine, N., Wundersitz, J. & Gale, F. 1991, "Reforming the law: Idealism versus pragmatism" *Adelaide Law Review*, no. 1, p. 13.
- Naffine, N. & Gale F. 1989, "Testing the nexus: gender, crime and unemployment", *British Journal of Criminology*, no. 29, p. 144.
- National Inquiry into Racist Violence 1991, *Racist Violence*, Human Rights and Equal Opportunity Commission, Sydney
- Womens Coordination Unit (NSW) 1986a, *Girls at Risk*, Report of International Youth Year Project, Girls in Care, to Premier of NSW, Sydney, June.
- 1986b, *Girls at Risk*, Press Release, 30 June.
- Office of Juvenile Justice 1992, *Annual Children's Court Statistics, 1991/2*, p. 104, p. 107.
- 1993, *Whitten Cottage Strategic Plan for Young Women in Custody*, March.
- 1993, unpublished statistics, July.
- O'Sullivan, T. 1991 (unpub.), "From care and protection to incarceration", paper presented to the forum *NSW Child Welfare Law: Policy and Practice: In the Best Interest of the Child?*, organised by the Duty of Care Working Group, Sydney, 21 August.
- Perkins, R. 1991, *Working Girls: Prostitute Women, their Life and Social Control*, Australian Studies in Law, Crime and Justice series, Australian Institute of Criminology, Canberra.



Royal Commission into Aboriginal Deaths in Custody 1991, *National Report*, AGPS, Canberra.

Saville, L. 1993, "Future directions for girls in custody", in *National Conference on Juvenile Justice*, eds L. Atkinson & S. Gerull, Australian Institute of Criminology, Canberra.

Seymour, J. 1988, *Dealing with Young Offenders*, Law Book Company, Sydney.

Standing Committee on Social Issues of NSW Legislative Council 1992, *Juvenile Justice in New South Wales*, Report no. 4, May.

State and Territory Youth Affairs Councils and Networks 1992, *No Visible Means of Support, or A Living Income*, Youth Action and Policy Association, Sydney, May.

*Sydney Morning Herald* 1993, "Killed girl got no help from the State", January, p. 4.

Women and Girls in Custody Advocacy Group 1991, *Fact Sheet*, Sydney, November.

Youth Justice Coalition (NSW) 1990a, *Kids in Justice: A Blueprint for the 90s, Overview Report*, Youth Justice Project, Youth Justice Coalition and Law Foundation, Sydney.

----- 1990b, *Kids in Justice: A Blueprint for the 90s*, Youth Justice Project, Youth Justice Coalition and Law Foundation, Sydney.

# ALTERNATIVES TO SECURE DETENTION FOR GIRLS

Elizabeth Moore<sup>1</sup>

IN WESTERN COUNTRIES, GIRLS AND WOMEN ARE CONSISTENTLY A minority of those apprehended, charged, convicted and sentenced to imprisonment for criminal offences (that is, rates range between 4 per cent and 20 per cent). Few adult or juvenile jurisdictions provide policies or programs which aim to assist females. Correctional administrators frequently explain this lack in terms of the smaller numbers of women and girls.

Since 1990, the NSW juvenile justice system has been the subject of three major reviews (Youth Justice Coalition 1990; NSW Parliament Legislative Council 1992; NSW Juvenile Justice Advisory Council 1993). All have identified the need for an increased effort by the responsible government departments, to develop policies and programs aimed at preventing girls entering the juvenile justice system, and providing real opportunities for the rehabilitation of those that do.

The most recent review resulted in the release in February 1993 of the Government's Green Paper, *Future Directions for Juvenile Justice*, prepared by the Juvenile Justice Advisory Council. Prior to the public release of the Green Paper the (then) Office of Juvenile Justice (OJJ) began to focus attention on the programs provided for girls in detention. This paper is intended to assist that process.

## Girls and Juvenile Justice

Research conducted in several juvenile jurisdictions in the early 1980s revealed that the incidence, nature and outcomes of charges faced by girls who encounter the juvenile justice system differ considerably from those of boys.

Chesney-Lind has summarised some of these findings (1988, p. 152):

- girls are more likely than boys to come before court for status offences rather than for criminal charges;

---

<sup>1</sup>. Financial assistance for the conduct of overseas research, provided by the Winston Churchill Memorial Trust in 1989, is gratefully acknowledged.

- girls are more likely to be charged with shoplifting than for serious violent offences;
- self-report studies of male and female delinquency do not provide evidence of differences in misbehaviour which can explain the differences in the official statistics regarding status offences;
- girls are more likely to be subject to court intervention as a result of action initiated by parents and others who are not involved in law enforcement;
- girls involved in the juvenile justice system have more frequently been subjected to physical and/or sexual abuse than boys;
- girls are more likely to be detained by police and court authorities, despite their less serious offences and lower risk of recidivism.

The juvenile justice system is frequently used by carers, welfare authorities, police and magistrates for the purpose of "protecting" girls whose conduct is considered to justify enforced care.

## **New South Wales**

### *Diverting Girls At Risk*

Until 1988, children who came to the attention of authorities for welfare reasons appeared before the same court, and were subject to the same range of sanctions as those appearing for criminal matters. Legislative changes introduced in 1988

- established separate welfare and criminal legislation, courts and services, so that young people before court for welfare reasons could be diverted from the juvenile justice system;
- provided for juveniles to be dealt with under the new Summary Offences Act 1988; and
- provided for juvenile offenders who have attained adult status (18 years) when sentenced, to be subject to juvenile dispositions.

In 1985, administrative changes were introduced which pre-empted legislative change, and commenced the process of diverting young people considered to be "uncontrollable" from court and custody. As girls were more frequently subject to these provisions, it was not surprising that this reduced the actual numbers of girls, as well as their representation, in the detention centre population. The only girl-specific detention centre in operation at that time was closed for reasons of administrative and economic efficiency.

In 1985, research conducted by the NSW Womens' Coordination Unit (WCU 1986), involved interviews with 100 girls who had experienced statutory welfare services. The report predicted that the changes to juvenile

justice would have a greater impact on girls, and identified gaps in support services.

The proposal that girl-specific services be established is supported by other research into social services:

... a major reason given for not using refuges was that the women felt uncomfortable with the number of young men who used the facilities and the resultant male orientated atmosphere ... sexual harassment and intimidation are major considerations in young women's tendency to stay away from refuges and Crisis Centres (Aquarius 1982, p. 38).

... young women are less likely to use services than young men, in spite of the commitment of services to assist both young men and young women ... in spite of numbers of young women seeking accommodation, only a handful of youth housing services cater [sic] to the needs of young women exclusively ... This would suggest that positive discrimination to ensure that young women who are homeless and in crisis is justified (Chesterman 1988, p. 56).

Combined, the recommendations of these reports have called for services which can assist girls with resolving family conflict; disclosing and resolving incest/sexual abuse; dealing with violence; overcoming drug abuse; achieving adequate health; improving self-esteem; and obtaining accommodation, income support, education and employment.

The *Girls at Risk* (WCU 1986) report shows that the provision of girl-specific community-based preventive and supervisory services is essential if girls are to be provided with opportunities to resolve the problems that place them "at risk", and of being apprehended and placed in secure custody. Without these programs authorities might use other legislative provisions to gain girls' entry into the juvenile justice system for protective reasons.

### *Girls in Secure Custody*

Legislative and administrative reforms in NSW have both reduced the numbers of young people sentenced to detention and changed the profile of the inmate population. While no statistical research has been conducted, some changes are evident in the girls' population. Girls comprise a smaller proportion of the detention centre population than previously. Some girls are over 18 years, and may be mothers or expectant mothers. While offence labels often suggest that young female offenders present a threat to community safety, details of the facts and circumstances of offences sometimes indicate that authorities continue to use custody as a means to protect girls from risks associated with their lifestyle. For instance, when police apprehend a girl considered to be at risk of harm on the streets she is likely to be charged with a summary offence and refused bail. Another example occurs in situations involving conflict between a girl and her family or carers. Again, police intervention may result in a criminal charge being laid (for example, malicious damage or assault) and bail being refused. In 1990, girls, who represented 7 per cent of the total number of young people in custody in NSW, were reported by the Kids In Justice Project as being:

... among the most distressed and resentful of all our respondents. A higher proportion of girls than boys in our sample had serious drug problems, for which there was little or no treatment available. Of the six girls from one detention centre interviewed for the Project, two girls had mutilated themselves; one had been cutting her arm; the other girl had smashed a window and cut herself "for something to do (NSW Youth Justice Coalition 1990, p. 314).

Since May 1990, six girls who had recently left a NSW detention centre died as a result of a lifestyle which involved drug abuse. It is apparent that girls admitted to detention can have extreme social, emotional and health problems.

The small number of girls in secure custody, means that an increase or decrease in the use of secure detention by police and magistrates has a significant impact on the total population, and on the ability of administrators to meet their needs. Table 1 shows the change that has occurred in the first six months of 1993. These unpredictable changes place demands on detention centre administrators to increase or decrease resources to meet temporary requirements.

*Table 1*

**Average Number of Girls Detained each Month, January to June 1993**

<i>Month in 1993 in Detention Centres</i>	<i>Average No. of Girls</i>
January	11
February	13
March	21
April	25
May	25
June	26

Source: Office of Juvenile Justice Return of Juveniles in Residence as at Midnight (submitted to Juvenile Transport Service each Monday).

Although there has also been a recent increase in the male detention centre population of NSW, detention centre staff attribute the recent increase in the female population to the death of Jasmine Lodge in February 1993, and the increased tendency of police and magistrates to use custody as a means to protect girls. Jasmine was killed after being released on bail, in circumstances which arose from risks associated with her drug use. Clearly, the lack of girl-specific support services that can effectively assist troubled girls, can place these authorities in a position of choosing one of two poor options: neglect or enforced containment.

### Girls' Programs¾ Australia and Overseas

In view of the strong evidence that girl-specific services are needed which can support the policies of diversion, and that special measures are needed to improve the care of girls in institutional care, the author has sought out programs conducted in other juvenile justice jurisdictions.

A 1988 survey of Australian State and Territory government departments responsible for administering juvenile justice programs which aim to identify services for girl offenders asked whether:

- any government-run community-based and custodial programs were provided specifically for girls;
- the programs excluded young people who came to the attention of the courts for welfare matters;
- the programs were conducted separately from those provided for boys.

*Table 2*

#### **Australian State Government Programs Specifically for Girl Offenders, February 1988**

<i>State or Territory</i>	<i>Community Welfare/ Criminal</i>	<i>Secure Custody Accommodation</i>	<i>Secure Custody Programs</i>
New South Wales	-	-	-
Northern Territory	-	-	-
Queensland	women foster carers welfare/criminal	-	-
South Australia	1 group home welfare/criminal	1 institution	-
Tasmania	-	-	1 institution
Victoria	1 group home welfare/criminal	1 institution	1 institution
Western Australia	-	1 institution	-

Note: No response was received from the Australian Capital Territory.

The findings summarised in Table 2 show that only four States provided community-based programs. These were all residential, and accepted girls who appeared before court for either criminal or welfare matters. Victoria was the only State which operated a custodial program for girls where both accommodation and programs were organised on a sex-segregated basis. This has subsequently been closed. In the three other States where special

measures were taken to meet the needs of girls in detention, they involved either separate accommodation or programs.

In 1989 the author undertook a study tour to the United States of America, Canada, the United Kingdom and The Netherlands (Moore 1990). The research aimed to:

- locate programs which targeted girls encountering the juvenile justice system; and
- identify features of the programs specifically relevant to girls.

This local and overseas research yielded some examples of programs which could be used as alternatives to secure custody, and of different approaches to providing custody for girls. Some have the potential for implementation in NSW.

### **Alternatives To Custody**

Girl-specific programs which could divert girl offenders from court and/or custody fall within two broad categories:

- Day attendance centres

Girls participated on a voluntary basis or as part of a supervision order imposed by the court in sentencing. Staffed mostly by women, the program strategies included: individual and/or family counselling, group counselling and/or skills training, as well as support for professionals working with girls. Topics included in counselling or educational programs included: surviving sexual and physical abuse, drug rehabilitation, self-esteem and assertion skills, relationships, dealing with anger, sexuality, pre/post-natal care, child care, vocational skills and job-seeking.

- Short-term supportive accommodation

Girls experiencing a crisis, such as family conflict or physical or sexual assault, were assisted with temporary accommodation. Most also assisted them to seek support or counselling to resolve their immediate crisis, and make longer term plans for accommodation, income support and social involvement. A unique program was the Proctor Program which operated in Queensland, and provided accommodation with a full-time single female foster carer and role model. This differed from other programs which mostly provided accommodation in a group setting. In all programs residents were required to seek involvement in regular structured educational or vocational activities, and to participate in programs which aim to enhance independent living skills.

The *Kids in Justice* report (1990, p. 125) states that:

. . . representation (of girls) . . . decreases with higher involvement in the system.

This suggests that a larger proportion of girl offenders "grow out of crime" earlier in their criminal career than boys.

Programs should aim to minimise the numbers of girls that reach detention. The small numbers of girls provides a challenge to administrators to eliminate secure custody for girls altogether. This can be achieved through improving the relevance and effectiveness of community based programs.

### **Custodial Programs**

The low numbers of young women in secure detention, which led to the closure in the mid-1980s of the only girl-specific detention centre in NSW, and which results in girls being an afterthought in most juvenile justice administrations, is managed in several ways.

- **Co-corrections**

Most Australian juvenile justice administrators manage the low numbers of girls by accommodating them in secure custody institutions which have predominantly male inmate populations.

This policy of "co-corrections" was in vogue amongst administrators of adult prisons in the United States in the mid 1970s. It was based on claims that incarcerating men and women in a single institution would solve some of the management problems in the male institutions, provide women with access to a wider range of programs, enable them to be located in closer proximity to their families, and provide a normal heterosexual social environment.

When some Canadian provincial administrators began to introduce co-correctional policies into the adult prison system in the 1980s, the Canadian Association of Elizabeth Fry Societies (CAEFS 1986) opposed the move, and argued that it had many deficiencies which affect women, specifically:

- it provides the potential for sexual exploitation by male inmates and male guards;
- the program interests and needs of women, who are in the minority, are subordinated to those of men, with women being expected to participate in male-oriented programs or being denied access to programs;
- there is reduced effort in the development of programs which address the specific needs of women;
- the informality typical of a women's prison environment gives way to more rules and security;
- women may be isolated in the maximum security accommodation of male institutions;



- the location of prison places for women often fails to overcome dislocation from family/friends;
- a policy of co-corrections fails to provide an environment in which heterosexual relationships can be conducted in a non-exploitative manner, and thus can force women into negative stereotypical dependent roles.

The United Nations Standard Minimum Rules for the Treatment of Prisoners state that:

Men and women are to be held in separate facilities . . . (United Nations 1991, p. 53).

While the United Nations Rules for the Treatment of Juveniles Deprived of their Liberty (1991, pp. 90-103) are silent on issues affecting girls, the Standard Minimum Rules for the Administration of Juvenile Justice state that:

26.4 Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders . . .

27.1 The Standard Minimum Rules for the Treatment of Prisoners . . . shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.

27.2 Efforts shall be made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible extent so as to meet the varying needs of juveniles specific to their age, sex and personality (United Nations 1986, pp. 13-14).

Three United States' juvenile co-correctional institutions visited in 1989 complied with these standards by accommodating girls in entirely separate units, but including both girls and boys in the same educational and vocational programs. Girls were represented in sufficient numbers to comprise around half of the program participants, allowing them equal access and participation. The separation of accommodation units provided girls with a space in which they could participate in girl-only time and activities (for example, vocational training in areas not traditionally selected by women, and group counselling on surviving sexual abuse).

In NSW, as few as one or two girls are accommodated in one of six detention centres which hold 30 or more boys<sup>2</sup>. Alternatively, girls might be placed in a segregated accommodation wing of a detention centre with a predominantly male inmate population.

In response to some of the negative consequences that these practices had for girls, the *Girls at Risk* report recommended:

---

<sup>2</sup>. Yasmarr detention centre has since been developed as a specialist institution for girls.

That the [then] Department of Youth and Community Services introduce and implement policy to ensure that young girls are never placed in care without at least one other girl, that girls have access to a female worker at all times, that girls are free from sexual harassment, that girls have a girl-only space provided in accommodation, and have incorporated into their programs specific times and activities in which girls can pursue their separate interests (WCU 1986, p. 18).

- Age mixing in prisons

In England and Wales, an extremely small number of girls is placed in Youth Custody establishments. This is a result of the extensive use of strategies which divert young people with welfare problems from the juvenile justice system to care services. To overcome the "numbers problem" authorities have accommodated girl offenders in prisons with adult women. Research findings have not supported the claim that women and girls benefit from this practice, and increased efforts have been made to ensure that no girl offenders are placed in prison. Authorities have also made commitments to extend the use of diversion strategies and community-based alternatives to custody to young adult offenders (aged 17-20 years), and to place young women under 21 years in separate secure custody institutions.

- Open custody

The Canadian Young Offenders Act 1982 provides for a range of custodial dispositions. At the time of sentencing, Youth Court judges can specify the nature of the custodial setting, the sentence length and the terms of release. The Act provides for a sentence to be served in an open or secure institution. Open settings include wilderness camps and group homes (Caputo & Bracken 1988, p. 128). This federal legislation is administered provincially. Some government bodies operate both secure and open custody institutions, and others provide funding to non-government agencies to operate open custody programs.

In Ontario, two local Elizabeth Fry Societies (non-government agencies which provide support to women in conflict with the law) are funded by the Ministry of Corrections to provide open custody programs for girls. The services accommodate a maximum of ten girls in a group home setting, located in suburban areas. The female staff provide educational, vocational and living skills programs within a structured daily routine. The services also provide individual case planning and counselling with an outside social worker. There is a strong emphasis on assisting girls to make the transition to independent living. The legislation provides for residents to be allowed a 12-hour temporary release from custody. This enables participants to utilise resources in the local community and to experience trust and achievement.

The legislation provides for the statutory body to place participants who have breached their conditions into a secure institution for up to 15 days. A longer period requires judicial review. The provision for judicial review in the course of a custodial sentence also enables staff of secure institutions to advocate for a young person's move from a secure to an open custody setting.

These provisions have successfully diverted some girls from secure custody and provided them with the opportunity to participate in a program targeted specifically to their needs, but have not removed completely the judicial demand for secure custody places.

## **Conclusion**

It is widely acknowledged that the last resort of secure custody may not assist young people to achieve a fulfilling and law abiding lifestyle. While physical containment temporarily protects them from risks associated with their lifestyle it exposes them to different risks associated with incarceration. Detention centres not only damage the positive social supports from which inmates are temporarily isolated, they also provide a network of experienced offenders with whom to associate and from whom to learn new offending behaviours. For those forced to live independently at an early age, institutions rarely provide the necessary living skills. The institutional regime itself can also provide new opportunities for inmates to be sentenced for misconduct.

Accommodation and programs for girls detained in secure custody are often of a lesser standard than those provided for boys, and efforts are seldom made to address their particular needs. Many of the deficiencies described by the Canadian Association of Elizabeth Fry Societies (1986) affecting adult women are also apparent in juvenile institutions which accommodate girls.

The smaller numbers of girls, and their typically less serious and less entrenched offending, makes them an ideal group with which to pilot untried alternatives to secure custody. It is vital that governments commit funds to preventive and supervisory programs which are community-based.

Measures must also be taken to ensure that provisions for girls in secure custody are not of a lesser standard than they are for boys. This can best be achieved by ensuring that girls are placed in sex-segregated accommodation in a detention centre, with predominantly female inmates and staff.

## **References**

- Aquarius Youth Service 1992, "Report on young women and girls in the Darlinghurst/East Sydney area", June.
- Canadian Association of Elizabeth Fry Societies 1986 (unpub.), "Co-corrections".
- Caputo, T. & Bracken, D. 1988, "Custodial dispositions and the Young Offenders Act", in *Justice and the Young Offender in Canada*, eds J. Hudson, J. Hornick & B. Burrows, Wall & Thompson, Toronto.
- Chesney-Lind, M. 1988, "Girls in jail", *Crime and Delinquency*, vol. 34, no. 2, April, pp. 150-68.

- Chesterman, C. 1988, *Homes Away From Home: Supported Accommodation Assistance Program Review*, Australian Government Publishing Service, Canberra.
- Moore, E. 1990 (unpub.), "Options for girls in juvenile justice" report of overseas study tour funded by the Winston Churchill Memorial Trust, May.
- NSW Juvenile Justice Advisory Council 1993, *Green Paper on Future Directions for Juvenile Justice in New South Wales*, February.
- NSW Parliament Legislative Council Standing Committee on Social Issues 1992, *Juvenile Justice in New South Wales*, May.
- United Nations 1991a, "Standard minimum rules for the treatment of prisoners", in *The United Nations and Crime Prevention*, United Nations, New York, pp. 53-61.
- 1991b, "Standard minimum rules for the treatment of juveniles deprived of their liberty", in *The United Nations and Crime Prevention*, United Nations, New York, pp. 90-103.
- 1986, "Standard minimum rules for the administration of juvenile justice", United Nations, New York.
- Women's Coordination Unit (WCU) 1986, *Girls At Risk*, Report of International Youth Year Project, Girls in Care, to Premier of NSW.
- Youth Justice Coalition (NSW) 1990, *Kids In Justice*, Full Report of the Youth Justice Project, funded by the NSW Law Foundation.

# APPROACHES TO THE PSYCHOLOGICAL TREATMENT OF JUVENILES IN DETENTION

**Timothy Keogh**

IN BEN OKRI'S PRESTIGIOUS BOOKER PRIZE WINNING NOVEL, *THE Famished Road*, one finds the story of Azaro, a spirit child who is born only to live for a short while before returning to the idyllic world of his spirit companions, but who chooses to stay in the world of the living.

Azaro says "There was not one amongst us who looked forward to being born. We disliked the rigours of existence, the unfulfilled longings, the enshrined injustices of the world, the labyrinths of love, the ignorance of parents, the fact of dying, the amazing indifference of the living in the midst of the simple beauties of the universe . . . But this time I wanted to stay . . . I wanted to make happy the bruised face of the woman who could become my mother" (Okri 1991, p. 9.)

## **An Underpinning Philosophy**

Life is a struggle, relatively speaking, for all of us. Adolescence particularly is a time when this sense of struggle can become focussed because it contains the inherent challenge to gain maturity. Winnicott (1988) has suggested that adolescence contains in unconscious fantasy the actual death of someone in order for the personal triumph of becoming adult to take place. He notes that this theme may become manifest as the experience of suicidal impulse or as actual suicide for some adolescents.

It seems that as we grow, if our experiences are "good enough" we develop emotional capacities and related skills that enable us to meet the challenges of life, including adolescence, adaptively. Part of this process, involves the development of a belief in constructive, reparative, and loving capacities which have had the opportunity to develop in relationships with significant others. This reparative urge is what Azaro hints at when he says, "I wanted to make happy the bruised face of the woman who could become my mother". These capacities, thus, have the potential to mitigate the destructive side of our natures (Klein 1937). Essential in turn, to a psychological understanding of the disturbances of adolescence (which sometimes involve committing crime) is the notion that adaptive or mal-

adaptive responses to life are developed in the context of relationships (Stern 1985). This need for relationship, and the feeling that one has something good, generative and restorative in oneself to bring to a relationship, are crucial to our understanding of what will ultimately influence change. This is especially true of those with narcissistic and psychopathic personalities, where it is strongly denied because it threatens. The exact techniques through which this change occurs are still largely elusive, though if the research literature concerning the application of psychological approaches to the remediation of crime is any indication, there are many paths. This may in part explain why a seemingly innocuous psychological intervention such as teaching social skills may reduce repeat offending.

Prior to reviewing the research findings concerning the effectiveness of psychological approaches to the remediation of delinquency and associated crime, it is important to state that it is not claimed that all criminal behaviour is seen to emanate from psychological disturbance—though some might hold this view in its broadest sense.

### **The Problem of Juvenile Offending**

Overall, if one examines the data in the period 1981-1991 across the six Australian States there is no evidence that juvenile crime is "out of control" (Gale, Naffine, & Wundersitz 1993). Nonetheless there has been a slight increase in juvenile involvement in serious crimes in recent years, and juveniles continue to be over-represented in certain crime categories, such as violent crime. In NSW the total number of proven appearances for juveniles involved in violent offences (as a proportion of all proven appearances for violent crimes) during 1986-87 represented only 9.9 per cent of all appearances for juvenile offenders. By 1991-92 the percentage of appearances for violent crimes had almost doubled to 14.2 per cent (Gale et. al 1993). Interestingly, this increase was largely due to a rise in serious assaults and robberies rather than any substantial increase in sexual assaults or homicides. So despite a continued emphasis on diversion and community based treatments, it is likely that a small group of more serious offenders will continue to be incarcerated.

The fact that such a problem exists means that it is incumbent on professionals, if the view is held that psychological factors can be an important part of the remediation of crime, to be as clear as possible about what psychological approaches are or might be useful in rehabilitation. That some professionals might hold that psychological approaches are useful in remediating crime is historically relatively new, and it is of interest to review how this enlightened thinking has developed.

### **The History of Forensic Psychiatry and Psychology**

Forensic psychology and psychiatry are still in their infancy. Relevant to this is the fact that since their conception in the 1840s, two very divergent models have struggled to dominate the development of juvenile justice programs. These have been the rehabilitation/treatment model and the

justice/punishment model (Mann 1976). Gradually psychological and psychiatric theory informed such programs.

Society has come some way down an enlightened path which is now lined with achievements, such as the McNaughton Rules (UK), which acknowledged that psychiatric and psychological factors need to be considered in sentencing. Behind these changes in thinking has been the influence of those in the fields of psychology, sociology, psychiatry and psycho-analysis who have challenged archaic ways of thinking about crime and have suggested alternate perspectives.

Freud in his paper *Some Character Types Met With in Psycho-Analytic Work* (1916) sketched some early psychological thoughts on crime in his piece entitled *Criminals From a Sense of Guilt*, in which he outlined his suspicion that the majority of crime could be conceptualised as relating to the paradox that there was often a sense of guilt present before the crime, that it did not arise from it, but conversely the crime arose from the sense of guilt. He stated: "These people might justly be described as criminals from a sense of guilt"—the notion that committing the crime resulted in a sense of relief.

These highly controversial first attempts at a psychological conceptualisation of crime, (though Freud did acknowledge Nietzsche's contribution to the subject), and in turn implications for intervention, were later eloquently expanded and adumbrated by Edward Glover (1922) in his classic paper, "The roots of crime". Powerfully written, though humble in its plea to the minds (and hearts) of the magistracy, the paper set out to demonstrate that there were varying typologies of psychopathology which could account for the phenomenon of crime in some individuals. A variation of this notion of typologies has been one of the promising areas of psychological research concerning delinquency in recent years (Quay 1987). Specifically, it has been shown that conduct-disordered youth can be classified along behavioural dimensions which can be used to predict treatment outcome with different psychological interventions.

In Glover's paper an attempt was made to demonstrate that certain psychological mechanisms (for example, symbol-formation, displacement, sublimation and projection) are excessively relied upon by criminals with certain types of psychopathology. Glover attempted to illustrate how these concepts could be used to understand criminal behaviour. He urged these considerations especially against the body of evidence that loss of freedom and punishment did little to reduce criminal behaviour in those who were under the pressure of psycho-logic rather than logic when they committed crimes. One of Glover's most compelling illustrations was that of relating emotional deprivation to stealing, a notion which he was to elaborate. As a result, Glover's advice to the magistracy was at times bold, advising for example, "that he would do well to consider all juvenile offences as behavioural problems rather than criminal acts". This sort of conclusion was of course highly controversial at the time.

Glover acknowledged the complexity of attempting to foster psychological approaches to the remediation of crime when he stated, "we must realise of course that penal codes, being in the last resort an expression of current social and moral values sharpened by the need for societal safety,

must of necessity express the age old prejudices, fears and penchant for punishment which have bedevilled social progress". Society, it has been said, "gets the crime it deserves and its stability owes something to the scapegoat system whereby the criminal is made to pay for the unconscious criminal tendencies that lie dormant in the community" (p. 9).

### **Developments in Forensic Psychology**

Since these frontier days of forensic psychology, there has been much psychological theorising and experimental intervention. Much of this has taken place within the overall change of theoretical fashion in recent decades. Indeed, the early psycho-dynamic approaches were somewhat abandoned as psychologists developed an idolisation with things measurable and quantifiable. Out of this era (particularly the 1960s) came behaviourism, with its emphasis on changing behaviour by altering its consequences, and later by emphasising the development of new behaviour and skills.

After the realisation that such approaches were limited in their effectiveness, cognitive therapy was added with some improvement in effect. It is interesting and little acknowledged to note that cognitive therapy was initially derived by the psycho-analyst Beck who wanted to translate psycho-analytic notions into a more user friendly format. Added to this list, have been social system treatment approaches, especially family therapy, certain forms of which have shown promising results, as well as developments in psychometric assessment. One of the main advantages of this latter development has been to highlight the fact that offenders have different individual needs related to different underpinning psychological variables which may be associated with their offending. Sociological and psychological research studies have also highlighted the need for individually tailored psychological approaches and, relatedly, a multi-factorial model of causation of offending. Let us therefore examine in more detail what we have come to know about adolescent offending and psychological approaches to intervention.

### **Research and Psychological Interventions**

At the outset it may be said that there is no single psychological approach to juveniles who offend which is seen to be useful for all types of offenders, but it is also *not* true that nothing works. It is probably generally true, however, that methods for evaluating interventions are thwarted by numerous issues, such as varying definitions of delinquency, non uniform applications of approaches and varying levels of training and expertise in applying treatments. Another factor is the extent to which the setting promotes the effect of the intervention, which includes the stance of those involved in the day-to-day care of the juveniles. A review of the research indicates that the developmental and social context of the offender is crucial to understanding and responding to delinquency also.

The need for this developmental and systemic understanding has clear implications for psychologists involved in the assessment and treatment of delinquents, especially in terms of how assessment information is formulated



and related to treatment recommendations. Clearly, there needs to be more of a focus on treatment effort, since the research indicates that the length of time spent incarcerated does not in itself necessarily equate with recidivism rates.

### **Offender Characteristics**

The research literature concerning offender characteristics reveals certain key characteristics of the offender. In terms of age, for example, arrest rates in large birth cohort studies show the prevalence of arrests in NSW peaks at 16 years of age (Department of Juvenile Justice, unpublished data). Farrington (1987) has attempted to account for the curvilinear association between age and offending rates with several biological, behavioural and economic explanations. With respect to gender, boys, as is well known, have a higher prevalence and incidence rate than girls, for most delinquent behaviours. This is clearly evident in the NSW population. What is not so clear is why. There are of course a number of interesting theories which attempt to account for the sex difference including the notion that boys are socialised differently and need to obtain power and dominance in some way or another. There is also some evidence which suggests a slight association between social classes and delinquency. In both the USA and Australia, black youth have much higher rates of arrest and incarceration. Again, one needs to think about why this is so. These findings inevitably lead back to the notion of a multi-factorial explanation of delinquency and offending.

In terms of other features which characterise the individual adolescent offender, delinquency is associated with low verbal aptitude, immature stages of moral reasoning and low self-esteem. One of course needs to apply caution in interpreting these findings because of a related finding that children who have been abused tend to have low self-esteem and this can have a powerfully determining effect on learning ability and related psychometric test performance (Smith 1975). Another characteristic is that of the presence of deficits in social skills, attention, and problem-solving. There are, however, only equivocal conclusions about the actual role these play in the development and maintenance of delinquent behaviour.

With respect to the issue of gender sub-grouping it is interesting to note from the literature that, even though criminal behaviour is less frequent and severe with girls, univariate and multivariate studies show that similar individual and systemic characteristics are associated with delinquent behaviour in boys and girls. Yet in many respects female offenders can be treated more harshly than male offenders. A group of feminist lawyers writing about the systemic issues in the publication *Scarlet Woman* (Feminist Lawyers Group 1992), detail data from the USA and Australia which also revealed that women in custody often receive health care which falls well below the accepted guidelines.

Another interesting though not surprising finding is that the women's movement, and in particular feminist attitudes have not been associated with an increase in delinquent behaviour in girls. One implication of these findings is that psychological treatment for girls might be guided by similar principles as for boys, though perhaps with modifications such as the gender

of the therapist and a special focus on training all personnel involved in working with young women in custody about the special needs of this group.

These findings underline the importance of the overall context in which psychological interventions are attempted which includes the training and attitudes of staff involved in the day-to-day care of incarcerated juveniles. In a paper addressing these types of problems and the possibilities of treating incarcerated offenders, Russell Eisenmann (1992) discussed the negative effect on the treatment program of attitudes and behaviour of certain custodial staff. These sorts of issues must be addressed, particularly in relation to girls in custody, if treatment is to have a chance of success.

### **Behavioural Characteristics**

As was mentioned above, delinquents have been found to cluster into behaviour dimension sub-groups. In a series of multivariate research projects Quay (1987) has shown that there is a similarity to these dimensions of behaviour in juveniles to categories defined by researchers of child psychopathology. These dimensions referred to above include under-socialised aggressive, which is seen to involve destructive and aggressive behaviour similar to conduct disorder, and which produces elevated externalising scores on the Achenbach Youth Self-Report. A second grouping is the socialised-aggressive dimension which describes juveniles who associate with delinquent peers. A third dimension is that of immaturity-attention deficit which is akin to hyperactivity, and the last dimension is anxiety withdrawal, which is internalising in character and associated with such scales on the Achenbach Youth Self Report. These subgroups were shown to account for differences amongst young offenders in a review of over 20 studies addressing recidivism, stimulation seeking and, most importantly, treatment outcome.

What these findings highlight once again is that there must be attention to individual needs and the needs of particular groups in custody which, as the historical writings first implied, suggest that there be careful consideration of psychological factors associated with offending and their related implications for treatment.

In regard to the abovementioned findings, it has now emerged that, whereas externalising problems (high levels of acting out behaviour) were seen to be predominant in incarcerated juveniles, researchers are finding high levels of incarcerated juveniles assessed as having high internalising (such as anxiety and withdrawal) scores. Armistead et al. (1992) compared a group of incarcerated male and female offenders with a non-offending group. In their conclusion they stressed the importance of assessing and treating offenders for difficulties other than externalising problems. They found high internalising scores amongst the incarcerated group.

The existence of self-report inventories such as the Achenbach Youth Self Report provide a means of assessing these behavioural dimension subgroups. A recent study by Motiuk, Motiuk and Bonta (1992), a group of Canadian researchers, indicated that offender self-reports in combination with more traditional risk/needs assessment is likely to be more useful than the

interview method alone in identifying needs of particular offender subgroups. This, of course, may be particularly appropriate when the psychologist is less experienced. Nonetheless, their use does allow for more comparative research.

Behaviour dimension subgrouping which is likely to be linked to personality appears to be more useful than personality as a predictor of treatment outcome. This is probably due to the conceptual and methodological difficulties in research linking personality with offending behaviour.

Having noted these characteristics and made some preliminary observations regarding the need to acknowledge the heterogeneity of this population in terms of psychological factors, let us now focus our attention on what is known from the research literature about the efficacy of psychological interventions.

### **Program Approach Research**

Firstly, looking at *program approaches* to treatment in *institutional settings*, with any such approach one has to be aware of confounding variables which may impinge on the success of such a program. This goes beyond the issue of attitudes mentioned above and includes factors such as the nature of the offence, the perceived amenability of the youth to treatment, the perceived effectiveness of the treatments available and the availability of resources (Mulvey & Reppucci 1988). In summary nonetheless, reviews of programs have suggested there is some evidence (Hazel et al. 1982) for the effectiveness of behavioural, cognitive problem solving and skill development approaches, even though the generalisability and long-term effect of these are in doubt. These programs include such mechanisms and techniques as point systems, token economies and behavioural contracting which appear to be more efficacious than other approaches (Andrews 1989).

The presence of cognitive deficits in juveniles tends to make psycho-dynamic approaches more limited in their success. However, conceptualising in a psycho-dynamic way may nonetheless have value. A promising area in terms of actual technique with institutional programs, however, appears to be family therapy. Barton et al. (1985), for example, found that after treatment and 15 months following their release, recidivism in a treated group who received family therapy was down to 60 per cent compared to 93 per cent in a group who received no treatment.

With respect to community based treatments, when these are compared to institutional treatment programs, it has been found that intensive community based treatments which aim at improving family functions and incorporate some cognitive-behavioural strategies and address delinquents' social networks, show the most promise when it comes to program approaches. It is worth noting that research on wilderness schemes indicates these do not appear to produce lasting effects (Winterdyk & Roesch 1981). More significant, however, are studies which have raised the importance of community infrastructure to maintain the gains of any intervention (Armstrong 1982).

Success with detention centre programs seems to depend on the use of multifaceted approaches which relate to the research findings concerning offender characteristics and the systems within which juveniles operate. Hagan and King (1992), for example, analysed the recidivism rate of 55 youths placed in an institutionally based psychological treatment program in which all the staff were trained in the treatment approach. The program contained (cognitive behaviour modification) strategies to facilitate appropriate behaviours as well as individual treatment contracts, family therapy and community aftercare placements. At follow up, 49 per cent of the group had not reoffended. Redondo et al. (1991) also report a similar type of treatment program in which they stressed the importance of multidisciplinary teams which periodically review the juveniles in the program.

The research on institutional treatment programs, thus seems to bear out the need for tailored approaches addressing the relevant dimensions of delinquent behaviour and the developmental factors associated with the offending.

### **Individual Approaches**

With respect to findings concerning individual treatments, a number of conclusions can also be drawn. The first is that the more recent cognitive behavioural approaches to treatment overall have not proved to be more effective than the prior psycho-dynamic ones. In fact in a major review of these individual treatment approaches, Blakely and Davidson (1984) found that they were either ineffective or, when they were effective, the effects did not generalise. Michaelson (1987) has hypothesised that a combination of problem-solving skills combined with social skills training and other cognitive behavioural approaches might be more promising. Kazdin (1987) has also noted that treatments which intervened with family and peer systems as part of the treatment process were the most promising, possibly suggesting reasons for the failure of some of the other earlier behavioural approaches. These findings of course are entirely consistent with the notion of multidimensional causation models.

In terms of social system treatment, interventions findings indicate that family therapy is useful with predelinquents, but the findings are more equivocal when it comes to delinquent offenders. Yet family therapy does seem to add to the effectiveness of other treatments and is generally more effective than other treatments (Hazelrigg et al. 1987). Peer group interventions alone seem relatively ineffective yet, when combined with approaches that promote the offenders' association with pro social peers, they appear more effective (Feldman et al. 1983).

Multisystemic therapy (Henggeler & Borduin 1989) has also shown some promise. This approach is brief, problem focussed and addresses family and developmental issues incorporating treatment components from a wide range on a needs basis. It puts emphasis on the therapist having a wide range of skills. Borduin et al. (1989) reviewed the outcome of this approach with 210 juvenile offenders and their families and found that it was more effective in

terms of lower long-term rates of self-reported delinquent behaviour and arrests, when compared to individual counselling.

As one can see from this relatively brief review, the corpus of research literature concerning psychological approaches to the treatment of juveniles in detention is enormous, and yet no final conclusions can yet be made about what constitutes the best approach. Initially, promising approaches have met with problems, especially the generalisability of their effects. What is clear is that some approaches do have efficacy; so there is evidence that some things do work, yet it is not always clear why.

### **Some Conclusions Regarding the Research Findings**

It seems that there are two main issues that can be cited in relation to why some approaches seem to have only limited success. One issue is that these approaches seem not to relate to the developmental and social (ecological) factors which research indicates are associated with the establishment and maintenance of delinquent behaviour. Therefore, no matter how good a treatment component might be intrinsically, if it is not supported by interventions with other systems in which a juvenile operates, such as the family, then it appears to have a compromised effectiveness.

The second issue is that treatments which do not address individual needs are also limited. Above-mentioned evidence can be seen to support the need for individual treatments, tailored to particular needs. One means to achieve this end may be to invoke assessment along the lines of Quay's subgroups using multi-disciplinary team assessments which incorporate standardised instruments such as the Youth Self Report to identify juveniles according to behavioural dimensions from which psychopathology and personality can be inferred. These can be used to indicate the type of intervention needed and how this might be integrated within a multi-systemic approach. This would invoke systems theory and a bio-psychosocial model. In turn, it would address the needs of subgroups and allow for the incorporation of the research findings concerning delinquent behaviour. It should also logically lead to a model of psychological services which incorporates standards of assessment and intervention.

This may be illustrated by considering sexual offenders. Sexual offenders, as a group, appear to have higher rates of internalising symptoms and interpersonal difficulties, especially in relation to establishing relationships with their peers. Deficits have also been reported in family relations. Further, a significant percentage of these offenders have been victims of the abuse (sexual, physical or verbal) themselves. Intervention after careful assessment might therefore, hypothetically, involve individual therapy and/or group therapy (which research suggests should involve a focus on accepting responsibility) and family therapy. Depending on the level of cognitive functioning, this intervention may involve a cognitive/behavioural or psycho-dynamic approach. In an institutional setting this could be supported by a variety of incentive systems and self-esteem enhancing programs conducted by staff briefed about the best methods of supporting the therapy.

Similarly, with violent offenders, who as a group have been found to have higher levels of personal impairment than other delinquent samples and where there is clear evidence of disturbed family relations, an individually tailored treatment approach could focus on specific behavioural techniques such as anger management and family therapy work, as appropriate. The efficacy of psycho-dynamic approaches within this sort of multisystemic approach is largely untested. There is great value in psycho-dynamic concepts such as projective identification (where the therapist can be made to experience by the client unwanted aspects of his emotional life which sheds light on his conflicts), identification and dependency. The concept of identification with the aggressor/victim is also often useful in understanding violent offenders. The concept of dependency with associated failure to internalise sustaining capacities is particularly useful in understanding those immature personalities where there is a reliance on external substances to cope with internal feeling states which are often unknown, unlabelled and felt to be outside one's control. If these types of concepts are incorporated into a multisystemic approach, it is possible to achieve a greater depth of understanding which can guide the intervention.

### **Conclusions Regarding Psychological Interventions**

A useful way of dealing with offenders then appears to be to utilise the research findings by taking a multisystemic approach, using an empirically derived means of classifying offenders and then matching offenders with best fit treatments. In turn, a conceptual framework (and associated philosophy) is also needed which incorporates a bio-psychosocial model blended with psycho-dynamic concepts (especially those concerning destructiveness, guilt, and reparation). As stated at the outset, the success of techniques used, and the research they are based upon are perhaps related to the extent to which they promote an individual's belief in the power of his reparative, restorative and loving capacities, and in turn his ability to engage in sustaining and loving human relationships. In cases where juveniles have become hardened and destructive this may need to be fostered in its most disguised and desperately weak form.

In her most insightful and deeply human book *Live Company*, Alvarez (1992) gives a clear account of the value of such a philosophical underpinning in dealing with psychopathic children and adolescents. She notes the psychopathic child has an addiction to cruelty and cruel power but says that "before they can get in touch with more caring concerned parts of themselves, they have to begin to take other people more seriously . . . there needs to be a sobering down from the omnipotent destructive state where anything goes". She notes that when a youth "plucks up the courage to reveal his disturbed (baby) self . . ." then as with the real baby comes a new opportunity to encounter another person in a way that enables the youth to experience not only his own capacity to receive goodness and pleasure, but also his/her capacity to give it.

Ultimately then, we need to adopt a multisystemic means to help clients achieve a reparative, responsible, constructive and loving outcome.

### Select Bibliography

- Achenbach, T.M. & Eslobrock, C. 1983, *Manual for the Child Behaviour Checklist and Revised Child Behaviour Profile*, Queen City Printers, Burlington V.T.
- Andrews, D.A., Zinger, I., Hoge, R.D., Bonta, J., Grendreaau, pp. & Cullen, F. 1989, "Does correctional treatment work? A clinically-relevant and psychologically informed meta-analysis", Laboratory for Research on Assessment and Evaluation in Human Services, Carleton University, Ottawa.
- Alvarez, A. 1992, *Live Company: Psycho-analytic Psychotherapy with Autistic, Borderline, Deprived and Abused Children*, Tavistock Routelidge, New York.
- Armistead, L., Wierson, M., Forehand, R. & Frame, C. 1992, "Psychopathology in incarcerated juvenile delinquents: Does it extend beyond externalising problems?", *Adolescence*, vol. 27, no. 106, Summer, pp. 309-14.
- Armstrong, T.L. & Altschuler, D.M. 1982, "Conflicting trends in juvenile justice sanctioning: Divergent strategies in the handling of the serious juvenile offender", *Journal of Juvenile and Family Courts*, vol. 33, pp. 15-30.
- Barton, C., Alexander, J.F., Waldron, H., Turner, C.W. & Warburton, J. 1985, "Generalising treatment effects of functional family therapy: Three replications". *American Journal of Family Therapy*, vol. 13, pp. 13-26.
- Blakely, C.H. & Davidson, W.S. 1984, "Behavioural approaches to delinquency: A review", in *Adolescent Behaviour Disorders: Foundations and Contemporary Concerns*, eds pp. Karoly & J.J. Steffen, Lexington Books, Mass.
- Borduin, C.M., Blaske, D.M., Mann, B.J., Treloar, L., Henggeler, S.W. & Fucci, B.R. 1989, *Multisystemic Treatment of Juvenile Offenders: A Replication and Extension*, Brooks Coles, U.S.A.
- Eisenmann, R. 1992, "Treatment of incarcerated offenders: Possibilities and problems", *International Journal of Child and Adolescent Psychiatry*, scp. vol. 55, no. 8, pp. 159-62.
- Farrington, D.P. 1987, "Epidemiology", in *Handbook of Juvenile Delinquency*, ed. H.C. Quay, John Wiley, New York.
- Feldman, R.A., Caplinger, T.E., & Wodarshi, F.J. 1983, *The St Louis Counundrum: the effective Treatment of Antisocial Youths*, Prentice Hall, Englewood Cliffs, N.J. U.S.A.
- Feminist Lawyers Group 1992, "Women in custody", *Scarlet Woman*, no. 27, Spring, pp. 66-72.

- Freud, S. 1916, "Some character types met with in psycho-analytic work", in *Literature and Art*, ed. A. Richards, The Pelican Freud Library, Pelican Books, London.
- Gale, F., Naffine, N. & Wundersitz, J. 1993, *Juvenile Justice: Debating the Issues*, Allen and Unwin, Sydney.
- Glover, E. 1922, "The roots of crime", in *Selected Papers on Psycho-Analysis*, International Universities Press Inc, New York.
- Hagan, M. & King R.P. 1992, "Recidivism rates of youth completing an intensive treatment program in a juvenile correctional facility", *International Journal of Offender Therapy and Comparative Criminology*, Winter, vol. 36, no. 4, pp. 349-58.
- Hazel, J.S., Schumaker, J.B., Sherman, J.A. & Sheldon-Wildgren, J 1982, "Social skills training with court adjudicated youths", *Child and Youth Services*, vol. 5, pp. 117-37.
- Hazelrigg, M.D., Cooper, H.M. & Borduin, C.M. 1987, "Evaluating the effectiveness of family therapies: An integrative review and analysis", *Psychological Bulletin*, no. 101, pp. 428-42.
- Henggeler, S.W. & Borduin, C.M. 1989, *Family Therapy and Beyond: A Multisystemic Approach to Treating the Behaviour Problems of Children and Adolescents*, Brooks Cole, California.
- Kazdin, A.E., Bass, D, Siegel, T., & Thomas, C. 1987, "Cognitive-behavioural therapy and relationship therapy in the treatment of children referred for antisocial behaviour", *Journal of Consulting and Clinical Psychology*, vol. 57, pp. 522-35.
- Klein, M. 1937, "Love, guilt and reparation", in *The Writings of Melanie Klein Volume I*, ed. R.M. Kyrle, Hogarth Press and The Institute of Psycho-analysis, London.
- Mann, D. 1976, *Intervening with Serious Convicted Juvenile Offenders*, Monograph No. 76-JN-99-007, Office of Juvenile Justice and Delinquency Prevention, Washington D.C.
- Michaelson, L. 1987, "Cognitive-behavioural strategies in the prevention and treatment of antisocial disorders in children and adolescents", in *Prevention of Delinquent Behaviour*, eds J.D. Burchard & S.N. Burchard, Sage, Newbury Park.
- Motiuk, M.S., Motiuk, L.L. & Bonta, J. 1992, "A comparison between self-report and interview-based inventories in offender classification", *Criminal Justice and Behaviour*, vol. 19, no. 2, pp. 143-59.



- Mulvey, E.P. & Repucci, N.D. 1988, "The context of clinical judgement: The effect of resource availability on judgements of amenability to treatment in juvenile offenders", *American Journal of Community Psychology*, no. 4, pp. 525-46.
- Okri, B. 1991, *The Famished Road*, Vintage Books, London
- Quay, H.E. 1987, *Handbook of Juvenile Delinquency*, John Wiley, New York.
- Rendondo, S., Roca, M., Perez E., Sanchez, A. & Deumal, E. 1991, "Environmental outline of a youth prison in Catalongna: Five years evaluation", in *The Future of the Juvenile Justice System*, eds J. Junger-Tas & L. Boendermaker, ACCO Tiessestraat 134-36 3000 Leuven, Netherlands, pp. 411-28.
- Smith, S.M. 1975, *The Battered Child Syndrome*, Butterworths, London.
- Stern, D.N. 1985, *The Interpersonal World of the Infant: A View from Psychoanalysis and Developmental Psychology*, Basic Books, New York.
- Winnicott, D.W. 1956, "The anti-social tendency" in *Collected Papers—Through Paediatrics to Psychoanalysis*, Tavistock Publications, London.
- 1988, *Playing and Reality*, Pelican, U.K.
- Winterdyk, J. & Roesch, R 1981, "A wilderness experimental program as an alternative for probationers: An evaluation", *Canadian Journal of Criminology*, no. 23, pp. 39-49.

# LITERACY AND YOUTH: AN EVALUATION OF THE LITERACY PRACTICES OF YOUNG PEOPLE HELD IN INSTITUTIONAL CARE

**Trevor H. Cairney, Kaye Lowe, Peter McKenzie  
and Dina Petrakis**

## **The Literacy Debate**

THERE IS CONSIDERABLE DEBATE CONCERNING JUVENILE DETAINEE literacy. Many suggest that illiteracy rates for detainees are considerably higher than those found in the general community (Noad & Hancock 1985; Yabsley 1988; Hallard 1990). Others have cast doubt on the validity of the assumption that detainee literacy is of a lower "standard" than that of the community at large (Black 1991; Black, Rouse & Wickert 1990; Brennan & Brennan 1984).

A number of reasons exist for the lack of consensus concerning detainee literacy. First, the meaning of literacy is constantly changing and cannot be separated from the training, philosophy and predisposition of those attempting to define it. Each researcher employs different approaches, methods of investigation and assessment procedures. Often the fundamental questions, assumptions and beliefs driving the research methods and findings vary considerably.

A second reason is that research in the area of literacy is often driven by differing theoretical positions concerning the nature of the reading and writing processes. Some theorists view reading, for example, as simply the ability to decode written words into spoken words, rather than a process of constructing meaning. However, literacy is a complex cultural practice. It is inextricably interwoven with the culture of those who use it. It reflects culture (the beliefs, values, ideas and knowledge of a group of people) and in turn

helps to shape it. As Heath (1983) demonstrated, what counts as literacy is intertwined with culture. Gee suggests that it is almost impossible to separate literacy practices from other cultural practices. Literacy, is "part of the very texture of wider practices that involve talk, interaction, values and beliefs" (1990, p. 43).

One learns about literacy within a social context, as an extension of relationships with other people. Hence, the meanings we create as we read and write are always relative. What we think we know can never be removed from the social context within which we have come to know (Cairney 1990a). All texts are implicated in social relations. We learn to read and write by "being apprenticed to a social group" (Gee 1990, p. 45).

The meanings we construct as we read and write reflect who we are, what we have experienced, what we know about language and the world, and also our purposes for creating them in the first place (Cairney 1990b). Types of discourse and the way we read or write them are the social constructs of specific groups. Individuals are enculturated into these practices and these meanings.

A third reason for this lack of consensus in the literacy debate is that often procedures do not accurately assess a broad range of literacy practices, but rather concentrate on isolated aspects of literacy learning. Some emphasise the importance of accuracy in spelling, others emphasise the functional aspects of language use, for example, being able to make use of signs and bureaucratic forms. Others still, place a greater emphasis on the individual's conceptual capacity. The nature of literacy is such that the assessment of an individual's personal literacy needs to employ a broad range of procedures (Black, Rouse & Wickert 1990).

There is a need to recognise that literacy as a label covers a myriad of practices appropriate in specific cultures and contexts including graffiti, poetry, form filling, postcard writing, drawing, writing music, reading newspapers, looking up a phone directory, reading the instructions on a fire extinguisher and so on. There is often an assumption that to be literate one must achieve equal skill in all aspects of literacy. To hold this view is to miss the critical point that literacy has firm sociocultural foundations.

### **The Causes and Consequences of Literacy Problems**

Literacy has long been recognised as a correlate of self-esteem, attitude to learning and ultimately employment prospects (Cairney 1990a). Increasingly, government reports claim that literacy is linked to our society's productivity (DEET 1991). Illiteracy has been directly associated with lack of employment, low income and poor self-esteem (Dawkins 1989).

Illiteracy has also been shown to be correlated with a variety of youth problems. Not surprisingly, many young people held in institutional care have negative attitudes to education, and limited literacy competence. While it is difficult, if not impossible, to isolate causal links between any of these factors, it has been increasingly recognised that if young people in institutional care are to break the cycle of failure, lack of employment, and

detention, then strategies must be developed to increase their chances of employment and education. Literacy, in this instance, has an important part to play.

Previous research in the field of adult literacy has shown that reasons for literacy difficulties are complex. A number of factors are associated with the lack of success including sociocultural, experiential, emotional, psychological, intellectual and school related reasons. Not surprisingly, unsuccessful readers often have misconceptions about literacy and are confused about the purpose it serves in their lives. As a consequence, unsuccessful readers suffer devastating effects to their feelings of self-worth and motivation to learn (Martin 1989; Lowe 1992).

A variety of sociocultural factors have been shown to be related to illiteracy. For example, it has been suggested that one major contributing factor in the case of the prison population is the inability of the family to provide support structures needed for a child to undertake a consistent school education (Thompson 1992).

In considering the impact of sociocultural factors on illiteracy it should be noted that approximately 15 per cent of detainees are born outside Australia in a predominantly non English speaking country. A further 9.8 per cent of detainees are of Aboriginal or Torres Strait Islander decent. Thompson (1992) has suggested that alienation from traditional culture for Aboriginal offenders contributes to illiteracy.

Another contributing factor could be the inadequacies of the curriculum that young offenders experienced when at school (Clay 1982; Harste, Short & Burke 1988). Educational and curriculum factors include teacher effectiveness, pupil abilities, the learning environment, teaching methodology and teacher/pupil relationship.

A major concern for the correctional and juvenile justice population is "the inability of the traditional education system to meet their needs" (Thompson 1992, p. 3). A traditional view of curriculum is based on the assumption that learning best takes place when that which is to be learned is broken down into discrete units to be sequentially mastered.

More recently there have been increased calls for the adoption of an holistic approach to the acquisition of literacy (Harste, Short & Burke 1988). The holistic view focuses on constructing meaning from the printed page (Goodman 1982). In such an approach, learners' capabilities are enhanced by building on their own background experiences and knowledge. Within the traditional model the process is controlled by the teacher as the transmitter of the knowledge. By comparison, the role of the holistic teacher is to facilitate learning rather than control it.

Psychological factors also contribute to illiteracy. People discover who they are, and what they are, from the ways in which they have been treated by significant others in the process of growing up (Smith 1988). If a learner perceives that he or she has been rejected by the general community, or group, then an attitude of alienation from the group is likely to result. This in turn may cause the learner to doubt his/her ability to learn or acquire the

literacy of the community. The learner may not expect or perhaps even want to learn or acquire the literacy of that group because he/she does not feel a part of it.

Recognising the impact of low self-esteem and self-worth is particularly important when dealing with the correctional and juvenile justice centre population. Often "young offenders have little or no sense of self" (Faith 1990, p. 17).

Literacy has to be re-defined as a key to future potential rather than something to be mastered and drilled. For far too long literacy has been viewed simply as a cognitive skills based process, instead of a complex cultural activity. Literacy is inherently social. One learns about literacy within a social context, as an extension of relationships with other people. We create meaning as we attempt to make sense of our world (Cairney 1987; 1990a; 1990b; Cairney & Langbien 1989).

In the words of Gee (1990):

Schools, like bars, engage in particular discourses. There is a discourse of being a first-grade student or a high school student as well as more specific discourses connected to different subject matters . . . and different activities (p. vii).

The meanings we construct as we read and write reflect who we are, what we have experienced, what we know about language and the world, and also our purposes for creating them in the first place. Literacy is not simply a technical skill to be mastered. Rather it is "a process that is preceded by and intertwined with knowledge of the world" (Cairney 1991, p. 29). Long before people first read and write, they learn to "read the world" and make their mark on it (Freire & Mace do 1987).

People first learn to "read" the objects and "signs" around them; the place in which they live—the sounds, sights, tastes, tactile objects and smells that surround them. As individuals perceive and respond to the things of this world they learn also about themselves. And as their understanding of self grows, so does their capacity to make sense of the world in which they live (Cairney 1991).

And yet within some schools and correctional educational contexts, reading and writing are sometimes viewed as decontextualised acts of learning, bearing little relation to the reality of the individual's life. Literacy is subsequently defined narrowly as either a functional skill that has utilitarian ends, or a process of initiating the poor and underprivileged minorities into the dominant cultural tradition (Giroux, in Freire & Mace do 1987).

What is needed if young detainees are to take on a variety of literacy practices which are empowering, is for learning contexts to be created that allow inmates to set personal goals for learning. As well, these contexts need to provide detainees with the help they need to use literacy for the achievement of these goals.

With this aim in mind a project was undertaken in two juvenile justice centres and one adult correctional centre that sought to explore the literacy needs of young offenders.

## Project Purpose and Design

The purposes of the project were to:

- identify the specific literacy needs of young people (15-25) years in institutional care;
- develop program initiatives that meet the needs of the above group and which offer them a chance to achieve success in literacy and learning both inside and outside institutional care;
- document the program initiatives as they develop so that they can be used in other institutional care settings (for example, detention centres, remand centres, and gaols);
- evaluate the impact of the program initiatives on young people;
- conduct detailed case studies of young people in order to assess the ongoing effectiveness of proposed program initiatives.

The conduct of the work was in three major stages, each of which required a variety of data collection methods (*see* Table 1).

Stage 1 involved gaining an understanding of the educational contexts present within the juvenile justice system; the identification of literacy practices and needs of young offenders; and an analysis of the educational programs offered.

Stage 2 involved establishing a more in-depth understanding of a particular site, focussing on the literacy practices of the inmates.

Stage 3 involved the development of a program which provided inmates with the opportunity to engage in a broad range of literacy practices which would attempt to meet their individual needs, educationally, socially, vocationally and personally.

The project was conducted at three sites: Cobham Juvenile Justice Centre, Reiby Juvenile Justice Centre and Parklea Correctional Centre. During Stages 2 and 3 of the project, Parklea, and to a lesser extent, Cobham became the primary research sites.

Our research involved participant and non-participant observation which enabled data concerning the nature of the educational contexts, the literacy learning context and the literacy practices of young offenders to be gathered.

At Parklea two members of the research team assumed the role of teacher, conducting basic literacy and ESL classes and tutorials preparing inmates for the School Certificate by correspondence. This enabled a more realistic understanding to be gained of the needs of both teachers within the prison system as well as inmates.

Table 1

**Methods of Collecting Data**

<i>Timeline (Months)</i>	<i>3</i>	<i>6</i>	<i>9</i>
	<i>Stage 1</i>	<i>Stage 2</i>	<i>Stage 3</i>
Observations			
- passive	*	*	
- active		*	*
Interviews			
- inmates	*	*	*
- teachers	*	*	*
- custodial staff	*	*	*
- support staff			
Case Studies			
- inmates	*	*	*
- sites	*	*	*
Consultation			
- education officers		*	*
- teachers	*	*	*
- custodial staff		*	*
- administrators	*	*	*
Establishing Classes		*	*
Attending Planning Meetings	*	*	*
Collecting Artefacts			
- work samples	*	*	*
- assessment tools		*	*
- various printed material	*	*	*
Member Checking/ Triangulation	*	*	*
Program Development			
- in conjunction with inmates, education and custodial officers and research team		*	
Induction Package			
- trial			*
- evaluation			*

**Development of Case Studies**

When working in juvenile justice centres and adult correctional facilities one is constantly confronted by the observation that literacy is inherently social. That is, it involves the engagement of individuals in a range of literacy

practices that are embedded in their cultural practices, and which are invariably used in relationship to other people (Cairney 1991).

As a result, the research team recognised the need to conduct detailed case studies of inmates which provided a sense of who they were as people, what their educational backgrounds entailed, and what part literacy played in their lives.

To provide a sense of the diversity of inmates, brief profiles follow for two of the participants.

Andrew is a 17-year-old detainee in Cobham Juvenile Justice Centre. Prior to detention he lived with his mother (a single parent), and four younger siblings in western Sydney. He receives regular visits from his family. Andrew has completed year 11 of high school and had started year 12 but could not sit for the Higher School Certificate because of accumulated absences. He claims to have found high school interesting, studying subjects such as photography, film and art. He liked his teachers who he reported were helpful to him. Andrew uses the Cobham school library to borrow books which relate to the history and politics of other countries. He is an inveterate letter writer and has ambitions of becoming a journalist. Andrew views his detention as a time to complete his HSC with no disruptions from friends and no financial burden to his mother.

Larry is a 21-year-old serving a sentence at Parklea Correctional Centre. He comes from far western NSW and maintains contact with his family by telephone. Larry's experiences of "normal school" were extremely limited. In his own words "I wagged it all the time. I hated school. I hated the schoolwork and the teachers". Larry has a long history of detention, having been in boy's homes and then correctional centres since he was 7-years-old. He describes himself as "institutionalised" .

Larry's literacy was assessed at Parklea and found to be at the lowest end of their scale. He agreed to participate in education and found himself in a basic literacy class. He wanted to become more independent, and to be able to fill out forms by himself. Larry claimed that he never read anything other than the occasional newspaper. Larry applied to enrol in the Certificate of Adult Basic Education (CABE) correspondence course offered through the Department of Technical and Further Education (TAFE). His application was unsuccessful due to his low level of literacy. While participating in the basic literacy class at Parklea, Larry began to enjoy reading the newspaper and various sporting magazines on a regular basis. He also wrote a number of pieces including "the longest letter he had ever written" to a friend in another prison. Larry has never been employed, but when released from prison he wants to find physical work in the country so that he can "stay away from town and keep out of trouble".

These brief profiles illustrate something of the diversity of literacy needs that exist. No two inmates are ever the same, nor do they require exactly the same educational programs. It is clear that the literacy practices of inmates vary greatly. Some inmates enter custody able to engage in a broad range of literacy practices. These inmates obviously have many educational options. Other inmates enter with limited access to a range of literacy practices that are typically necessary to enable their participation in more formal education



and training. As a consequence of the case studies, attempts were made to identify common themes within the data collected.

The following became apparent:

- there was considerable variation in the personal backgrounds of detainees;
- detainees displayed a variety of interests pertaining to literacy;
- constraints existed, within the system, which inhibited the literacy practices of detainees;
- detainees perceptions of literacy and its role in their future were varied;
- detainees had access to a varied range of literacy practices;
- typically, detainees reported negative school experiences;
- the literacy abilities of detainees varied greatly;
- many detainees exhibited a negative attitude toward literacy, grounded in negative or damaging experiences at school, and a belief that literacy is essentially a skill characterised by the ability to use those literacy practices essential to schooling.

### **Development of Literacy for Specific Target Groups**

As a consequence of the initial observations, two teacher-researchers worked with two specific student groups. One group comprised detainees whose first language was other than English. The other was made up of detainees whose literacy was considered to be at a quite basic level. Both teachers adopted a particular approach to their involvement with the students which was characterised by the following:

- Students were allowed to define their own literacy interests. For example, newspapers, magazines and books were made available from which a number of literacy practices emerged. Asian students chose to read from a selection of Vietnamese and Chinese language newspapers and magazines. These provided a rich source of discussion among students which took place in English. Students in the basic literacy group often chose to read about and discuss items from the sports or news sections of the daily press.
- Students were encouraged to engage in the processes of reading and writing for meaningful purposes. Such processes were based on meaningful tasks with the aim of serving the needs of detainees rather than teacher determined curriculum.

- Students were encouraged to see literacy as a means to build relationships between one another and with the teachers. To facilitate the relationship between students and teachers, the teachers viewed themselves as co-learners with the students. Information which was new to all was shared and discussed. A high degree of trust was established which was necessary if students were to take the risks which make optimum learning possible.
- Students were encouraged to share both their reading and writing with members of the group and were encouraged to be supportive of one another.
- The teachers endeavoured to display a concern for reading and writing which transcended what might be termed utilitarian literacy. That is, detainees were not required merely to fill in forms or answer comprehension questions, but were encouraged to engage in reading, writing, talking and listening experiences which were real and meaningful.
- The teachers did not place undue importance upon the conventions of print. Students were encouraged to take risks while writing. The emphasis was placed on the meaning created by the student.
- Students were encouraged to understand that the teachers valued them as people first, and as learners second.
- The teachers displayed enthusiasm for the various texts which they introduced to their classes. This included newspapers and magazines as well as books.
- The teachers allowed the students to decide for themselves the kinds of literacy practices they would pursue. They were encouraged to read and write for their own self-defined purposes.

Students were encouraged to engage in the processes of reading and writing for a variety of meaningful purposes. Such processes were based on meaningful tasks with the aim of serving the needs of detainees rather than teacher determined curriculum. For example, detainees were encouraged to write letters to friends and family both in Australia and overseas. One detainee re-established contact with his family in Nepal with whom he had not corresponded since his imprisonment some 4 years ago. This empowered him to the extent that his ability to cope with the stress of incarceration in a foreign country was significantly enhanced:

I feel much happier now that I know my wife and daughters are fine. I am thinking of transferring to Long Bay so that I can get out of prison much quicker.

A detainee who attended the basic literacy class wrote a letter to his brother who was incarcerated in another NSW prison. They are only able to

communicate by mail as detainees are forbidden to communicate by telephone. The detainee had received letters from his brother but had not replied because he felt incapable of doing so:

I can't write anything.

With encouragement the detainee wrote a letter using "invented" spelling which nevertheless carried his meaning effectively. The detainee had been of the opinion that anything he wrote needed to be absolutely perfect in terms of spelling and grammar. He was scared of making the mistakes which he knew to be inevitable.

Students were also encouraged to view literacy as a means of expanding and learning about their world, as well as communicating with others within it. Detainees often demonstrated an interest in the communities or localities from which they came. This led to the perusal of atlases, maps and travel brochures which featured those particular locations. As such, students were expanding their literacy incidentally, while learning about (in this instance) geographical items of interest to them. This had special relevance for the Vietnamese detainees who avidly perused photographs and picture magazines of their home country. These detainees have close family still living in Vietnam and are keen to know what the country is like today. Activities such as these seemed to help them to maintain their cultural identity and increase their self-esteem.

Students were encouraged to see literacy as a means to build relationships, between one another and with the teachers. To facilitate the relationship between students and teachers, the teachers again viewed themselves as co-learners with the students and information which was new to all was shared and discussed. Students were also encouraged to share both their reading and writing with other members of the group. One student who claimed to hate reading nevertheless had a keen interest in the horoscope which appears in the daily newspaper. It became his practice to read aloud the horoscopes of the various members of the group including the teacher. He saw that this reading had a purpose which was to entertain and inform others.

The teachers endeavoured to display a concern for literacy which transcended what might be termed utilitarian literacy. That is, detainees were not required to merely fill in forms or answer comprehension questions but were encouraged to engage in reading, writing, talking and listening experiences which were real and meaningful. Various texts were introduced to the groups by the teachers; for example, poetry, short stories, fiction and non-fictional texts.

One detainee arrived in the ESL class without really knowing what he wanted to gain from the experience. He began perusing the poetry books and inspired by the work of poets such as Geoff Goodfellow began writing his own poems. These poems expressed his feelings about being in the prison system. They were read by the other detainees who made encouraging comments about the content of the poetry, and then encouraged him to continue writing as they believed he expressed what they all felt.

The teachers sought to create a relationship with each of the students as well as between the students. It was considered important to convey to the students the feeling that the teacher was concerned about them generally and about their learning in particular. In this way a high degree of trust was developed which is necessary in order for students to take the risks which make optimum learning possible. Students were encouraged to be supportive of one another. For example, an Asian detainee who had been unable to communicate effectively with anyone during his incarceration attended the ESL class. Over the course of some weeks he began to form a friendship with another detainee who became his peer-tutor. They did not share a common first language, but during the process of developing their experience with English, found that they were able to communicate in their new language. For the Asian student this experience removed the isolating barriers which had been in place prior to his attendance in the class. Their friendship extended beyond the classroom. In time, the Asian student's behaviour and general demeanour became significantly more positive.

The teachers displayed enthusiasm for the various texts which they introduced to their classes. This written material included newspapers and magazines, as well as books. One student who attended the basic literacy class claimed to have enjoyed reading paperback novels. The teacher discussed with him Bryce Courtenay's novel, *The Power of One*. A copy was provided for the student, who proceeded to read it to completion within a week. The story was then discussed informally during the basic education class. The enthusiasm both the teacher and the student had for the story was demonstrated to the whole group. As a result, a student in another class heard of the book and requested a copy from his teacher. The original student also read the sequel, *Tandia*.

The teachers allowed the students to decide for themselves the kinds of literacy practices they would pursue. They were encouraged to read and write for their own self-defined purposes. One student who felt strongly about his Aboriginality often wrote stories which expressed his feelings about his heritage. Another student preferred to express himself through poetry. Some students confined their writing mainly to letters to family and friends.

Similarly, students varied in their reading tastes. While most detainees enjoyed reading the newspaper, many also read particular magazines which reflected their interests, for example, *TIME*, *Rugby League Week*, and *Classic Cars*. Students who were enrolled in a particular course of study such as CAFE or CGE, were required to engage in specified reading and writing. While they often resented the content of the courses, they nevertheless participated because their purpose was to attain the qualification carried by the course.

Both researchers showed that the programs designed achieved their purposes. Detainees began to define their own literacy needs and sought the assistance of the teachers to help them meet personal goals.

### **Trial of Detainee Induction Program**

As well as working with specific groups of detainees, a more innovative program was developed and trialled. It was designed to introduce detainees to a range of literacy practices, while at the same time clarifying and reinforcing the mandatory induction package detainees receive on entry to Parklea Correctional Centre. It was also designed to act as a vehicle for initial assessment of detainee literacy needs. The program consisted of a series of six workshops which were to run over a two-week period. The workshops covered the following:

- an individual interview which allowed a literacy profile of the detainee to be established;
- a letter writing session;
- an introduction to the various educational opportunities available to the detainees;
- a visit to the wing library;
- a reading and writing session in which detainees were provided with a range of texts and materials;
- an orientation to education programs in which each detainee was offered assistance to enrol in specific courses.

The evaluation of the program indicated a number of positive benefits. For example, during the individual interview, detainees were able to discuss various aspects of life in Parklea. Concerns or queries arising from the mandatory induction meeting were voiced. Information provided at that meeting was reinforced or clarified.

Participation in the program also enabled a more detailed assessment of individual detainees' literacy practices. Their familiarity and control of print was observed, and a positive introduction to education within the prison took place. Attitudes towards and purposes for various literacy practices were established.

The literacy practices of detainees were also discussed and where appropriate, assistance given to facilitate them; for example, information such as the postal address of the prison was provided. A variety of reading materials was introduced and eagerly sought by detainees. Some detainees requested particular reading items, which were provided where possible.

The variety of educational opportunities available at Parklea was also indicated, explained, and matched with the needs of each detainee. Some detainees expressed an interest in participating in various courses of study. Detainees who were serving sentences as brief as three months, and who ordinarily may have disregarded participation in education, were often convinced of the value of at least beginning a course which they could continue to pursue upon their release.

The informal nature of the workshops encouraged a positive relationship and some degree of rapport to be established between the "teacher" and the detainees. This enabled a favourable image of education to be presented, thus promoting further participation.

In spite of the above positive outcomes, it became evident that refinement of the program would be necessary before implementing it widely. For example, it was found that for some detainees, the content of the induction program was too prescriptive, and did not meet their specific needs. Some detainees had already written letters before they participated in the program, while others had already visited the library.

Nevertheless, overall the program had many positive outcomes. It offered access to materials and led to the creation of an atmosphere which encouraged further engagement in a range of literacy practices. Many detainees were content to engage in recreational reading of current newspapers and magazines which often led to discussion between students and teachers. The Induction Program demonstrated how literacy can be successfully integrated with other initiatives.

## **Conclusion**

Our work has shown that many detainees do in fact need extensive help with literacy. It has also shown that the literacy needs of detainees, and the most effective educational strategies are as numerous as the detainees themselves. However, this project has demonstrated the importance of creating educational environments that facilitate learning.

Much still needs to be done if we are to create active literacy learning environments for all detainees within the diverse educational contexts of correctional institutions. Clearly, education officers and teachers in correctional institutions need greater support in terms of resources. There is also a need for:

- changes in the way education is articulated with the other activities and programs within institutions;
- ongoing professional development support for education officers, teachers and custodial officers;
- increased state and national coordination of curriculum and resources.

At a more specific level, there is a need for education officers and teachers to work within existing constraints to create even more effective educational environments. This will involve continuing self evaluation of programs, innovative educational program planning, new strategies for assessment and placement of detainees, ongoing professional development of staff, and finally, new recruitment strategies to attract an increasing range of teachers with the specific skills needed. These teachers should have a well developed understanding of adult learning and literacy, as well as an awareness of the special needs of detainees in correctional centres.

Literacy is not the solution to all of life's problems (Graff 1987). However, it is part of the cultural practices with which detainees will need to engage in the wider world. As such, it has importance. For some of the detainees within corrective institutions, the failure to acquire certain literacy practices has effectively served to alienate and disempower. Literacy offers lifelong possibilities and goals to be achieved, and can provide detainees with the opportunity to become active questioners of their own social reality. On the other hand, it can serve to exclude if the learner fails to have access to the literacy practices that are necessary for participation in work and leisure.

The challenge for all involved in literacy work within correctional institutions is to recognise the potential that literacy has to contribute to learning and growth as human beings, and to respond by creating contexts in which literacy practices can be demonstrated and used for purposes that detainees define as legitimate, meaningful and life changing.

## References

- Black, S. 1991, "Literacy and prisoners: Reassessing popular perceptions", open letter, no. 2.
- Black, S., Rouse, R. & Wickert, R. 1990, *The Illiteracy Myth: A Comparative Study of the Literacy Abilities of Prisoners*, Institute of Technology, Sydney.
- Brennan, M. & Brennan, R. 1984, *Literacy Learning—The Human Factor*, Final report to the Criminology Research Council of Australia, Charles Sturt University, Wagga Wagga.
- Cairney, T.H. 1987, "The social foundations of literacy", *Australian Journal of Reading*, vol. 10, no. 2, pp. 84-96.
- 1990a, *Teaching Reading Comprehension: Meaning Makers at Work*, Open University Press, Milton Keynes.
- 1990b, *Other Worlds: The Endless Possibilities of Literature*, Nelson, Melbourne.
- 1991, "Developing literate communities", address to the 36th Annual IRA Convention, Las Vegas, 6-10 May.
- Cairney, T.H. & Langbien, S. 1989, "Building communities of readers and writers", *The Reading Teacher*, vol. 42, no. 8, pp. 560-7.
- Clay, M.M. 1982, *Observing Young Readers: Selected Papers*, Heinemann, Exeter, N.H.
- Dawkins, J. 1989, "Fight against illiteracy means a battle against inequity", media release, DEET, Canberra.
- Department of Employment, Education and Training 1991, *Literacy and Industry Update*, no. 1, DEET, Sydney.

- Faith, D. 1990, "Drama and language", in *Prisoner Literacy Resource Package*, eds L. Crane, G. Curran & B. Noad, NSW Dept. Corrective Services, Sydney.
- Freire, P. & Macedo, D. 1987, *Literacy: Reading the Word and the World*, Routledge & Kegan Paul, London.
- Gee, J. 1990, *Social Linguistics and Literacies: Ideology in Discourses*, The Falmer Press, Basingstoke, UK.
- Giroux, H.A. 1987, "Literacy and the pedagogy of political empowerment", in *Literacy: Reading the Word and the World*, eds P. Freire & D. Macedo, Routledge & Kegan Paul, London.
- Goodman, K.S. 1982, "Do you have to be smart to read? Do you have to read to be smart?", in *Language and Literacy: The Selected Writings of K.S. Goodman*, ed. F.V. Gollasch, vol. 2, Routledge & Kegan Paul, London.
- Graff, H. 1987, *The Labyrinths of Literacy Past and Present*, Falmer Press, New York.
- Hallard, D.L. 1990, "Communication in the reception prison", in *Prisoner Literacy Resource Package*, eds L. Crane, G. Curran & B. Noad, NSW Dept. Corrective Services, Sydney.
- Harste, J.C., Short, K.G. & Burke, C.L. 1988, *Creating Classrooms for Authors*, Heinemann, Portsmouth.
- Heath, S.B. 1983, *Ways With Words*, Cambridge University Press, London.
- Lowe, K. 1992, "Reading: A perspective on life", unpublished doctoral dissertation, Indiana University, Indiana.
- Martin, T. 1989, *The Strugglers*, Open University Press, Milton Keynes.
- Noad, B. & Hancock, G. 1985, "Programming for prisoners in NSW", in *Developmental Programs for Prisoners*, ed. B. Noad, seminar proceedings no. 5, Australian Institute of Criminology, Canberra.
- Smith, F. 1988, *Understanding Reading*, Lawrence Erlbaum Associates, Hillsdale, N.J.
- Thompson, J. 1992, "Appropriate programs: Literacy in a specific context", paper presented to the National Conference on the Role of Employment Education and Training for Offenders in the Criminal Justice System, Perth.
- Yabsley, M. 1988, "New directions in corrections", NSW Minister of Corrective Services address to the annual meeting of the Prisoners Aid Association of NSW, Sydney.



# VOCATIONAL EDUCATION AND TRAINING IN VICTORIA'S YOUTH TRAINING CENTRES

**Ron Wilson**

THE PROVISION OF EDUCATION AND TRAINING PROGRAMS TO YOUTH in custody has provided educators and custodians with abundant material for dialogue over the past century.

The *Way Out* Conference held in Perth, Western Australia (Sirr 1992), investigated the provision of education and training to offenders. Many papers provided evidence that each jurisdiction in Australia has long been grappling with the issues of identifying the best ways in which education and training programs can be delivered to young people in custody.

There has been a chequered history of program delivery in youth custodial settings. Semmens (1992) has indicated the varying perceptions in current program delivery and custodial care models and their relative focuses. Over time, these focuses have been on either the rehabilitative function; the re-integration function; or the reconciliation function (Semmens 1992, p. 28).

As Meatheringham (1992, p. 31) advised, underpinning these foci is the "economic reality" of the institution in which these programs are delivered. Further, in his analyses of institutional practices, Foucault identified the complexities of introducing change into existing operational structures and providing a framework to understand the reasons for and nature of resistance to change within and between institutions and states (Cohen 1985, p. 135; Foucault 1980, p. 51; Foucault 1977, p. 194).

Although this paper will not investigate the intricacies of change management it is acknowledged that the planning, implementing and evaluation of programs and their delivery in institutions must recognise and address a range of complex issues. In terms of vocational education and training for young people in custody, the key message of both Semmens (1992) and Broadhurst (1992) was that despite the amount of energy expended into the provision of programs for young people in custody, there is very little, if any, evaluation of the effectiveness of these programs.

The Department of Health and Community Services Victoria (H&CS) and the Office of Training and Further Education (OTFE) have collaborated to develop a structure in which vocational education and training programs can be delivered to young people in custody in Victoria with a clearly defined program rationale, appropriate program resourcing, a policy framework and evaluation strategies.

To place the Victorian situation in context, this paper will consider the current national emphasis on training for young people and then address the manner in which Victoria has chosen to plan, implement and evaluate vocational training programs for young people in custody.

### **National Developments¾ Training for Youth**

The early 1990s saw significant developments in the way that Australia positioned itself to be a more competitive force in the international marketplace. In the broad sense, the Federal Government facilitated efforts in industry restructuring and workplace reform. As part of this process the Federal Government also identified youth participation in vocational education and training as a priority.

The Review into Young People's Participation in Post Compulsory Education and Training (1991), also known as the Finn Review, presented a series of recommendations which in turn laid the platform for further significant reports including the following:

- the Deveson Report, *Taskforce, Pathways in Education and Training Report* (Department of School Education 1992);
- the Carmichael Report on *The Australian Vocational Certificate Training System* (Employment and Skills Formation Council 1992); and
- the Mayer Committee Report on employment-related key competencies (Australia Education Council 1992).

The Finn Review recommended that there needs to be greater participation of young people in formally recognised education and training . . . so that by the year 2001, 95 percent of 19 year olds should have completed Year 12, or an initial post school qualification, or be participating in formally recognised education or training (Health & Community Services 1993, p. 101).

The Carmichael Report (Employment and Skills Formation Council 1992) also provided a focus on young people and recommended alternative ways in which young people could enter the workforce via the Australian Vocational Certificate Training System.

This report built on the recommendations from the Finn Report regarding the attainment of competencies. However, Carmichael acknowledged the current lack of access to a significant number of young people to vocational education and training, and proposed strategies for young people to gain access to quality vocational education and training.

The issue of access to training pathways by those groups of people with special needs was a focus of the Deveson Report, *Pathways in Education and Training* (Department of School Education 1992). Recommendation 25 of the report specified that mechanisms need to be in place between H&CS, the Department of School Education and the Ministry of Employment, Post-Secondary Education and Training to ensure access to education and training for disadvantaged young people.

The Mayer Report identified a range of seven key competencies which are considered essential for effective participation in the emerging work organisation. These key competencies would not only constitute an integral component of the Australian Vocational Certificate but are also essential for participation in further study and in general life.

In addition to these significant reports, the Federal Government has also provided significant resources to implement a *National Employment and Training Plan for Young Australians* (1993). Through this plan, funding has been provided to introduce those strategies identified in the earlier reports. Again, this process identified specific assistance for disadvantaged youth to access training programs through various training agencies of which TAFE is a significant provider.

To coordinate these processes and establish a new national system of vocational education and training, the Federal Government established the Australian National Training Authority (ANTA). One of the ANTA priorities for 1994 is to create and promote opportunities for lifelong learning. Specific objectives for this priority include the consideration of the competency needs of a diverse range of clients including the disadvantaged. Another is the development of flexible funding arrangements which promote greater access to groups with low participation rates.

Young people in custody are identified as an appropriate target group in all of the recently developed reports and agencies.

### **Developments in Victoria to 1993**

In order to consider the current status of vocational education and training delivery in Victorian Youth Training Centres (YTC) it is worth reviewing the various developments within Victoria over the past few years.

Until January 1993 the provision of education and training programs to young people in custody in Victorian YTCs was the responsibility of the primary schools sector of the Department of School Education (DSE). For many years this provision had been delivered within the special education sector of the Department of School Education.

Since the early 1980s there have been various investigations into the most appropriate provider for education and training programs for post compulsory school-aged students. Both the Blackburn Report into Post Compulsory Schooling (Department of School Education 1984a) and the Collins Report into Integration in Victorian Education (1984b) presented recommendations which specified that TAFE had a significant role to provide quality vocational education and training programs for young people in YTCs as well as those in prison.

These recommendations were also reinforced by the Skilled to Change Report (1990) which emphasised the following needs in program delivery by YTCs:

- the delivery of accredited programs;
- the development of appropriate adult basic education programs;
- the provision of apprenticeship opportunities; and
- the introduction of flexible hours for program delivery (H&CS Industry Training Plan 1993, p. 3).

Since this time a significant focus has centred around the role of TAFE and the provision of vocational education and training for young people emerged in the National Agenda.

### **Victorian YTCs<sup>3</sup>/<sub>4</sub> Vocational Education and Training**

In January 1993, the responsibility for delivering education and training programs to young people in custody in the YTCs transferred from the primary schools sector of the Department of Schools Education to the State Training System.

The factors underpinning this change were elaborated by the 1994 H&CS Industry Training Plan (1993) as follows:

- the identified link between training and employment and successful re-integration into the community;
- the recommendations of the three Commonwealth and State Government reports (Finn, Carmichael and Deveson) which relate to providing greater access to entry level training for young people;
- the high percentage of young people who are unemployed and not in any education or training at the time of entry to YTCs;
- the capacity of the State Training System to make a special case for young offenders aged 15-17 years to access vocational education and training;
- the successful development of vocational education programs in corrections settings through the development of an Industry Training Plan;
- the discrepancy whereby young people in prison are able to access vocational education through a TAFE campus at each prison, whereas young offenders in YTCs have limited access to accredited vocational education and training;

- the State Training System's commitment to ensuring access to vocational training for disadvantaged groups (H&CS Industry Training Plan 1993, p. 5).

In order to facilitate the change, the model for vocational education and training program delivery in the Victorian corrections system was used to provide the framework for establishing a complementary process for youth in detention in the H&CS Youth Training System.

Victoria has a legislative framework which facilitates the establishment of key advisory and implementation committees which can cooperatively and collaboratively plan for the most appropriate program profile for each location. An Industry Training Board (ITB) was established to provide direct vocational education and training needs advice to the State Training System.

### **The Corrections Industry Training Board**

The Office of Corrections Industry Training Board (ITB), established in 1992, has the specific charter to provide advice to the State Training System:

. . . on policy, training needs, priorities and resource allocation for service delivery of . . . education and training . . . (Office of Corrections Industry Training Plan 1992).

The ITB provided this advice in the form of an annual Industry Training Plan. The Plan presented to the OTFE develops a statement of agreement with the ITB. This statement of agreement is a primary tool for obtaining resources for TAFE colleges to deliver programs to meet the agreed priorities.

### **The Corrections Network Management Consortium**

As part of the State Training System, specific TAFE colleges are identified to act as designated providers or network managers for different fields of study. In particular, designated providers and network managers respond to the priorities within the relevant industry training plans by ensuring consistency in the development of curriculum and program delivery throughout the State.

Simmons and Wilson (1992) outlined the role of the Broadmeadows College of TAFE and the network manager for corrections education in Victoria, in establishing a management consortium consisting of senior managers from each of the colleges responsible for the delivery of programs in corrections settings. Representatives from the CSD, Adult Community and Further Education and OTFE are also in the consortium.

For the Victorian context, it was noted:

The legislative and structural framework which fosters the relationship between the State Training [System] and [Correctional Services Division] in Victoria has provided a valuable tool for the development and implementation of relevant vocational and industrial training. It provides an excellent example of inter-agency cooperation at State Government level (Simmons & Wilson 1992, p. 237).

The challenge arose to use the benefits of these existing structures to meet the training needs of young people in YTCs.

It was resolved by Health and Community Services and OTFE to use the structure of both the Corrections ITB and the Corrections Network Management Consortium as vehicles to address the Vocational Education and Training program for these clients (H&CS 1993, p. 2). Whilst this structure provided an expedient way to access a successful process, it was imperative that the Office of Corrections perspective and the H&CS perspective were kept completely separate as there was no desire to see an inherent linkage between YTCs and prisons.

Consequently, the Consortium and ITB have ensured that the issues relating to both client groups are treated separately and a separate committee of the Consortium was established to address program planning, implementation and evaluation issues for those programs for young people in custody.

### **Health and Community Services Industry Training Plan**

To distinguish between identifying the vocational education and the training needs for Corrections clients and H&CS clients, a separate Industry Training Plan for H&CS was developed.

The H&CS ITP clearly enunciates the vocational education and training needs of those young people in the state's YTCs and for those young offenders on community based orders. Further, the plan recognises the specific training requirements of identified groups within the young offender population. These groups include the following:

- young Kooris;
- young women;
- young people with intellectual disabilities; and
- young people from a non-English speaking background.

Within the State Training System, the training needs of all of these groups are cross referenced in the ITPs of the generic industry areas. Consequently the focus on the training requirements of the particular young offender group is acknowledged through the wider community.

The benefits of this process are as follows:

- the vocational education training needs of young offenders are ascertained using the same processes used for any other member, group or organisation in the community;
- young offenders either in custody or under supervision within the community can access national and or statewide accredited courses available to the wider community;

- the programs accessed by young offenders whilst they are in custody or under supervision are widely available in the community following the offenders' release from either custody or community supervision.

### **Current Delivery**

As a result of the planning processes outlined above, the State Training System provides the responsible TAFE college with the funding to resource those programs identified to meet the clients' needs.

For the YTCs, the program profiles for each location were specified in a performance agreement between the college and the OTFE. This agreement specifies the expected training outcomes and the resources provided to reach those outcomes (*see Appendix 1*).

Whilst the systemic structures have been developed to identify the program parameters and the resource requirements, the implementation and evaluation processes require further consideration.

Broadhurst (1992, p. 56) stated:

As practitioners know the gulf between the theory and praxis is wide and creating, implementing, developing, and administering such programs is easier said than done. It is clear that only the best conceived, led, resourced and staffed efforts will make sufficient impact and to find these a commitment . . . to monitoring and evaluation will be required.

In Victoria, there is a commitment to identifying needs, developing, resourcing and implementing programs and evaluating programs. Whilst the relationship between the State Training System and H&CS (Juvenile Justice) is still in its infancy the outcomes of the evaluation cannot be considered influential as this point of time. However, the solid base upon which the planning has been developed provides a sound platform for both short and long term evaluation.

### **Conclusion**

Within Victoria, the cooperation between the major agencies concerned with vocational education and training and young offenders have capitalised on the significant national developments to support youth training and employment.

In particular, the planning structures in Victoria allow provision of vocational education and training programs available to young people in the wider community to be accessible to those young offenders in custody.

The evaluation and monitoring structures in place within both the H&CS and the OTFE have yet to provide any conclusive data regarding the effectiveness of the program provision, however early indicators show that consultation and planning has already broadened young offenders' access into the world of vocational education and training. This is exemplified by one student's comment appearing in the OTFE journal *Training Fax*:

Some of the trainees who made clocks in the furniture studies course had them out on display during the certificate presentation. Some of us gave our clocks to our mums for Mother's Day.

I was really nervous when my name was called out to receive my certificate. I did not like school in the past, but I really liked the TAFE course I did, and I worked hard to get my certificate. I gave my certificate to mum who was at the ceremony, to take home and frame for me.

Since the presentation I enrolled in another Broadmeadows College of TAFE course. This time I am doing Maths. When I finish that, hopefully I'll get another certificate (Mick, 14 June, 1993).

## References

- Australian Education Council 1992, *Putting General Education to Work—The Key Competencies Report*, (the Mayer Committee Report), Australian Government Publishing Service, Canberra.
- Australian Education Council Review Committee 1991, *Young People's Participation in Post-compulsory Education and Training*, (the Finn Review), Australian Government Publishing Service, Canberra.
- Australian National Training Authority 1993 (unpub.), "Priorities for 1994", presented to Office of Training and Further Education, January.
- Broadhurst, R. 1992, "Work and education: The effectiveness of programs for prisoners", in *The Role of Employment, Education and Training for Offenders in the Criminal Justice Systems*, ed. P. SIRR, Outcare, Perth.
- Cohen, S. 1985, *Visions of Social Control*, Policy Press, Cambridge.
- Department of Employment, Education and Training 1993, *National Employment and Training Plan for Young Australians*, Australian Government Publishing Service, Canberra.
- Department of School Education 1984a, *Ministerial Review of Post Compulsory Schooling*, (the Blackburn Report), Government Printer, Melbourne.
- 1984b, *Integration in Victorian Education*, report of the Ministerial Review of Educational Services for the Disabled, (the Collins Report), Ministry of Education, Victoria.
- 1992, *Taskforce on Pathways in Education and Training Report*, (the Deveson Report), Ministry of Employment, Post-Secondary Education and Training, Victoria.
- Employment and Skills Formation Council 1991, *The Australian Vocational Certificate Training System*, (the Carmichael Report), Australian Government Publishing Service, Canberra.



- Foucault, M. 1977, *Discipline and Punish, The Birth of a Prison*, Peregrine, Middlesex.
- 1980, "Power/knowledge" in *Selected Interviews and Other Writings : Michel Foucault*, ed. C. Gordon, Pantheon Books, New York.
- Health and Community Services 1993, *Industry Training Plan 1994: Vocational Education for H&CS Young Offenders in the Juvenile Justice System*, Health & Community Services, Victoria.
- Meatheringham, B. 1992, "Productivity versus training" in *The Way Out: The Role of Employment, Education and Training for Offenders in the Criminal Justice System*, ed. P. Sirr, Conference Proceedings, Outcare, Perth.
- National Board of Employment, Education and Training 1992, *Employment, Education and Training Opportunities for Prisoners and Ex-Prisoners*, commissioned report no. 17, Australian Government Publishing Service, Canberra.
- Office of Corrections (Victoria) 1992, *Corrections Industry Training Plan*, Correctional Services Division, Department of Justice, Melbourne.
- Office of Training and Further Education 1993, *Training Fax*, vol. 1, no. 11, June.
- Semmens, R, 1992, "Offender employment, education and training", in *The Way Out: The Role of Employment, Education and Training for Offenders in the Criminal Justice System*, ed. P. Sirr, Conference Proceedings, Outcare, Perth.
- Simmons, V. & Wilson, R. 1992, "Victorian TAFE approach to delivery of education and training in prisons", in *The Way Out: The Role of Employment, Education and Training for Offenders in the Criminal Justice System*, ed. P. Sirr, Conference Proceedings, Outcare, Perth.
- Sirr, P. 1992 (ed.), *The Way Out: The Role of Employment, Education and Training for Offenders in the Criminal Justice System*, Conference Proceedings, Outcare, Perth.

# APPENDIX 1

*Table 1*

## Broadmeadows College of TAFE<sup>3/4</sup> Turana Campus

<i>Course Area</i>	<i>No. of Groups</i>	<i>Sch</i>	<i>Funding</i>
Adult basic Education	5	2 400	\$128 800
COS Core Studies	3	7 200	\$77 328
Computing	3	4 325	\$44 288
Introduction to Trade Units	20	4 000	\$54 800
COS Stream Studies	7	6 400	\$88 480
Engineering (Broad based modules)	2	2 000	\$27 400
Certificate of Kitchen Attending	2	2 400	\$32 880
Small Engine Maintenance	3	1 200	\$16 440
Car Detailing	3	600	\$8 220
Ausmusic	3	3 600	\$22 932
<b>SUB TOTAL:</b>			<b>\$501 648</b>

### **Equipment:**

Hospitality	\$ 10 000
Horticulture	\$ 7 000
Computing	\$ 32 900

### **Other:**

Vocational Counsellor (salary and on costs) —to coordinate services across all YTCs	\$ 55 000
Music Teacher and Program Coordinator (salary and oncosts) —to coordinate music programs across all YTCs	\$ 55 000
Campus Allowance	\$ 50 000
Develop and conduct staff development programs for teachers and administrative staff at YTC campuses	\$ 10 000

**Total:** \$721 548

## Adjustment to Broadmeadows Budget

In the role of Network Manager for Corrections and YTCs:

- undertake a research project which identifies the vocational education and training needs of young offenders, exiting YTCs or serving community based orders under H&CS supervision and make recommendations on strategies to meet those vocational education and training needs identified; and
- provide an evaluation report on the implementation of the Vocational Education and Training Strategy for offenders in YTCs in the first year of operation.

\$20 000

*Table 2*

<i>Course</i>	<i>Sch</i>	<i>Funding</i>
Certificate General Education	2 EFT	\$85 000
COS Core subjects	4 000	\$44 000
COS Stream		
- Hospitality	6 000	\$82 800
- Rural/Horticulture	3 800	\$45 600
- Automotive	4 250	\$46 750
- Recreation	5 400	\$59 400
- Business	1 200	\$13 200
Engineering	1 100	\$12 100
Commercial Music Certificate	3 200	\$35 200
Introduction to Furniture Studies	2 500	\$27 500
Introduction to Building Studies	6 400	\$76 800
Car detailing/Windscreen	1 400	\$16 800
Certificate Kitchen Attending	2 640	\$29 040
Chainsaw Operation (level 1)	1 800	\$9 600
Forklift Learners Permit	800	\$10 560
Arts/Ceramics/L. work	2 880	\$28 000
<b>Sub Total:</b>		\$622 350
Campus Allowance		\$ 50 000
Hospitality Facilities		\$ 15 000
Computer Facilities		<u>\$ 20 000</u>
<b>Total:</b>		\$707 350

# HIGH TARIFF INTERVENTION WITH YOUNG OFFENDERS IN AUSTRALIA AND THE REGION: SOME PROPOSALS FOR RESEARCH

**Lloyd Owen**

THIS PAPER REPORTS ON THE BACKGROUND THINKING AND SOME preliminary activity associated with some proposed social research. It concerns high tariff intervention principally through juvenile justice dispositions and programs designed for use with ten to seventeen-year-old offenders. The term high tariff has been drawn from the Carney report into Child Welfare Practice and Legislation which preceded the development of the Victorian *Children's and Young Persons Act 1989*. The concept has been given expression in a sentencing hierarchy and the requirement that the court exhaust less restrictive options before imposing greater degrees of supervision and or custody. The groups to be studied are:

- those incarcerated in juvenile facilities;
- those subject to a disposition for a serious offence or for persistent offending, that is clearly designed and designated as an alternative to secure custody;
- those placed in an adult lockup, correctional facility or program when the youth is still under the age of 18 years.

## **The Aim of the Study**

In brief the study aims to find out what is happening to young people in Australia and ultimately some other countries in the Asia Pacific region who are being locked up or who are being managed in a program as a clear

alternative to being locked up. The emphasis in this inquiry is on the programs planned and in use and the intended outcomes of intervention. Where any have been evaluated we are particularly interested in those. Information gained will be shared and, we believe, will assist in the development of better programs.

### **The Significance of Such a Study**

As far as we can see at present not enough sustained and systematic attention has been given to considering the nature and consequences of present forms of intervention with those young people who have been given the heaviest penalties available to the jurisdiction. Most of the Australian jurisdictions have been subjected to reviews and legislative change in recent years. Some of the reviews examined so far appear to have concentrated on the legislation, on processes, and prospects for decarceration and diversion. References to programs have sometimes acknowledged a need to maintain access to developmental opportunities for the young people concerned and access to opportunities for educational, vocational and life skill development. Pointed reference is also made to the need for general health services, alcohol and drug services and psychiatric and psychological services. Sex offending and anger management have been specific targets. (Vic: Carney 1984; WA: Edwards 1982; NSW: Senate Standing Committee 1992 & Green Paper 1993; Vic & WA: public relations material).

### **Sources of Data**

Some good work has been done in relation to crime, court and correctional statistics but it is still very difficult to see clearly what they mean. It is hoped to approach key informants associated with high tariff dispositions and the programs which might be attached to them in each of the jurisdictions. An annotated bibliography of literature on high tariff programs and a catalogue of material which might be useful but unpublished or otherwise less accessible will also be produced. This will probably include program proposals, needs studies, planning documents, reports and evaluations used by departments, and academic work such as research projects, theses or dissertations relating to this field of inquiry.

### **The Emerging Picture**

Our investigation to date on a limited budget has been largely confined to an examination of available literature, including some government and parliamentary reports, seeking input from locally available informants and looking more closely at the position of Victoria. This has led to the establishment of a tentative framework for data collection and analysis which in turn has produced some information which is of immediate interest. Information has been sought on the current Victorian legislation, and investigations and inquiries leading up to it. An attempt has been made to identify the high tariff dispositions in each of the Australian jurisdictions. Some earlier useful work done by David Stanley provided a helpful starting

point (Stanley 1990). There appear to be wide variations in the usage of high tariff sanctions in Australia. As this material is covered in other papers at this conference, suffice to include here an approximate picture of the differential juvenile detention rates for some of the Australian jurisdictions. For 14 to 16-year-olds, Victoria has the lowest rate with 26.4 in detention per 100 000 of the age cohort, this is followed by Queensland and South Australia who have over 40, then New South Wales with 71.9 and Western Australia with 102.2. The rate for the Northern Territory appears to be extremely high. There would appear to be an urgent need to make sense of these differences (H&CS 1993). It has been difficult so far to obtain much detail from the literature concerning the three main areas of our inquiry: direct alternatives to detention, detention in juvenile programs, and placement of those under eighteen in adult programs. What follows is some brief discussion in relation to each topic, with some illustration from the target area.

### **High Tariff Alternatives to Detention**

Some useful background to this section of the inquiry emanates from the work of Morris and Tonry (1990), reporting on the deplorable situation in the United States. He argues for much greater attention to be given to the range of sanctions he terms "intermediate punishments", by which he means the group of dispositions falling between probation and incarceration. He prefers the word "punishment" to "treatment" as it is more consistent with what is expected of the system. In their argument for a comprehensive punishment system Morris and Tonry suggest that the history of juvenile justice in the United States is characterised by responses to offending which are either too lenient or too severe. They point to a current viewpoint which sees only incarceration as punishment and everything else as "letting off". The result is the excessive use of both incarceration and probation. The incarceration is enforced but often in an unproductive or destructive way, whilst probation is poorly enforced and is equally unproductive. They argue for better quality of both, but a vastly expanded use of the options in between, the intermediate punishments allowing for combinations of sanctions which better fit the crime and the needs of the offender and the community (1990, p. 8).

#### *One alternative: The Victorian Youth Attendance Order*

The philosophy of the "in between" is evident in Australian jurisdictions and there is an urgent need to describe better the operation of these programs and their outcomes. Most jurisdictions are experimenting with pathways and processes and with high tariff alternatives to detention. One example is the Victorian Youth Attendance Order which occupies the position on the tariff immediately below incarceration. It is currently undergoing evaluation. Its principal features are mandatory assessment, agreement to participate, a capacity for intensive supervision and an attendance requirement of up to ten hours per week. Up to four of these hours are spent in community work and the balance can be applied to educational, vocational or developmental programs. Breach entails return to court and possible sentence to a Youth Training Centre. The order commenced operating in 1988 financed by the

closure of a non government Youth Training Centre. The program caters for about one hundred 15 to 17-year-olds per year.

*High tariff orders in other Australian States and Territories*

Some of the dispositions which should be explored in other jurisdictions are Western Australia's Conditional Release Order and what is described as a supervised detention program where suitable repeat offenders have been placed on pastoral stations. A 90 per cent success rate has been claimed for the latter (Western Australia 1991, p. 13). Tasmania has a Supervision Order, Queensland a Community Service Order, the Northern Territory a Suspended Detention order with conditions, New South Wales a Community Service Order (the Green Paper raises the possibility of an Attendance Order) and the ACT an Attendance Centre Order. More precise comparisons have yet to be established.

*Other alternatives*

Parole orders should also take a place as high tariff dispositions. Although they are generally applied in a post institutional phase of longer duration (in Victoria for sentences in excess of eight months) they can be viewed as sentences being served in the community with breach carrying the threat of further incarceration. Various forms of leave from detention should also be considered. Work release and employment access programs and some varieties of wilderness/adventure programs appear to have merit.

**Juvenile Detention**

It will be interesting to mark the differences in the use of juvenile detention from the situations reported by Millham in the UK (1978), and Miller and others (*see* Bakal 1973) in relation to the Massachusetts experiments with juvenile correctional programs. Both involved an analysis of the reasons for young people being held in secure custody. It was found that physical security was being used to respond to a variety of concerns. Security is used for purposes of remand or sentence. Commonly found among the residents are those accused or convicted of grave offences, persistent offenders—especially those who are prone to abscond, people who exhibit bizarre behaviour, people who are self-destructive (seen to need close supervision) and people who may be placed there for protection from others.

*The Massachusetts example*

The overuse of detention and the inability to achieve change from within led to the closure of most Massachusetts juvenile institutions in the early seventies. The writer visited that State in 1984 and witnessed the movement to a number of smaller secure settings, some of which were grouped into what looked like a return to institutional arrangements. In addition, there was an impressive array of tracking and supervision programs and group homes established following the institutional closures. This boost in secure

accommodation followed a report from a Governor's Task Force set up to examine perceived problems with juvenile crime. Much of this activity had the flavour of a community backlash pointing to the need for care in managing high tariff circumstances. Miller, the architect of the closures, finally concluded that he had underestimated the need to have sufficient secure accommodation to manage the extreme behaviour of a few young people (Kratcoski & Kratcoski 1990, p. 318). A remarkable array of services was developed, however, in the effort to sustain non-institutional responses.

#### *Secure unit development in Australia*

Most of the Australian jurisdictions have been revamping or building new secure units. The John Oxley Centre in Queensland has been open for about six years, the Don Dale Centre opened in the Northern Territory in 1991, Kariiong in New South Wales was opened about eighteen months ago and at Turana in Victoria, a long awaited rebuilding program will result in the Melbourne Juvenile Justice Centre becoming operational in December 1993. Rangeview, a 48-bed facility is opening in Western Australia, as is Cavan with 30 beds in South Australia. A new secure unit is due for completion in February 1994 on the same site as Quamby in Canberra for the ACT. In some instances there is a clear intention for these new units to replace old outdated accommodation and to avoid any extension of the system's capacity. The extent to which this is so is yet to be explored.

#### **Juveniles Places in Adult Correctional Programs**

The issue of placing juveniles in adult facilities also warrants careful consideration. The issue is complicated in Australia by the variation in the age limits applying to juvenile status and court and correctional provisions between States. There is no doubt that significant numbers of 17-year-olds are in adult programs, although the age of majority for most other purposes is not attained until the 18th birthday. There seems likely to be a substantial long-term cost flowing from this accelerated potential for contamination and stigma.

#### *Options in Victoria*

Victoria has a dual track system. Offenders aged 17 to 20 can be accommodated in an Adult Youth Training Centre administered by the juvenile justice system rather than adult corrections. Magistrates can choose for this age group YTC, prison or an adult community based order. One of the two centres operating for this purpose since the sixties was closed this year and subsequently reopened as an adult prison. Data from the Victorian Office of Corrections indicates a threefold increase in the number of 17 to 20-year-olds in prison between 1987 (about 100) and 1992 (over 300). This has been followed by a decline, which may be the result of the introduction of a new adult intensive community based supervision order.

The Youth Parole Board can transfer a young person aged 16 or older to prison. Transfers most frequently follow the imposition of a prison sentence



for another offence, the balance of YTC being converted to imprisonment. Some transfers are made for behavioural reasons, and young people can apply for transfer themselves. In 1991-92 ten were transferred on behavioural grounds, and a further seventeen because they had received additional sentences to prison. Five requests for transfer were declined. It has not yet been possible to determine how many 17-year-olds have gone directly to prison rather than to YTC.

### *Juveniles in Adult Programs in Australia*

Freiberg reported that 15 to 17-year-olds in prison increased from a rate of 27 per 100 000 in 1980 to 38 per 100 000 in 1986 (Freiberg et al. 1988). ABS year books for each of the States show that in 1992 adult prisons held fifty 16 to 17-year-olds in WA, and ten in Tasmania. Five per cent of the Queensland prison population were under 18 years of age. Data from the AIC annual prison census is to be examined. Attention should also be given to the use of police lockups to house juveniles. The preliminary report of the National Police Custody Survey 1992 (McDonald 1993) showed ages ranging from as young as 10 years with 1 836 of the people taken into custody during the month of the survey being under the age of eighteen.

### **Conclusion**

Heightened currency is placed today on reconciling the deed which led to the sanction with the young person's return to the community: a return which generally occurs sooner rather than later. The way has been pointed to case planning and management, to stakeholder participation, to mediation, to training and to life course opportunities. Representatives at this conference have described innovations in Australian jurisdictions and we are sure that there are enlightening things to discover in the region between the discipline of Singapore and the rascals of Papua New Guinea.

Surely the principal purpose of what we do should relate to reconciliation and the restoration of harmony rather than punishment. The principal concern should be for mitigating harm, facilitating reconciliation and maintaining individual and collective public safety. As far as possible we should look for solutions in the area where the interests of community, victims and offenders overlap. We expect to find much to challenge our thinking among high tariff responses and we look forward to sharing the results of our enquiries with you.

### **References**

- Bakal, Y. (ed.) 1973, *Closing Correctional Institutions: New strategies for youth Services*, Lexington Books, Lexington, Mass.
- Carney, T. 1984, *Report of the Child Welfare Practice and Legislation Review Committee*, Government Printer of Victoria, Melbourne.

- Edwards, E. 1982, *The Treatment of Juvenile Offenders, a study of the treatment of juvenile offenders in Western Australia as part of an overall review of the Child Welfare Act Government of Western Australia*, Department of Community Welfare, Perth.
- Freiberg, A., Fox, R. & Hogan, M. 1988, *Sentencing Young Offenders*, Sentencing Research Paper no. 11, Australian Law Reform Commission, Sydney.
- Health and Community Services 1993, *Industry Training Plan 1994: Vocational Education for H&CS Young Offenders in the Juvenile Justice System*, Health & Community Services, Victoria.
- Juvenile Justice Advisory Council of New South Wales 1993, *Future Directions for Juvenile Justice in New South Wales*, Green Paper, February.
- Kratcoski, P.C. & Kratcoski, L.D. 1990, *Juvenile Delinquency*, 3rd edn, Prentice Hall, Edgewood Cliffs, NJ.
- McDonald, D. 1993, *National Police Custody Survey 1992: Preliminary Report Deaths in Custody Australia No. 2*, Australian Institute of Criminology, Canberra.
- Millham, S., Bullock, R. & Hosie, K. 1978, *Locking Up Children*, Saxon House, Farnborough.
- Morris, N. & Tonry, M. 1990, *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System*, Oxford University Press, New York.
- Stanley, D. 1990, *Juvenile Justice Equivalence Matrix: A Guide to Legislation Throughout Australia*, Department of Community Services, Melbourne.
- Western Australian Government 1991, *Juvenile Justice Information Package*, Department for Community Welfare, Perth.

# DIRECTIONS FOR THE FUTURE

**Edited by Lynn Atkinson**

**Panel Discussion: Lynn Atkinson, David Dingala, Jackie Oakley, Stephen Vose, Laurie Myers, Mike Martin**

**Closing Comments: David Biles**

EARLY IN THE CONFERENCE A DEBATE EMERGED AROUND THE themes of detention as a last resort versus the effective use of detention as a rehabilitative tool. In the final panel, most speakers re-emphasised their positions in relation to one or other side of the debate. Nevertheless, despite the different perspectives, some coherent themes and a future agenda with some common directions emerged.

Lynn Atkinson questioned whether our detention centres were self-serving. She suggested that if juvenile detention centres are to serve the needs of young people and society at large, then they need to be functionally a part of an integrated, flexible juvenile justice/juvenile corrections system. Policies to reduce the number of secure beds for youth should continue (or be set in place where no such policy exists) across the jurisdictions. If old detention centres are replaced or refurbished it is the program areas—those areas which enhance the young offender's life chances—which should receive priority and maximum resources. Detention centres ideally should be small and flexible—capable of adjusting to multiple and changing functions, including community corrections. They should also be decentralised, allowing young people—particularly Aboriginal young people—to be dealt with close to home. Lynn Atkinson emphasised the need for more and better information about young people in detention, if systems are to be responsive to current situations and needs.

David Dingbala described his home at Umbakumba and his role within his community as an elder and a community corrections officer. He argued that detaining Aboriginal young people in centres far from their communities, and without community input into the young person's sentence and program, made the situation worse for Aboriginal people in the criminal justice system. He suggested it increased the likelihood of young people getting into trouble and returning to detention, rather than the experience functioning as a deterrent. David Dingbala said his community was a strong

community; a community with a strong culture. It was from elders that an offender needed to learn, so the offence would not be repeated.

David Dingbala said that in his community there was good communication between the magistrate, the elders, the police, the Council, himself, the probation and parole officer and the people. They worked as a team and represented a good role model for other communities.

Jackie Oakley noted that several speakers had drawn attention to areas where action was needed to achieve a better, more just deal for Indigenous youth, both in and out of the juvenile justice system. She drew particular attention, however, to the lack of discussion at the conference on the relevant recommendations of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC). She pointed out how the absence of discussion mirrored the lack of progress in achieving reforms since the Royal Commission, to address the scandalous over-representation of Aboriginal people in the criminal justice system.

Reflecting some of the themes introduced in the plenary sessions, Jackie Oakley emphasised the cycle of criminalisation and institutionalisation suffered by Indigenous youth from the early days of white settlement to the present. To emphasise the need for answers and urgent action on behalf of over-detained Indigenous youth, Jackie Oakley recommended re-reading the RCIADIC Report, as a reminder that reforms require processes which empower Aboriginal people. She then drew on comments from conference speakers to offer the following guide for future policy making and program development:

- deliver services and programs on a culturally appropriate basis;
- define "justice"—detention should be a new beginning if our kids have to be locked up;
- have separate but coordinated justice and welfare programs for young people and, where appropriate, their families;
- provide welfare-oriented services without attaching their provision to the commission of a criminal offence. There should be a focus on the front end of the system and a recognition that Aboriginal youth might engage in offending behaviour as a means to an end and as a way to improve the quality of their lives;
- provide services and programs which are tailored to the needs of the individual. Focus on the unique needs of Aboriginal and Torres Strait Islander youth and acknowledge that the "one size fits all" approach is inappropriate;
- provide adequate resources to ensure good programs have the best chance of working;

- explore means of engaging Aboriginal and Torres Strait Islander people and appropriate community based agencies in the delivery of programs;
- adhere to the requirements of the Standard Rules for the Administration of Juvenile Justice (the Beijing Rules), the Convention on the Rights of the Child, and the Standard Rules for the Protection of Juveniles Deprived of their Liberty;
- rediscover roles in Indigenous societies that have been eroded, which counter negative aspects of western lifestyle perpetrated through juvenile justice programs;
- allow offenders to maintain important relationships which engender respect, especially those involving significant others.

Stephen Vose emphasised the ineffectiveness of detention and the threat of detention as a deterrent to serious crime. He referred to the failure of the Western Australian *Crime (Serious and Repeat Offenders) Sentencing Act*, with its provision for a mandatory term in detention and an indefinite period in detention to follow, to highlight his argument. Stephen Vose urged influential participants to counsel governments against introducing legislation akin to the Western Australian Act and to avoid "at all costs" reducing the discretionary powers of the courts through the introduction of mandatory penalties, such as those described above

His stance was that detention "is and always must be a sentence of last resort. It is never a good option, although sometimes in a few tragic cases it is the only option. The idea of sending children to detention "for their own good" is based on false hopes about what detention can do for an inmate." He added, however, that when a child is in detention, as much as possible needs to be done to make the experience worthwhile, not only by employing keen, well trained and enthusiastic staff, but with the help of an integrated and supportive juvenile justice system, and adequate post release supports and supervision of offenders. Stephen Vose expressed his belief that the rehabilitation of young offenders could not be achieved until the underlying issues such as racism, poverty, unemployment, poor education and substance abuse were dealt with.

He concluded by saying that conference participants should speak out and inform the community about the serious problems that result from locking up children.

Laurie Myers spoke from the perspective of a detention centre practitioner. He described how the children who come to his institution at Wagga Wagga are damaged and at the end of the road: the products of everybody else's failings. He described a combination of treatment and care which the institutional regime aims to provide. With the intention of moving young people from criminal practices to rehabilitative and re-integrative behaviours, the detention centre offers education, vocational skills, recreation and leisure skills. He said young people, after passing through his detention centre, are better equipped to cope with and contribute to the outside world.

He acknowledged the need for more "dynamism" in detention centre programs in the future, and for these centres to be more responsive to the needs of the clientele, who, under present juvenile justice policies, are at the point in their offending careers where entry to the adult system becomes highly likely.

Laurie Myers said the community needs to be better informed about the limitations of detention centres in the rehabilitative process. "It is not the most appropriate method of dealing with kids." He acknowledged that the use of detention did nothing to enhance the safety and security of the non-offending community. He concluded by saying there needs to be greater community involvement in and responsibility taken for young people in the juvenile justice system.

Mike Martin agreed that it was important to inform the public about detention centres and the issues connected with their use. He said that juvenile corrections, of which he was part, for too long had been "hiding in the closet out of the public eye". Not only the public, but all those involved in the sentencing process needed to know more about the reality of detention centres: who the clients are; how likely they are to return; what programs are run for them.

Mike Martin concluded with comments about the critical issue of over-representation of Aboriginal young people in detention. He said people working to reform the situation needed to start with the same agenda of acknowledging the problem and being determined to ameliorate it.

David Biles concluded the proceedings by drawing out the important themes of the conference, noting where disparate views had started to converge, and marking out some territory for action.

First, he reiterated the need to reduce the numbers of young people held in detention, particularly in Western Australia, New South Wales and the Northern Territory, where detention rates are high. Not only are there humanitarian reasons for minimising the use of detention, a reductionist policy also makes sound economic sense. Those jurisdictions with high detention rates might have something to learn from jurisdictions with lower rates.

David Biles' second point concerned the extreme over-representation of Indigenous youth in detention and the urgent need to address the problem. He supported Jackie Oakley's advice that the RCIADIC Report deserved to be re-read. He reminded participants that the Report is a blueprint for overcoming the dispossession and disadvantage suffered by Indigenous Australians, and that the first attack on over-representation must be on a broad, national level, and a structural level. He also reiterated the need for and the right of Aboriginal people to determine and set in place culturally appropriate juvenile justice programs to address the problem of over-representation of their youth.

Third, David Biles reminded participants that much more and much better information is needed about juvenile detention in order to understand the current situation and to project what should happen in the future. A more comprehensive and sophisticated national data base is needed than is available at present.

Fourth, David Biles noted that when detention is unavoidable—the sentence of last resort—there must be a commitment to the provision of programs which are positive, constructive, culturally appropriate, safe, customised to individuals' needs, and which support the release of young offenders back to the community.

Fifth, David Biles reminded participants that the United Nations has mandates and protocols which bear directly on juvenile detention. He spoke particularly about the Standard Rules for the Administration of Juvenile Justice (the Beijing Rules), the Convention on the Rights of the Child, and the Standard Rules for the Protection of Juveniles Deprived of their Liberty. Australian practitioners should become more familiar with the protocols, study and debate them, and examine why any philosophical or practical differences between the UN ideal and Australian practice exist.

His final words were of thanks to the conference planners, and to remind all participants to keep up the struggle for better responses to crime and delinquency.