

# INTRODUCTION

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## I

The major focus of this edition of *Current Issues in Criminal Justice* is juvenile justice. Several of the papers derive from a public seminar organised by the Institute of Criminology early in 1991. The seminar concentrated primarily on custodial issues in juvenile justice, and centred mainly on the New South Wales system. Other papers in this volume take up broader issues from other Australian states, as well as adding an international perspective with current events in Canada.

Concern with the operation of the juvenile justice system is manifested in the public arena in a number of ways. Often it is expressed within a generalised concern about law and order. For instance in Perth in mid-August 1991 there was a public meeting which attracted a reported crowd of 20,000 people. The title of the meeting was "Rally for Justice" and a key focus was juvenile crime. Often such meetings are generated by, and further generate, calls for more punitive intervention. In some cases the popular media are all too ready to contribute to an hysterical "debate". Consider, for instance, the Western Australian *Sunday Times* (18 August 1991, page 40) which entitled a commentary on the above meeting, "Put the Boot into Young Thugs". The palpable violence of such an approach makes conditions almost impossible for both those working within the juvenile justice system, and the community-based groups outside, who are seeking a more rational and responsible approach to the formulation of public policy.

Youth Justice Coalitions have developed in most States in Australia as a means of intervening into public policy debates around juvenile justice issues. Of course not all issues receive the type of attention that was afforded the Perth meeting referred to above. Indeed in the same August week, a much smaller meeting was held in Darwin which received no widespread media attention. The meeting was called by a number of Aboriginal families whose younger members alleged that they had been physically beaten and had confessions fabricated by police.

The fact that there is widespread political concern about the operation of the juvenile justice system is reflected in various ways. There is for example the current inquiry by the New South Wales Parliamentary Standing Committee on Social Issues. There is also the Western Australian State Advisory Committee on Young Offenders. In addition there have also been a number of reports, such as the *Kids in Justice Report*, which have sought to present both a critique and some alternative approaches to juvenile justice.

The first paper in the journal by Dr Rob White looks critically at the question of whether there has been a move away from the incarceration of juveniles to an approach involving social integration. White's argument is essentially that the move from strict custodial regimes has occurred with the recognition of the social and economic costs in-

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involved in institutionalisation. However he also points out that both those favouring control and those favouring social integration tend to couch their arguments with appeals to a "justice" model and to "community-based initiatives". Importantly Dr White also demonstrates that policies based on notions of "crime prevention" can cover a whole range of factors including more punitive approaches such as increased police numbers and tougher penalties as well as options such education, training and employment. Thus the catch-phrases of the community, crime prevention and justice models may cover a range of contradictory programs and policies.

The paper by Laurie Maher was originally presented at the Institute of Criminology seminar. It provides a "departmental" perspective on juvenile justice, specifically in relation to the use of detention centres. It is interesting in encapsulating a number of themes central to the use of incarceration. Within a generally more punitive approach, detention facilities have been reappraised in terms of standards of accommodation, staff training, levels of security and quality of programs. Sarah Thorley-Smith's paper looks at the current educational policies within detention centres in New South Wales. It presents the issues facing educational programs in such a setting.

In relation to Mr Maher's paper it is also worth noting that the increased use of detention may derive from policies and legislation which are not specifically aimed at juveniles such as the New South Wales *Sentencing Act* 1989 (also referred to as the "truth-in-sentencing" legislation). Of course the greater use of incarceration also requires expanding the system. A new 35-bed "Secure Unit" has been recently opened and another detention centre is being built in the State's western region. Again it is worth considering that incarceration is not necessarily being used instead of community-based options, but rather alongside a community-based system. The bifurcation is apparent when those in detention centres are referred to as the most "hardened". Since Mr Maher presented the paper, juvenile justice has been taken out of the Department of Family and Community Services and placed with prisons in a new Justice Ministry (see the Open Letter reprinted in *Contemporary Comment*).

The paper by Liz Moore analyses the extent to which custodial programs have been developed which provide a positive transition from institution to community. Ms Moore notes that generally reforms in relation to detention over the last few years have resulted in increased levels of security, isolation, deprivation and punishment. In addition there has been a polarisation of care and control objectives, with a failure to offer support in relation to detention. Ms Moore indicates the major principles of juvenile justice as elaborated in policy statements by the various jurisdictions in Australia and New Zealand. It is suggested that although "detention as last resort" is often promoted as a principle, it is difficult to know to what extent the various jurisdictions actually comply with this in practice. Ms Moore draws on her experience of overseas custodial programs to describe the features of such programs which promote a successful transition from detention to the community.

The paper by Chris Cunneen discusses the question of Aboriginal young people in police custody and detention centres. The paper is particularly concerned with the growing evidence relating to treatment in police custody.

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The final paper of those concerned with juvenile justice issues is that of Julie Stubbs. The paper examines the major juvenile legislative reform in Canada with the introduction of the *Young Offenders Act*. The introduction of the new legislation, like reform in other countries, was couched in terms of a move towards a more "justice oriented system". In particular the legislation saw a move away from the *Juvenile Delinquents Act* which had been introduced at the turn of the century and had provided for the single offence of "delinquency". Like similar legislation in the United States, the offence of "delinquency" had given wide discretion to the judiciary and associated professionals.

Ms Stubbs notes that while there was widespread consensus on the need to reform the old Canadian legislation, there was no conformity on what direction the new legislation should take. In the course of the paper a number of issues are discussed — all of which have bearing on Australian debates — including questions of procedural rights and sentencing principles such as proportionality and determinacy. The article contains a discussion of the inconsistencies and problems associated with the Declaration of Principles set-out in the legislation.

## II

Two other paper complete this issue of the journal. They are not related to juvenile justice, but have been included for their current relevance and topicality. The paper by Mark Swivel evolved from a criminology course at the Law School during early 1991. It is an important contribution in an area ill-served by criminology. Indeed Mr Swivel's discussion of "the beat" and the men who use it, points to the explicit moralism underplaying criminal intervention. It raises a series of questions in connection with the function of criminal law in enforcing normative definitions about sex. It also seeks to demystify and deconstruct those values which have enabled the entrapment and punishment of men who engage in beat sex. The further public policy implications, particularly in relation to AIDS education, are also explored.

Mark Findlay and Andrew Stewart's contribution to this issue of the journal derives from a seminar on Corruption Prevention which was organised by the Institute of Criminology. The paper analyses the issues involved in the *prevention* of corruption particularly through the use of codes of conduct. The authors question the development of corruption prevention strategies which fail to adequately assess the complexity of implementation: whether through inadequate identification of indicators of corruption or through assumptions concerning practical commitment to codes of conduct.

We have continued the use of a *Contemporary Comment* section in this issue of the journal. We see the space as providing an important opportunity for the expression of opinion, ideas, theoretical insights or statements concerning matters of controversy. Such expressions can be made without the necessary commitment to producing a fully referenced and argued journal article.