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EDITORIAL
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It is my privilege to present this special Australian edition of the British Journal of Community Justice (BJCJ) and to introduce such a high quality collection of articles. The task of editing an Australian edition of this community justice journal does raise the question: what is understood by community justice in Australia? This introduction will set out some thoughts on how community justice can be understood in Australia before briefly introducing the papers comprising the special edition.

Community Justice is a familiar term but is not straightforward to define, not least because it brings together two widely used but widely contested terms, ‘community’ and ‘justice’. In defining community justice it is possible to determine two strands in the term’s use and understanding, which can simplistically (and perhaps, slightly reductively) be characterised as an American understanding and a British understanding. The American discourse of community justice is dominated by the work of Todd Clear and David Karp, separately or together, and focuses on community, as it is understood in local neighbourhoods (see, for example, Karp & Clear, 2002; Clear et al., 2011). This interpretation of community justice is primarily about local neighbourhoods taking control back from the state and the criminal justice system and resolving offending acts in a local way. Although it is a deliberately narrow understanding of community justice it is deep, clearly articulated and deals with such fundamental concepts as the nature of justice, the work of criminal justice professionals and the role of the state.

Community justice in the UK is sometimes used broadly so as to seem to encompass almost everything in the criminal justice system outside of custodial settings (see, for example, Winstone & Pakes, 2005). Community justice as a term has been in wide use over the last two decades – including its use in the title of degrees and training organisations such as the Community Justice National Training Organisation (CJETO). There have been attempts to unpack it and define it, in the pages of this journal and elsewhere. Williams (2003), launching the BJCJ, characterised community justice as a democratic, not authoritarian model, signifying an intention to practice criminal justice in a particular way, including an engagement with communities and neighbourhoods. Williams (2003) identified the roots of this community justice model as being in Clear and Karp’s American work and Christie’s (1977) conception of conflicts as a form of property that should be returned from the state to their owners. Nellis (2005) suggested that community justice could be a way of expressing humanistic values within the criminal
justice system and could serve as a unifying discourse for probation as it was separated from social work. Most recently, in the tenth anniversary issue of the BJCI, Senior and Nellis (2013) discussed a definition of community justice as one where criminal justice agencies take their direction from what the community wants. This British understanding of community justice particularly focuses on the role of probation and youth justice, includes restorative justice within its ambit and places a strong emphasis on values. Community justice is a flexible enough concept to be able to link easily to other approaches and perspectives as they gain support. Fox et al. (2013) have drawn links between desistance approaches and community justice; their definition of a community as those who provide support in building a good life (see Ward & Maruna, 2007) is an important one, particularly as it acknowledges the importance of flexibility in determining the conception of a good life.

In discussing community justice in Australia, this wider British conception of community justice provides a useful framework for determining what issues should be included. Papers in this Australian special edition include discussions of the familiar community justice subjects of restorative justice, work with young people, resettlement and desistance. The issue of overwhelming importance, however, in discussing community and justice in Australia is the relationship between Aboriginal and Torres Strait Islander communities and the criminal justice system. The over-representation of Aboriginal communities in arrest, conviction and incarceration figures will perhaps be even more shocking to an international audience than to Australians who have become depressingly familiar with the situation and the stubborn lack of improvement. The ‘Creative Spirits’ website (Creative Spirits, 2014) collates and publishes well sourced official statistics on the Aboriginal prison population and the figures include:

- Aboriginal people make up 2.5% of the Australian population and 26% of the prison population;
- In the Northern Territory the Aboriginal population makes up 28% of the state but 83% of the prison population. This state has the highest Aboriginal imprisonment rate per 100,000 in Australia;
- 48% of Aboriginal young people will appear in court, as compared to 28% of non-indigenous young people;
- An Aboriginal person is seven times more likely to the victim of a homicide than a non-Aboriginal person;
- 10% of Aboriginal children have a family member in prison.

This fracture in Australian society shows the inadequacy of a simplistic understanding of community, especially if the welcome of that community is expected, in itself, to bring healing or rehabilitation. In Australia, the criminal justice system is not alone in failing to achieve high standards in work with Aboriginal and Torres Strait Islander communities; the disparities in outcomes relating to education, health and employment are just as stark and just as bleak. In this context an understanding of community justice in Australia must include a discussion of restorative justice, as restorative justice approaches are often seen as a solution to the poor outcomes achieved for Aboriginal and Torres Strait Islander people. Australia has been a leader in the modern adoption of restorative practices and
restorative justice is a central aspect of how offenders – particularly first time, young offenders – are dealt with. The historical roots of restorative justice in Aboriginal, Torres Strait, Maori and other indigenous communities are widely discussed internationally but in Australia it is accepted that these origins are not as explicit as is sometimes claimed (Cuneen, 2007) and it is certainly misleading to claim that any introduction of restorative approaches will necessarily meet the needs of Aboriginal groups. In this special edition, the papers of Richards and Tauri particularly draw attention to the assumptions made about community, restoration and the lack of actual consultation that there has been with indigenous communities. The values of community justice present an opportunity to consider the response to Aboriginal and Torres Strait Islander communities in Australia and also demand that we think about other aspects of diversity including race, gender and age.

The papers in this special edition cover different aspects of community justice and, taken as a whole, present a rounded picture of contemporary community justice in Australia. Kelly Richards’s paper draws attention to the term ‘community’ and its widespread use in restorative justice literature that is not accompanied by an exploration of its meaning or socially constructed nature. There is a strong theme throughout the papers in the journal of giving attention to the impact of criminal justice processes on Aboriginal communities in Australia and Richards highlights the impact of the assumption that a ‘community’ is something that only Indigenous young people belong to.

One place where the term community justice has widespread international recognition is in the use of community justice panels to include members of the in the criminal justice process. Kerry Clamp’s paper looks at the use of the panels internationally and gives particular attention to their use within indigenous communities, including Aboriginal communities in Australia. The panels have been part of an attempt to close the gap between the criminal justice system and Aboriginal communities and have had limited success in this regard.

It is this use of community and restorative approaches with Indigenous communities that is the focus of Juan Tauri’s article. He seeks to privilege the experience of Indigenous people throughout the world as crime control processes are globalised, often with claims to draw on indigenous knowledge and experiences. His challenging paper has an Australian focus with an international application and highlights how rarely the voice of Indigenous peoples is heard within debates on crime control policy.

Community justice has always given attention to diverse groups that have been poorly served by criminal justice and two of the papers in the edition focus on groups that have not had good outcomes from criminal justice interventions – women exiting prison and young people engaging in antisocial behaviour. Rosemary Sheehan draws on research in the state of Victoria and makes the compelling and disheartening argument that it is well known how better transition for women exiting prison can be achieved but that this good practice is not routinely implemented due to resource constraints and a focus on risk. The need to provide housing, family connections and employment opportunities is clear but monitoring and surveillance is prioritised. Stanculescu and Stout compare responses to antisocial behaviour in New South Wales and the UK, arguing that political attention and
strong rhetoric has not been matched by just and effective policy. In England and Wales, the negative and sometimes unintended consequences of antisocial behaviour policy have been well documented but in New South Wales antisocial behaviour policy appears to have resulted in very little practical action at all.

The final paper in the edition is a thought piece from Kevin O’Sullivan, outlining how researchers and policy makers in Australia might draw more extensively on the burgeoning research and literature available on desistance from offending. The journal also includes Australian community justice files, provided by Maggie Hall, providing context as to the contemporary debates within Australian community and criminal justice. Hall highlights the ethical issues and challenges to community justice values in contemporary developments in Australian criminal justice, both in basing detention on risk assessment and in harshly punishing violence in public places while responding inadequately to domestic violence. Nick Flynn’s UK community justice files relate the continuing debate over ‘Transforming Rehabilitation’ in England and Wales and the concerns that continue to be expressed by all but those closest to the government.

I am confident that this edition will be of interest to the readers of the BJCJ as it deals with themes that have been regularly and effectively covered in the journal. The edition also fits with the BJCJ’s ethos in including articles from practitioners, first time authors and PhD students (all of whom go through the same rigorous peer review process as other authors) alongside work from established and renowned academics. I hope that this special edition gives an accurate picture of current state of community justice in Australia and the main issues and concerns. I am very grateful to all who have contributed to this special edition including the BJCJ editorial board, the anonymous peer reviewers in the UK and Australia and the contributors of papers. I would particularly like to thank Jess Bamonte at the Hallam Centre for Community Justice for her persistence, patience, advice and support.
References
LOCATING THE COMMUNITY IN RESTORATIVE JUSTICE FOR YOUNG PEOPLE IN AUSTRALIA
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Abstract
The concept of the community is a key component of restorative justice theory and practice. In restorative justice scholarship, the community is constructed, alongside the victim and offender, as having a crucial role to play in responding to crimes in a restorative way. Indeed, it is often claimed that the perceived need for the community to be involved in responding to crime was a key rationale for the emergence of restorative practices around the world. Taking the emergence of youth justice conferencing – the most commonly-utilised restorative practice in Australia – as a case study, this article argues, however, that the idea of the community was peripheral to the emergence of restorative justice in Australia. The documentary analysis from which this article stems also found that while Indigenous young people are represented as belonging to communities, non-Indigenous young people are not – at least, not beyond their ‘community of care’. As such, this article raises concerns about the disproportionate responsibilisation of Indigenous young people, families and communities.

Keywords
Restorative justice; youth justice; history; community
Introduction
Much has been made about the importance of the community in restorative justice theory and practice, and the community is a central feature of global restorative justice discourse. Indeed, the terms ‘restorative community justice’ and ‘community restorative justice’ are sometimes used in place of, or alongside, the term ‘restorative justice’ (see e.g. Bazemore & Schiff, 2001; Eriksson, 2009; Gilbert & Settles, 2007). The community is constructed as central to the restorative justice enterprise in a number of key related ways. First, as Daly and Immarigeon’s work (1998) demonstrates, restorative justice is often considered a manifestation or extension of the broader shift towards community justice or alternative dispute resolution. Daly and Immarigeon (1998:24) claim that one of the ‘major...political challenges that ha[s] given shape and substance to restorative justice’ is this shift towards community justice:

'During the mid- and late-1970s, the development of community justice boards and neighbourhood justice centers reflected a desire for greater “access to justice” characterized by more informal processes and greater citizen participation. These methods of conflict resolution (referred [to] also as alternative dispute resolution) reflected a growing disillusionment with adversarial fact-finding and adjudication according to legal principles. Emphasis was given to negotiation, exchange between disputants, and a less central role for legal professionals'.

A second closely related way in which the community is constructed as integral to restorative justice is the representation of the community as a key party in restorative justice practices alongside victims and offenders. Diagrammatic representations of restorative justice as involving these three primary parties are common in the restorative justice literature (see e.g. McCold & Wachtel, 2003; Smith, 2013; Wachtel, 2013; Zehr, 2002). Further, the mottos or mission statements of restorative justice agencies commonly reflect the view that victims, offenders and communities are the three key groups essential to restorative practices. The motto of the New South Wales Department of Corrective Services’ Restorative Justice Unit, for example, is ‘working with victims of crime, offenders and the community for reconciliation and healing’ (New South Wales Department of Corrective Services, nd). The argument that individuals involved in conflicts (whether civil or criminal) ought to be involved in their resolution was epitomised by Nils Christie’s (1977: 7, italics in original) influential article ‘Conflicts as Property’, which posited that ‘conflicts represent a potential for activity, for participation. Modern criminal control systems represent one of the many cases of lost opportunities for involving citizens in tasks that are of immediate importance to them’.

Third, the community is represented as a key beneficiary of restorative justice. In the restorative justice literature, the community is constructed as being able to benefit from a shift from retributive to restorative measures not only via its increased participation in criminal justice processes (as discussed above), but from cost savings, reduced crime, and improved confidence in the criminal justice system (see e.g. McLaughlin et al., 2003; Roach, 2000).
After detailing the methodology of the research from which this article stems and providing a brief overview of youth justice conferencing in Australia, this article critically analyses these three constructions of the community in turn. It presents a number of interrelated findings in this regard: first, it contends that in contrast with many other restorative justice measures, the concept of the community – and the perceived need to involve the community in criminal justice processes - was not a strong driver of youth justice conferencing in Australia. Second, it argues that while Indigenous young people are represented as belonging to a community, this is rarely the case for non-Indigenous young people, who are typically not represented as belonging to any community beyond their ‘community of care’ (i.e. their family and known adults in positions of authority (see Braithwaite & Daly, 1994)). Third, it argues that to some extent, youth justice conferencing could be considered a reflection of the punitive turn in criminal justice. The article concludes by considering the implications of these findings.

**Methodology**

This article critically explores the discursive notion of the community in the context of the emergence of one particular manifestation of restorative justice – youth justice conferencing in Australia. It critically analyses documentary material to interrogate the primary question: How was the community constructed in the emergence of youth justice conferencing in Australia? Using this key question as an overarching framework, this article considers the three predominant constructions of the community central to the restorative justice enterprise, as outlined above. The analysis asks:

- To what extent and in what ways was youth justice conferencing portrayed as a manifestation of the broader community justice movement?
- To what extent and in what ways was the community portrayed as a key party in youth justice conferencing alongside victims and offenders? and
- To what extent and in what ways was the community constructed as a key beneficiary of the introduction of youth justice conferencing?

The sample was comprised of publicly-available documents that relate to the emergence of youth justice conferencing in each of Australia’s jurisdictions. Following Jupp (1989) and Tuchman (1994), the sample was comprised predominantly of ‘primary’ or ‘prescriptive’ documents; in other words, documents that precipitate, enable or ‘come before’ the emergence of a program or practice, such as policy documents, legislation, parliamentary debates, and governmental papers, rather than those that follow, reflect on or ‘come after’ an emergence, such as program evaluations and media reports. The timeframe from which the documents were drawn therefore varies across jurisdictions, as youth justice conferencing was introduced at various times during the 1990s and 2000s across Australia’s jurisdictions (see Richards 2010 for an overview).

Building on a program of research on the history of restorative measures around the globe (see e.g. Richards 2011, 2009), this research is broadly Foucaultian in terms of its theoretical framework. It critically examines the emergence of restorative practices (in this case, youth justice conferencing in Australia) and is concerned primarily with the discourses that gave rise to them, rather than with their tangible effects. As such, this
article critically examines the community of legislators’ and policy-makers’ imaginations rather than being concerned with the impacts of youth justice conferencing on communities.

**Youth justice conferencing in Australia**

Youth justice conferencing operates under a legislative framework in all eight of Australia’s jurisdictions (see Richards, 2010 for an overview). It is known by a variety of names, including youth justice conferencing (New South Wales, Queensland, and Northern Territory), community conferencing (Tasmania), restorative justice conferencing (Australian Capital Territory), group conferencing (Victoria), juvenile justice teams (Western Australia), family conferencing (Northern Territory and South Australia), victim offender conferencing (Northern Territory), and pre-sentence conferencing (Northern Territory). This article uses the terminology ‘youth justice conferencing’ to cover these practices.

Youth justice conferencing is utilised to varying degrees across Australia’s jurisdictions, with as few as two percent of young people apprehended by police being referred to a conference in the Australian Capital Territory, and as many as 25 percent in the Northern Territory (Richards, 2010). Even within jurisdictions, youth justice conferencing is utilised to varying degrees across police Local Area Commands. A review of the youth justice system in New South Wales (Noetic Solutions, 2010: 57) found that ‘[while] there are a number of Local Area Commands in NSW that utilise conferencing quite heavily...the majority are under-utilising it’.

In all jurisdictions, youth justice conferencing is part of a suite of diversionary measures, and is available to young people who admit an offence. Young people are referred to youth justice conferences primarily by the police and courts, although under recent amendments to Queensland’s legislation, courts can no longer refer young people to a conference. In Victoria, only the court can refer young people to a youth justice conference (see further Richards, 2010).

Most jurisdictions’ legislation excludes very serious offences from being considered for a conference, although in Victoria, a young person can only be referred to a conference if the court is considering imposing a supervised youth justice order (i.e. a community- or detention-based order).

The research evidence about the efficacy of youth justice conferencing in Australia is mixed. While a number of early studies suggested that conferencing reduced reoffending, these studies were later criticised as having weak methodologies. Weatherburn and Macadam’s (2013) review of the evidence on restorative measures for both adults and young people found little evidence to support the claim that youth justice conferencing reduces reoffending better than the traditional criminal justice process. Nonetheless, there is public support for youth justice conferencing (Weatherburn & Macadam, 2013) and it has been found to meet objectives other than reducing recidivism, such as including victims in the justice process (see Joudo Larsen, 2014).
Constructions of the community

This section critically analyses relevant documentary material to address the key question: How was the community constructed in the emergence of youth justice conferencing in Australia? It focuses in turn on the three sub-questions outlined above.

To what extent and in what ways was youth justice conferencing portrayed as a manifestation of the broader community justice movement?

As described above, in the global restorative justice discourse, restorative justice practices are often constructed as a manifestation of the shift towards community justice (see e.g. Daly & Immarigeon, 1998). An analysis of documentation relating to the emergence of youth justice conferencing in Australia, however, reveals little evidence of this construction of restorative justice. Few explicit references to youth justice conferencing as a reflection of community justice principles were found. Queensland’s Youth Justice Act 1992 states that one of the intended benefits of youth justice conferencing for the community is the ‘increasing resolution of disputes within the community without government intervention or legal proceedings’ (s. 30(4) (d) (iii)), clearly reflecting the principles of ‘more informal processes...greater citizen participation....and a less central role for legal professionals’ (Daly & Immarigeon, 1998: 24). Such a discourse is, however, rare in the documentary material analysed for this research.

Another manifestation of community justice principles uncovered by this research is the requirement that New South Wales’ youth justice conferencing conveners must ‘live and work in local communities’ (http://www.djj.nsw.gov.au/conferencing.htm). This is somewhat indirect, but appears to reflect the community justice principles of increased citizen participation and decreased professional ownership over disputes.

Finally, the community was commonly represented as an abstract entity to which young people who participated in youth justice conferences would be reintegrated. New South Wales’ Young Offenders Bill, for example, contained the principle that ‘children who are alleged to have committed an offence should be dealt with in their communities in order to assist their reintegration and to sustain family and community ties’. Similarly, one of the objectives of Queensland’s Youth Justice Act 1992 is to ‘recognise the importance of families of children and communities...in the provision of services designed to...reintegrate children who commit offences into the community’ (s. 2(e)). While this is again indirect, it could be considered a manifestation, broadly speaking, of the principles of community justice, in that it encourages the increased participation of community members in responding to offending. As discussed further below however, in these representations, the community is not primarily constructed as an entity that should be involved in youth justice conferencing, but as an abstract entity that might play a vague and somewhat peripheral role.

To what extent and in what ways was the community portrayed as a key party in youth justice conferencing alongside victims and offenders?

Although there is a strong focus on the participation of offenders, victims and families in documents relating to the emergence of youth justice conferencing in Australia, there are few references to the involvement of a generic community. Indeed, while each
jurisdiction’s legislation stipulates parties who must attend, and parties who may attend a youth justice conference (see Richards, 2010 for an overview), members of the community rarely feature in the legislation. While all jurisdictions’ legislation empowers the conference convenor and/or the child and/or the child’s family with the discretion to invite ‘other’ ‘relevant’, ‘significant’ and/or ‘appropriate’ people to a conference, the community is not represented in any more specific way, at least in relation to non-Indigenous young people. Queensland, Western Australia and Tasmania’s legislation, however, provide for a member of ‘the Aboriginal community’ to participate in a youth justice conference where ‘relevant’ or ‘appropriate’. As discussed further below, this reflects the way in which the community is predominantly imagined specifically in relation to Indigenous young people.

While members of a generic community may rarely be directly sought to participate in youth justice conferences, in some jurisdictions, the community is constructed in more general terms as an entity that should take greater responsibility for preventing and responding to youth offending. For example, one of the main objectives of Western Australia’s Young Offenders Act 1994 is:

[T]o enhance and reinforce the roles of responsible adults, families, and communities in —
(i) minimising the incidence of juvenile crime; and
(ii) punishing and managing young persons who have committed offences; and
(iii) rehabilitating young persons who have committed offences towards the goal of their becoming responsible citizens (s. 6(d)).

Section 4(f) of Tasmania’s Youth Justice Act 1997 uses almost identical language. This suggests that while often considered a progressive criminal justice measure, in some instances, the introduction of youth justice conferencing in Australia reflected the conservative shift towards greater responsibilisation of offenders, families and communities. In other words, it reflected the shift towards a mode of governance under which individuals, families and communities are increasingly responsible for preventing and responding to crime in place of the government (see Hinds & Grabosky 2010).

Further, while the community as a generic concept was not a key discursive feature of the emergence of youth justice conferencing in Australia, there was a strong emphasis on ‘communities of care’. In Tasmania, for example, in addition to the young person, the young person’s guardians and the victim, section 13 of the Youth Justice Act 1997 stipulates that the following parties must be invited to a youth justice conference:

(c) any relative of the youth who may, in the opinion of the officer, be able to participate usefully in the community conference; and
(d) any other person who —
(i) has had a close association with the youth or has been counselling, advising or aiding the youth; and
(ii) in the opinion of the officer, may be able to participate usefully in the community conference.
Similarly, under South Australia’s *Young Offenders Act 1993*, a conference convener must invite ‘any relatives of the youth who may, in the opinion of the [referring police] officer, be able to participate usefully in the family conference; and any other person who has had a close association with the youth and may, in the opinion of the authorised officer, be able to participate usefully in the family conference’ (s. 10(1)).

The generic concept of the community as it is imagined in global restorative justice discourse is very different from the ‘communities of care’ represented here. Perhaps most importantly, where ‘communities of care’ are to be involved in youth justice conferences in Australia, this is largely to influence the behaviour of the young person. As the above excerpts show, members of young people’s ‘communities of care’ are to be invited to a youth justice conference to ‘aid’ or ‘advise’ the young person, and to participate ‘usefully’ in the conference. In short, they are not invited to participate for any perceived benefit that they themselves might obtain. This is in sharp contrast to constructions of the community in much restorative justice scholarship, which posit community involvement in restorative practices as benefiting the community through increased ownership over disputes, as discussed above.

In the main, young people other than Indigenous young people are not represented as belonging to a community outside their ‘community of care’; only Indigenous young people are constructed as belonging to communities. For example, one of the ‘best interests principles’ that underpin Victoria’s *Children, Youth and Families Act 2005* is ‘the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community’. No such principle in the legislation relates to the communities of non-Indigenous young people. Similarly, one of the principles of the Northern Territory’s *Youth Justice Act* is that ‘if practicable, an Aboriginal youth should be dealt with in a way that involves the youth’s community’ (s. 4(o)). Again, no such principle in the legislation relates to non-Indigenous young people, although under section 84(2), a conference may include ‘any of the victims of the offence the youth is charged with, *community representatives*, members of the youth’s family or any other persons as the Court considers appropriate’ [italics added].

Community is therefore represented as primarily relevant to Indigenous young people. As the then Attorney-General, Peter Toyne (2005: np; italics added) commented during the Second Reading Speech for the Northern Territory’s Youth Justice Bill:

‘What I would point out here is that by far the most powerful influence you can bring to bear on a young offender is family, through confronting the victim and acknowledging the harm that they have done to them through the community that they live in. *That particularly applies to young indigenous offenders*.‘

This focus on the community of Indigenous young people resulted in legislative provisions for Indigenous Elders and other Indigenous representatives to be present at youth justice conferences in some jurisdictions. For example, in the only reference to community members outside of young people’s families in his Second Reading Speech on South
Australia’s Young Offenders Bill, the then Minister of Health, Family and Community Services, M.J. Evans (1993: 2851) stated that:

Another inherent advantage of the family conference is its ability to accommodate cultural diversity. A young Aboriginal offender, for example, will be able to invite members of his/her extended family, as well as other significant adults, including tribal elders [to the conference].

Under Queensland’s *Youth Justice Act 1992*, a conference can include ‘for an Aboriginal or Torres Strait Islander child who is from an Aboriginal or Torres Strait Islander community, a respected person of the community or a representative of a community justice group that may be in the community’ (s. 34(1) (h) 3)). Similarly, under Tasmania’s *Youth Justice Act 1997*, if a young person is ‘a member of an Aboriginal community’, a conference facilitator must invite ‘an Elder or other representative of that community’ (s. 14(2) (c)(iii)), and under Western Australia’s *Young Offenders Act 1994*, juvenile justice teams may include ‘[an] elder or other appropriate member of an approved Aboriginal community’ (s. 37(1) (b)). New South Wales’ *Young Offenders Act 1997* is less prescriptive, and states that ‘If the conference convener is of the opinion that it is appropriate, the conference convener may invite...a respected member of the community, for the purpose of advising conference participants about relevant issues’. While this legislation does not specifically name Indigenous communities, it is reasonable to assume that Indigenous communities are among those that legislators imagined might require a member of the community to advise a conference about ‘relevant issues’.

As discussed further below, while engaging Indigenous communities in crime reduction initiatives has been identified as good practice (Richards, Rosevear & Gilbert, 2011), it may also create the potential for these communities to become increasingly responsibilised for the offending behaviour of young people.

*To what extent and in what ways was the community constructed as a key beneficiary of the introduction of youth justice conferencing?*

As described above, in the restorative justice literature, the community is constructed as a key beneficiary of the introduction of restorative justice measures via increased opportunities to participate in criminal justice practices, as well as cost savings, reduced crime, and improved confidence in the criminal justice system. This preliminary research found that these were key rationales for the introduction of youth justice conferencing in Australia. Most prominently, the community was represented as an abstract entity able to benefit from youth justice conferencing via the increased protection from youth offending that conferencing would produce. The protection of the community was painted as the *raison d’etre* for the introduction of youth justice conferencing in Australia’s eight jurisdictions. For example, in his Second Reading Speech on South Australia’s Young Offenders Bill, M.J. Evans (1993: 2850) stated that:

[T]he Young Offenders Bill redefines the philosophy on which the juvenile justice system is predicated. Under the current Children’s Protection and Young Offenders Act, the primary emphasis is on the rehabilitative or welfare requirements of the child, while the need to protect the community
and to hold young people accountable for their criminal acts is taken into consideration only “where appropriate”...The Bill reverses this emphasis in order to ensure that the needs of victims and the community are given appropriate precedence...[and emphasises]...the need to protect the community and individual members of it against the violent or wrongful acts of the youth.

Similarly, the then Chief Minister of the ACT, John Stanhope (2004: 4081), remarked on the Crimes (Restorative Justice) Bill that “[the Bill] goes a long way towards addressing the oft repeated concern that the criminal justice system...has led to something of a crisis in confidence throughout the community’.

To note that youth justice conferencing was introduced partly due to concerns about protecting the community may seem trite, but this is an important point given that restorative justice measures are often considered to be highly progressive and at odds with the punitive turn (see e.g. Bazemore & Schiff, 2001; Bottoms, 2003; Cunneen, 1997; Pranis, 2004; Roche, 2003). The above discussion suggests, however, that in some instances at least, the introduction of youth justice conferencing in Australia was not at odds with, but part of, the punitive turn in youth justice. This was made most explicit in South Australia, where the introduction of youth justice conferencing occurred as part of sweeping changes designed to ‘increase both the severity and range of penalties available at all levels of the [youth justice] system’ (Evans, 1993: 2849). Rather than as an anomaly then, youth justice conferencing in Australia might best be understood as being premised on both progressive and punitive elements, as discussed further below. This is not to say that young people or families who participate in youth justice conferencing experience them as punitive or that youth justice conferences have punitive outcomes. Rather, it suggests that historically speaking, one of the diverse antecedents of restorative measures for young people was the perceived need for a more punitive response to youth offending.

The introduction of youth justice conferencing was also constructed as benefiting the community in ways beyond affording it greater protection. For example, the community would be able to benefit from the voluntary reparative work that young people would undertake as part of the outcome plans stemming from their conference. Then Member of the Legislative Assembly for the ACT, Bill Stefaniak (2004: 4073), for example, commented that the Crimes (Restorative Justice) Bill would enable youth justice conferences to develop ‘work plan[s] that might benefit the community’. In fact, despite having the full title ‘An Act to provide a process of restorative justice for victims, offenders and the community, and for other purposes’, the only mention of the community in the ACT’s Crimes (Restorative Justice) Act 2004 is that a youth justice conferencing outcome plan (or ‘restorative justice agreement’) may include ‘a work plan to be carried out by the offender for the benefit of the community or a part of the community’ (s. 51(2)(d)).

Finally, while cost savings are rarely mentioned as a potential community benefit in other jurisdictions, Queensland’s Youth Justice Act 1992 notes that the community is to benefit from youth justice conferencing in a number of ways, including by ‘less public cost from unnecessary involvement of the courts’ criminal justice system’ (s. 4(d)(2)).
Discussion
This preliminary research into constructions of the community in the emergence of youth justice conferencing in Australia has resulted in two key interrelated findings. This section discusses these findings and considers their implications.

First, in contrast with the dominant portrayal of restorative justice in the global literature, the community was not found to be a key feature of discourse relating to the emergence of youth justice conferencing in Australia. While this article has described a number of ways in which the community was constructed in relation to youth justice conferencing, these were found to be peripheral discourses. Overall, it was found that there is limited evidence of youth justice conferencing being constructed as an extension of the community justice movement, and that while victims and offenders were considered integral parties to youth justice conferencing, this was not the case for the community. This challenges the taken-for-granted restorative justice ‘truth’ that a shift towards engaging communities underpins the emergence of restorative practices. While this may be the case in other locations and/or in relation to other restorative practices, this research suggests that a perceived need to engage the community was not a key driver of youth justice conferencing across Australia’s jurisdictions.

Second, and most significantly, the community was only found to be a key discursive feature in relation to Indigenous young people. In contrast to non-Indigenous young people, Indigenous young people were consistently portrayed as belonging to communities that ought to have some influence over, and involvement in, addressing youth offending. This was rarely the case for non-Indigenous young people.

These findings raise concerns about the potential responsibilisation of Indigenous communities. There is undoubtedly a greater need to improve the situation facing Indigenous communities in relation to youth justice issues, with Indigenous young people over-represented in the youth justice system in every jurisdiction (Australian Institute of Health and Welfare, 2013). Nonetheless, this singling out of Indigenous communities introduces the possibility that Indigenous communities may be disproportionately responsibilised for youth offending. If only Indigenous young people are seen as belonging to a community, then it stands to reason that these communities may be more often required to be actively engaged in preventing and responding to youth offending.

This shift towards holding communities responsible for young people’s offending behaviour corresponds with broader shifts towards embracing a ‘new right’ or neoclassical philosophy of crime control, in which a move away from structural explanations of crime, and an increased focus on individual responsibility are paramount. Through youth justice conferencing, the state governs Indigenous youth offenders ‘at a distance’ (O’Malley, 1994; Rose, 1996) via the increasing responsibilisation of these communities. Importantly, while this may apply to communities across the board in some instances, it is concerning that in others, Indigenous communities are singled out.

Further, in general terms, this ‘handing back’ of responsibility to communities has often taken place without an equivalent increase in social support services for families and
communities (see e.g. Lee, 1995). Such a move clearly has the potential to impact disproportionately on low socioeconomic communities, Indigenous communities, and culturally and linguistically diverse communities. This was found to be the case in New Zealand, where, in a more explicit way, youth justice conferencing was introduced to empower the 'Māori community' to manage the offending of Māori young people (Serventy, 1996). Māori 'communities of care’ were found to have been given increased responsibility for dealing with youth offending without a corresponding increase in social or financial support: ‘On occasion services were provided within iwi [extended families]. This happened in the main without sufficient state funding’ (Maxwell & Morris, 1993: 85) (see also Tauri & Morris, 2003). This clearly demonstrates the fine line between empowerment and responsibilisation of communities (see further Richards, 2011).

**Conclusion**

All of the above suggests that despite the overwhelmingly innocuous construction of the community in the restorative justice literature, the concept of the community and its role in restorative practices should be examined more closely. This research suggests that in contrast with the benign portrayal of community in much restorative justice literature, involving the community in restorative justice might not be as progressive a measure as it first appears. The centrality of the community might instead be considered a manifestation of neoliberal modes of governance, which emphasise the responsibility of (particular) communities for dealing with social problems – in this case, youth offending. This research therefore suggests that while restorative measures are often considered to be progressive, and have often enjoyed support from across the political spectrum (Nyp, 2004; Roach, 2000; Roche, 2004; Strang, 2000), some restorative practices may in fact reflect elements of the punitive turn. In some of its guises, youth justice conferencing in Australia was implemented with the aims of greater responsibility of offenders, families and communities, cost savings, increased individual responsibility, and more severe punishment. Thus in contrast to the prevailing view that restorative justice measures are something of an anomaly in an otherwise increasingly punitive criminal justice landscape (Bazemore & Schiff, 2001; Bottoms, 2003; Cunneen, 1997; Pranis, 2004; Roche, 2003), this research suggests that some restorative practices may, in some guises at least, reflect the punitive turn.

Finally, this research highlights the diverse antecedents of restorative justice measures around the globe. As the work of Pavlich (2005) and Richards (2009) has argued, while restorative justice proponents often portray restorative justice as monolithic, it emerged from highly divergent antecedents. This is important to note, as the representation of restorative justice as a unified phenomenon valorises restorative practices, and leaves little room for critical scholarship on this topic. This article therefore makes a preliminary contribution to the body of critical historical literature on restorative justice (e.g. Pavlich, 2005; Richards, 2009; Sylvester, 2003).
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Locating the community in restorative justice for young people in Australia


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A 'LOCAL' RESPONSE TO COMMUNITY PROBLEMS? A CRITIQUE OF COMMUNITY JUSTICE PANELS
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Abstract
Community justice panels have had a long and varied history and are now established at one level or another in most advanced neoliberal states. They involve local members of the community as volunteers in responding to crime and have been lauded for their potential to reduce offending behaviour and provide a more localised, culturally sensitive approach to crime committed by people from those communities. Despite these claims, they have received relatively little attention from scholars working in the areas of community justice and restorative justice. This article seeks to review two different models of community justice panels. The first are those which have been devised in the United States, and subsequently England and Wales, to involve the community in the ‘fight against crime’. The second are those used in Australia and Canada which seek to minimise the use of a formal criminal justice response to offending behaviour by Indigenous peoples and to facilitate a culturally sensitive approach in those cases in which a formal response is unavoidable. Despite their perceived distinct orientation, this article demonstrates that both models have inherent limitations in attempting to ‘localise’ justice.

Keywords
Community Justice Panels; Aboriginal Community Justice Panels; restorative justice; community justice
**Introduction**

The use of restorative justice processes has become increasingly common in criminal justice around the globe. This is due, on the one hand, to a concern about the appropriateness of the formal criminal justice process for some types of offending and, on the other, about the ability of the criminal justice system to provide sufficient opportunities for meaningful victim and offender engagement. These broad concerns have been heightened by the global economic crisis which has seen a number of reductions to public spending, particularly in the areas of criminal justice (Clamp & Paterson, 2011). Governments have admitted that they are unable to control and respond to offending on their own and have thus sought to develop and introduce initiatives which draw on community volunteers to respond to crime (Crawford, 2008).

This article focuses on community justice panels (hereafter CJPs) as a particular initiative introduced by different jurisdictions to increase community involvement and ownership over crime affecting communities. While such initiatives have been running for many years in a number of neoliberal jurisdictions, they have received relatively little attention from academics and researchers compared to other models of restorative and community-based responses to crime and disorder. As such, this paper seeks to bridge that gap in the literature by considering how CJPs operate around the globe and also questions how ‘localised’ such a response is. In other words, the thrust of the paper beyond a survey of the field is to explore the extent to which such initiatives become a mechanism through which community members themselves are able to address their concerns and are thus owned by them as opposed to being a mechanism which can arguably be seen as an extension of the state which widens the net.

The paper begins by discussing the origins of restorative practice to situate the context in which CJPs first emerged. Next, two distinct models of CJPs are outlined. In countries such as the United States and England and Wales, these mechanisms are used to directly involve the community in the ‘fight against crime’. In jurisdictions with an indigenous population such as Australia and Canada they have been used to sensitisce the criminal justice process to the needs and culture of Indigenous peoples and to support those individuals who find themselves in conflict with the criminal justice system. The final substantive section argues that CJPs, regardless of the model that they adopt, are affected by a number of practical and consequential factors which limit the extent to which the community can claim ownership over CJPs and thus offer a more localised, or culturally relevant, response to offending. The paper concludes by questioning whether or not the resources that are spent on these initiatives are appropriate given the limitations outlined and some suggestions are made as to how they might be improved.

**The roots of community justice panels**

Restorative practice as we know it today developed in Kitchener, Ontario (Canada) and Elkhart, Indiana (United States) in 1977-78 and was known as the ‘Victim Offender Reconciliation Programme’ (VORP). Howard Zehr (1990) gives an illustrative account of

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1 Also referred to in some parts of England and Wales as neighbourhood justice panels or neighbourhood resolution panels.
this development when he recalls that probation officers, frustrated with ineffective sanctions and increasing levels of recidivism, proposed that the offenders of a particular case meet the victims concerned and recompense them directly for the damage that had been caused by their actions. While the initial process involved ‘frog-marching’ the offenders to the victims’ door to apologise and agree restitution, this has been somewhat refined in current times in light of developments in both victim and offender rights; risk of repeat victimisation and concerns over secondary victimisation (Dignan, 2005).

Although approaches and names vary, other restorative processes to a large extent replicate the aims, objectives and processes that were developed under VORP. In its classic form, VORP takes referrals from the criminal justice system and works with individuals who have admitted guilt and agree to participate in the process. Most cases are referred by the courts, but referrals are also taken from the police and, in some cases, the victims and offenders themselves. In the case of court referrals, the agreement reached usually becomes the sentence with the offender being placed on probation until the agreement is fulfilled (Zehr, 1990).

Benefits of the process are seen as providing an opportunity for the victim to ‘get the facts’ and for the offender to be confronted with the consequences of his/her actions. These encounters are said to be important experiences as they assist in breaking stereotypes, reducing fear of repeat victimisation, holding offenders accountable for their actions, and addressing the root causes of the offending thereby empowering those involved (Zehr, 1990). Since the development of VORPs, restorative justice has continued to grow in popularity and one can find its application in a variety of legal jurisdictions and cultural contexts (Dignan, 2007). CJP’s have emerged directly out of this tradition and reflect some of the characteristics outlined here. The following section provides an overview of the emergence of CJP’s and how they operate around the world.

Community Justice Panels in Action

CJP’s have been used widely in the United States, England and Wales, Australia and Canada mostly with a view to diverting cases away from the formal criminal justice process. As noted previously, they broadly resemble VORPs and other restorative processes in their structure and goals. However, they differ from other restorative practice in that they are generally wholly staffed by community volunteers. This section discusses two different models of CJP’s, namely: (1) those which have been devised to reduce crime, increase the cost effectiveness of delivering ‘justice’ and to involve the community in responding to offending; and (2) those which have been devised to assist indigenous offenders to receive more dedicated support and assistance from their communities and fair treatment during the criminal justice process.

Model 1: Crime reduction, cost effectiveness and devolution

Garland (1996:445) suggests that ‘the most visible and striking phenomenon of recent penal policy in Britain and the USA is the punitiveness which has come to characterize prominent aspects of government policy and political rhetoric’. It is perhaps not surprising then that CJP’s in these jurisdictions have tended to be targeted at first-time and/or minor offending and at times, could certainly be questioned about their role and purpose.
beyond the net-widening\textsuperscript{2} potential that they seem to pose (see Meadows et al., 2010). For the most part, this is largely due to the fact that some types of incidents that fall within the remit of CJPs would never be processed by the formal criminal justice system and therefore questions are raised about the value of these schemes other than being highly interventionist. A further aspect of their punitive character is to give the process a public face, to make it more responsive to community concerns and thus ensure that justice is seen, publicly, to be done (Rogers, 2005; MoJ, 2012).

The emergence of this model in both jurisdictions was in response to a deficit. In the US they were initially established during the 1960s in Pennsylvania to save limited resources of the criminal justice system by diverting minor offences away from the court process (see Bender, 1999). In England and Wales they were developed in 2005 to provide a visible justice mechanism to residents of the town of Chard and Ilminster when their local court was closed (see Clamp & Paterson, 2011). Over time, the use of CJPs has extended beyond these initial pilot sites to other areas within these jurisdictions and their remit has broadened to include holding offenders to account, giving victims a voice and effectively reintegrating offenders back into their communities as productive, law-abiding citizens. As such, not only are contemporary initiatives responding to the constraints of criminal justice but also being ‘sold’ as an effective approach to dealing with crime with tangible benefits for all participants.

In the US, CJPs are primarily used for juveniles (rather than adults) who have committed a first-time summary or misdemeanour offence. Referrals are made by the police (Sullenberger, 2008) where the offender has admitted guilt and agreed to participate in the process. Where this does not occur, cases proceed through the normal criminal justice process. The US panels differ from other CJPs, and the original VORPs, in that it is not mandatory for the victim to participate in order for the panel to convene. All victims are provided the opportunity to submit a written impact and financial loss statement; to address the panel in the absence of the offender; and to receive notification of the outcome should they not wish to participate (Meadows et al., 2010). In some respects, this highlights the panel as an extension of the criminal justice process rather than as an initiative to devolve power down to communities. Perhaps this is largely due to the lack of restrictions on the seriousness of the offences that may be considered and an acknowledgement that some victims would like to participate, albeit without having to face the offender directly.

In the UK, CJPs are a possible disposal for first-time, low-level offences. During the Sheffield pilot the scope of offences included: common assault excluding domestic violence; minor ABH; criminal damage valued at £300 or less; threat to destroy the property of another; threatening, abusive or insulting words or behaviour likely to cause harassment, alarm or distress; and theft up to the value of £100 except where this is a breach of trust (Meadows et al., 2010).\textsuperscript{3} However, during the MoJ test of CJPs in 15 pilot

\textsuperscript{2} For a good discussion of net-widening and restorative justice, see: Galaway and Hudson (1996) and Walgrave (1992).

\textsuperscript{3} Typically such offences would attract a Reprimand or Final Warning for young offenders or a Caution for adults.
sites some years later, the scope was limited to anti-social behaviour and neighbour disputes (see Turley et al., 2014). As such, they are distinct from other CJP initiatives in that they are also employed to resolve incidents of harm where no criminal sanction is possible – for example, in cases where there is insufficient evidence, or it is not in the public interest to Caution or charge and where the incident does not involve a criminal offence, such as neighbour nuisance or neighbour disputes. For criminal incidents, referral to the panel must come from the police, whereas those involving anti-social behaviour or neighbourhood disputes may come from agencies such as housing providers, out-of-hours noise teams or the fire service (for instances of hoax calls). Admissions of guilt and informed consent are required in order for a referral to be made, regardless of the source of referral (whether criminal or civil).

Where consent is given and both the victim/s and offender/s participate, the actual process in both jurisdictions follow the same pattern. Referrals are received by co-ordinators who then pass the details on to trained community volunteer facilitators who assess each individual for their suitability for the process. Assessments by volunteer facilitators for both the victim and offender (or harmed and wrongdoer where it is a civil matter) follow similar formats. Each individual is asked to describe the incident, the impact of the incident, their relationship (if any) to each other, what support system they have, if they have any diversity needs, if they are able to express their emotions adequately, and finally what their expectations of the process are. Consideration is given to the capacity of individuals to participate, the expectations of each party (and whether they are realistic) as well as an assessment of any attitudes/behaviour that are a cause for concern. Supporters follow a similar risk assessment to that outlined for the primary stakeholders. Where the facilitator is satisfied that all parties are suitable to participate in the CJP, the panel is arranged and held flexibly to enable participants to attend at a date, time and venue that is mutually acceptable. Either the victim/harmed or offender/wrongdoer may discontinue proceedings at any point.

A key characteristic of the CJP process itself is that all participants are given the opportunity to speak about the incident, how it occurred, the impact as well as the consequences that it has had. Usually the offender speaks first so that the circumstances around the incident can be heard. The victim is then able to share his/her experience, to ask the offender questions and suggest ways in which the harm could be repaired. At the end of the meeting an agreement is drawn up, with all parties having a say in the content, which outlines the activities the offender is required to carry out and the timeframe in which it needs to be completed. Activities may include a direct gesture such as mending broken property, providing financial recompense, writing a letter of apology to the victim, staying away from a particular area/person, or an indirect gesture such as community

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4 However, there is a distinction between how CJPs should work in theory as described here and what happens in practice. See the process evaluation of pilot sites by Turley et al., (2014) which shows that some victims felt particularly frustrated about not being able to talk through the incident in detail during the process when volunteer facilitators felt that sufficient time had been given to this aspect during the pre-panel process.

5 Again see Turley et al., (2014) where some agreements were decided on by facilitators, as opposed to stakeholders, and in other instances, no agreement or resolution was reached at all.
service. According to Sabo (2008), the most common outcomes in the US include restitution and community service highlighting the emphasis on paying back what was taken or damaged and improving local communities. In the UK, outcomes have included more incident specific activities such as: unpaid work, an apology, repairing damage caused, support provision, restrictions placed on offenders and financial reparation (Turley et al., 2014).

In the US, if the contract is completed successfully, the youth avoids being adjudicated delinquent of the charge(s) and does not have to pay the court-related fines. In the event that the conditions of the agreement are not fulfilled, depending on the circumstances, the case is referred back to panel which will reconvene or to the original referring agency and dealt with through the normal adversarial process. During the Sheffield pilot in the UK (see Meadows et al., 2010), where the offender successfully completed the agreement, the case was closed and recorded either as a Youth Restorative Disposal (YRD) or Adult Restorative Disposal (ARD). In instances of non-compliance, the matter was referred back to the referral agency for further action to be taken (Meadows et al., 2010). However, in the process evaluation conducted by Turley et al., (2014), it appeared that different test sites had quite varied approaches to follow-up that included no follow-up at all; an informal follow-up via a telephone call; and a formal follow-up whereby a panel was reconvened. Naturally this creates some unevenness about the purpose and impact that CJs have where there are no consequences for breaching or not adhering to agreed outcomes that arise from the panels.

**Model 2: Cultural sensitivity, sensitization and partnership working**

Australia and Canada differ from the US and UK in that CJs are not available to the wider public, but are rather focused on responding to Indigenous offenders who come into contact with the criminal justice system. In Australia, Aboriginal incarceration levels are 12 times that of the rest of the Australian population (AIC, 2013) and in Canada, Aboriginal imprisonment rates are around 10 times that of the rest of the population (OCI, 2013). Generally, the reasons for the overrepresentation of Aboriginal or Indigenous populations is thought to be complex and situated within the social conditions in which these populations live as well as a consequence of institutional racism (see CCJA 2000; Cunneen, 2006).

Both governments, over the past two to three decades, have thus increasingly acknowledged the plight of Aboriginal people who come into conflict with the criminal justice process and the different values, culture and heritage of Indigenous populations. As a result, specific Aboriginal programs and policies have been developed at all levels of government (federal, provincial, and territorial levels), initiatives introduced to increase the cultural relevance of justice processes and to educate non-Indigenous criminal justice practitioners to work in a more culturally sensitive manner (CCJA, 2000).

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6 In Canada this is comprised of the First Nations, Inuit and Métis populations and in Australia it is primarily the Koori population based in the state of Victoria who is central to this discussion.
Aboriginal community justice panels (hereafter ACJPs) emerged from this broader context in Australia in 1987 following the Royal Commission into Aboriginal Deaths in Custody and in Canada in 1996 following Royal Commission on Aboriginal Peoples. ACJPs in both countries are underpinned by two principle aims. First, they seek to divert Aboriginal offenders (both youths and adults) into meaningful programmes (pre and post charge) that aim to tackle the underlying causes of offending (CCJA 2000). ACJPs therefore provide an avenue for community input into decisions determining appropriate punishment for offenders, and as a means of diverting Aboriginal youths and adults from the prison system for less serious offences (Hazelhurst, 1997). Representatives of the Aboriginal community are thus integral to the running of these initiatives in each jurisdiction and volunteers in both regions are drawn from the local Indigenous community.

Second, ACJPs seek to provide a more culturally sensitive approach and to respond to the expressed needs of Aboriginal people who come into conflict with the criminal justice system where contact is unavoidable (CCJA, 2000; Hazelhurst, 1997; Ghys, 2004). In part, it is thought that disruption to and/or a loss of culture are at the root of Aboriginal crime and that by bringing Aboriginal values to bear upon recalcitrant offenders, panels can have a persuasive effect and contribute to peacekeeping and the re-socialisation of those who transgress the law (see CCJA, 2000; Hazelhurst, 1997). Partnership working between Indigenous volunteers and criminal justice practitioners is particularly important in achieving this aim.

The ACJPs are significantly distinct in Australia in that these schemes were primarily developed to work closely with the police. The relationship between Aboriginal communities and the police has often been characterised by confrontation and mistrust, and while relations have improved police violence, harassment and mistreatment continue at times (The Commission, 2013). As a result, ACJPs seek to improve and strengthen relationships through mutual understanding. The backbone of this process, are the panel members who live in regional towns and cities and volunteer their time to work with criminal justice agencies to increase knowledge of Aboriginal culture, to improve the treatment of Indigenous offenders and to improve knowledge of the criminal justice system and its processes within the Aboriginal community (McMillan, 1991; Marchetti & Daly, 2004). Specific duties involve panel members supporting Aboriginal people when they are held in police custody or to arrange for transfer to sobering centres where the offence involves drunk and disorderly conduct (Cunneen, 2001); to work with the police on developing appropriate alternative strategies; to provide assistance to Aborigines involved in court processes; to provide advice to courts on cultural matters and sentencing; to advise on and participate in the supervision of community based sentencing orders, pre-release programs and parole orders; to assist authorities in ensuring the welfare of Aborigines in custody; and to assist Aborigines in the post-custodial stage (Ghys, 2004; Hazelhurst, 1997; Schwartz et al., 2013).

In Canada, ACJPs are similar to CJPs in the UK and US but are also much more involved in working closely with offenders, victims and criminal justice practitioners. The purpose of

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7 In 1991 after much success, CJPs were rolled out on a state-wide basis in Victoria (see Ghys, 2004) and towards the latter end of the 1990s in some parts of Queensland (see Marchetti & Daly, 2004).
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the scheme is to secure and deliver the diversion of youth and adult offenders from the criminal justice process. As such, panel members work closely with the Aboriginal court workers to advocate and negotiate diversion requests. Where these requests are granted, the offender meets with three trained programme volunteers in a Council Hearing Circle to discuss and create a Disposition/Healing plan. During this process, the panel members support and assist the offender to identify the root causes of their offending and work towards developing strategies to overcome these triggers and to repair the harm that has been caused to victim/s and their community (see CCJA, 2000; Cree Regional Authority, 2010). Referrals to the programme may also be taken from defence counsel, Crown Attorneys, Judges and social services agencies.

Other more supportive functions that are undertaken within the Australian context are also present in Canada and include assistance with: monitoring diversions and alternative measures, supporting those on parole or probation; the implementation of community crime prevention and reduction efforts including programs, awareness programs, referring high risk youth to community services; reintegrating former detainees back into the community inclusive of assisting with obtaining programs and services; as well as the work of other justice and front line professionals including Community Justice Officers, Community Reintegration Officers, child protection workers, social workers, police officers, Court personnel; participate in various trainings or conferences (CCJA, 2000).

Discussion

The previous section outlined two quite different models of community justice panels; although it should be apparent that some aspects of the processes overlap as do the broad aims of the schemes. In many respects, CJP s seek to complement the criminal justice system rather than to replace it. In all countries outlined, CJP s play an important role in bridging the gap between criminal justice agencies and the community that it serves with the overall objective of increasing the perceived legitimacy of the criminal justice process. The importance of legitimacy for governments and criminal justice institutions is described by Wrong simply as: ‘Legitimate authority is more efficient than coercive or induced authority’ (1979:52). In other words, ‘If authorities are judged to be legitimate, they need not justify each decision they make, nor enforce it through the use of rewards, threats of punishment, or both’ (Tyler, 1997:335). However, without it policies will be undermined and contested. It is, therefore, thought that by encouraging the community to become involved in justice and to do so in ways that are viewed as legitimate, citizens will want to be law-abiding and co-operate with the police (Sunshine and Tyler, 2003).

Crawford (2008) suggests that legitimacy can be bolstered through the use of volunteers because it allows ‘trial by one’s peers’; increases the numbers of under-represented groups being represented in the administration of justice; reduces the gap between the community and formal justice; makes the business of ‘justice’ more transparent and accountable to the public; increases understanding of the workings and limitations of the criminal justice process; and, finally, reduces resources which means that criminal justice agencies can target more resources on more demanding types of crime. These perceived benefits are certainly reflected in the discussion of the different models of CJP s and have
formed an important role in rationalising their introduction. However, while the key idea underpinning lay involvement in these panels is that volunteers should represent their local community (Zehr, 1990); experience has demonstrated that public participation may be limited by a number of practical and consequential factors.

First, the selection and training process for volunteering in schemes such as CJPs is often onerous and individuals will often not be considered if they fall below the expected skills benchmark (which include: literacy, numeracy and effective communication skills). The likelihood that all individuals have the time and the stamina to progress through each of the stages means that certain groups, such as students, part-time workers, retired citizens and the unemployed, may be over-represented or the schemes may just struggle to attract volunteers in general (Clamp & Paterson, 2011). This was certainly confirmed in both evaluations conducted on CJPs within the UK (see Meadows et al., 2010; Turley et al., 2014). Turley et al., (2014:14), for example, highlight that in one pilot site, volunteers had been described ‘as mainly white, middle class and retired’. The difficulty in attracting volunteers to run lay panels in the UK is not new, as Crawford and Newburn’s (2002:483) findings of the makeup of community panel members for the Youth Offending Team’s Referral Orders showed: ‘...after the first year of implementation panel members were seen as being predominantly female, middle class and middle aged’. Thus, questions remain about the extent to which these volunteers actually reflect the community that they seek to represent.

Second, where schemes are able to attract volunteers they may be under-resourced and over-burdened with their roles (VALS, 2004). The duties outlined for each of the schemes in the preceding section highlighted numerous activities, many of which would fit into job descriptions of full-time paid criminal justice practitioners. While the use of volunteers may be attractive to policy-makers due to the perceived reduction in costs in processing cases, volunteers often work at a slower pace and require much more support than their professional counterparts. As the Review on Aboriginal Community Justice Panels in Australia demonstrated, volunteers often experience burn-out due to significant stress and pressure resulting from a lack of training and support (VALS, 2004). The process evaluation in the UK also highlighted issues with a lack of rigour during the recruitment process and some volunteers reported a lack of support during the delivery of their duties (see Turley et al., 2014:15).

Third, in some areas ‘career volunteers’ emerge who have held positions in a particular post for quite some time. This, in part, occurs due to the difficulties associated with attracting and keeping volunteers in general (see Turley et al., 2014), but also because being involved with ACJPs can be quite a political process in particular. In Australia, for example, some individuals who wanted to become a member of their local ACJP were excluded due to alliances within particular family-based Koori communities (see OPI, 2010). This has two important consequences for the effective running of these schemes. On the one hand, a limited pool of candidates can often lead to the unintended consequence of ‘professionalising’ lay volunteers whereby individuals lose the qualities which made them attractive in the first place (Crawford, 2003). On the other, where particular individuals tend to hold the same position for many years, they can lose legitimacy within the community where they are perceived to ‘pick and choose’ who they
want to do business with and refuse to support particular individuals when they are held in custody (see OPI, 2010). Crawford and Newburn’s (2002:483) warning that volunteers can ‘come to constitute something of a “new magistracy”’ certainly seems apt here.

Fourth, the term community tends to conjure up positive images of support and care and something that needs to be recovered to repair the moral fabric of society. However, this rosy view of what community offers and what it can achieve often glosses over the potential negative attitudes and responses that communities may harbour and a lack of contact and knowledge between individuals who make up those communities. Certainly in larger cities and towns this becomes more problematic as community membership is often more transient and diverse. Even where communities are smaller and may have more developed links such as within Aboriginal communities, problems still arise. Dickson-Gilmore and La Prairie (2005) and VALS (2004) highlight that many young people within these communities have often experienced sexual and physical violence at the hands of caregivers and older community members, so relying on and involving these individuals may undermine the perceived legitimacy and thus impact of the process.

A further impetus for these schemes is predicated on their perceived ability to reduce criminal justice processing costs, to minimise Indigenous incarceration and to curb offending behaviour. While some evaluations of these schemes have indicated that these benefits are being realised to varying degrees (see Meadows et al., 2010; OPI, 2010), others concluded that they were unable to determine whether or not ‘NJPs are more cost effective than other practitioner-led approaches’ (Turley et al., 2014:11). Given that the offences that are dealt with are primarily minor and first-time occurrences it is likely that these schemes are being targeted at individuals who otherwise would not have gone on to commit further offences. This unintended consequence of community and restorative justice inspired initiatives is not new. In 1992, Lode Walgrave questioned the extent to which restorative programmes in particular were being imposed on people who would otherwise have simply been left alone. Furthermore, O’Mahony and Doak (2004) found in their research on restorative cautioning in Northern Ireland that ‘restorative justice’ programmes implemented by the state resulted in net-widening in their desire to hold offenders to account. The focus on low-level criminal behaviour and the inclusion of offences which would not normally be subjected to criminal justice intervention in the UK further supports this finding (see Turley et al., 2014).

In this manner, questions remain about the type of behaviour that falls within the remit of these schemes and the sanctions that are imposed on offenders (also see Galaway & Hudson, 1996). This is particularly important given that those who do not fulfil their obligations may be subsequently dealt with through the criminal justice process and it is unclear whether or not more punitive sanctions will be delivered in instances of non-compliance, particularly in cases involving Aboriginal offenders. In instances where no further action is taken for non-compliance, it would be reasonable to question the extent to which the panel actually succeeds in holding offenders to account at all and the impact that this has on victims themselves as well as community relations where tensions have been the source of the referral. In relation to Aboriginal offenders in particular, the effectiveness or success of these schemes has tended to be evidenced by pointing to a reduction in incarceration levels. However, this does not necessarily reduce the arrests of
Aboriginal offenders and tackle the extent to which particular communities and types of behaviour tend to be over-policing. In other words, this can have the ultimate consequence of deflecting attention away from the types of incidents and individuals that are being ‘policing’ and reducing the opportunity to have a discussion about the extent to which the system and resources may be the problem rather than the behaviour.

Questions also need to be raised about who ultimately benefits from these schemes. Often they are couched in language which seeks to ‘reduce the gap’, ‘encourage partnership working’ and ‘devolve power down to communities’ but the reality is that the priorities, processes and resources arise from the top-down. What can result is not an innovative and informed approach to dealing with offending and disorder within specific communities but rather a generic ‘conveyor belt’ type approach to the sanctioning of offenders that does not have a significant impact on curbing offending trends within those communities. Clamp and Paterson (2011) suggest that the top-down implementation of ‘community’ projects is inherently flawed precisely because it is not developed by community members, but rather imposed with accompanying agendas that may not resonate with the local community. What is needed is a process that is flexible enough for ownership to be developed at a local level and for the specific issues to inform the working and priorities of the panels. Arguably CJPs, as they are currently devised, are an extension of the state and not necessarily something that can be considered ‘community-based’ or ‘community-owned’.

**Conclusion**

There is an increasing desire to reduce the gap between formal criminal justice and the communities that they serve. This is certainly observable in the emergence of CJPs in a number of neoliberal countries and this paper has provided an overview of the aims and processes involved in the operation of these schemes. Two different models were discussed, those which are used to respond to minor and/or first-time offending and those which seek to respond, in particular, to Aboriginal offending and contact with the criminal justice system. Despite the distinct orientation of these schemes, the discussion demonstrated that a number of issues arise that are common to all jurisdictions.

In particular, a number of tensions in relation to using lay volunteers in the administration of the panels were discussed as well as the implications of driving community initiatives from the top-down. The overall argument here is that rather than seeking to create supplemental initiatives that increase social control, perhaps it is now time to engage in a discussion about the ways in which criminal justice may be transformed at its core. Criminal justice is expensive business, not only relation to the financial costs that are involved in processing cases but also in terms of the emotional and financial costs to families and communities when individuals end up with criminal records. There is no easy solution to this problem, but one that certainly requires further research and consideration by both scholars and practitioners. Conceivably one strategy could be to deal with these offences more restoratively within the normal criminal justice process rather than replicating criminal justice principles and priorities within a community setting. There is considerably more scope for criminal justice to become a more
deliberative process, but it is not apparent that CJPs have contributed to the tapping of this potential.
A 'local' response to community problems? A critique of Community Justice Panels

References


AN INDIGENOUS COMMENTARY ON THE
GLOBALISATION OF RESTORATIVE JUSTICE
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Abstract
The study and impact of the globalisation of crime control policy and related products have recently begun to receive significant attention from critical Indigenous scholars. The reasons for the increasing focus on this issue include the restorative justice industry’s increasing utilisation of so-called ‘Indigenous’ philosophies and practices in the design of its various products; and the increasing global popularity of supposedly 'Indigenous-inspired' restorative justice initiatives, not only in settler colonial contexts, but throughout Western jurisdictions, as a response to crime control issues relating to minorities. The purpose of this paper is to provide an Indigenous critique of the globalisation of restorative justice and the industry’s utilisation of Indigenous practices, symbols and philosophies in the marketing of its products. The paper will focus on the impact that the international transfer of restorative products is having on relationships between Indigenous peoples and central governments in settler colonial jurisdictions, particularly New Zealand and Canada, and on Indigenous peoples' drive for greater self-determination in these jurisdictions.

Keywords
Family group conferencing; globalisation; Indigenous peoples; restorative justice
Introduction

This paper is intended as a small offering in response to the challenge posed by Muncie (2005), O’Malley (2002) and Stenson (2005) for criminological analysis of the globalisation of crime control to move from obsessive macro-theorising about ‘its’ shape and depth, and instead begin analysing the micro-level impact of all this globalised, criminological activity. The manuscript also serves as a response to Aas’ call for our discipline to:

'...take up an old debt of omission and explore more systematically connections between globalisation and colonisation [which is] essential if we are address the imbalances of power and the dynamics of othering and social exclusion in the present world order.' (2009:413)

A further motivation for this paper is my wish to privilege the experiences of Indigenous peoples of contemporary manifestations of globalised European Justice, for as Fenelon and Muguia (2008:1657) rightly argue:

'In the telling of man’s [sic] global project, the story of indigenous peoples has been woven into the fabric of globality, yet the leading experts on globalisation have either ignored the role of indigenous peoples or reduced their existence to pre-packaged terms such as the ‘fourth world’ or as ethnics in ‘developing nations’ or even hidden in the broader ‘periphery’.'

It is the modest intention of the author that through this paper Indigenous peoples’ ‘real world’ experiences of the globalisation of restorative justice will draw the discipline’s attention to the meso and micro-level impacts of the inter-jurisdictional travels of their theories, crime control products, and legislation. Arguably, privileging Indigenous peoples’ experiences of the globalisation of crime control is important for the development of criminological analysis of the phenomenon. After all, the Indigenous peoples of Africa, the Americas and the South Pacific have experienced an almost continuous process of cross-border transfer of crime control products throughout the last 200 years or more. Furthermore, imported criminal justice systems were a significant tool in the colonialists’ attempts to eradicate Indigenous life-worlds, strategies that manifest in the contemporary moment in the form of violent policing strategies, and our significant over-representation in criminal justice statistics. And yet despite all this, the Indigenous voice is often silenced in the vast lexicon produced by the Western Academy (Tauri, 2012). Therefore, the time has come for us to speak for ourselves; to challenge the often negative impact of the

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8 Further rationale for privileging the experience(s) of Indigenous peoples residing in Settler Societies include the significant, over-representation of First Nation peoples in all Settler Society criminal justice systems (Cunneen, 2006; Tauri, 2004); the vast amount of evidence of bias, racism perpetrated against Indigenous peoples by the agents of crime control, not to mention the part played by them in the genocidal phases of colonisation that Indigenes refers to as the ‘killing times’; the historical lack of focus by Eurocentric criminology on research with Indigenous peoples, that enables their experiences to be reflected through the research generated by the discipline; and finally the right of Indigenous peoples to speak for themselves about issues that concern them, a right recently confirmed through the United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2008).
products generated by the Academy and the restorative justice industry, upon our communities, and dispersed amongst us as though they are offerings from the criminological gods for the benefit of the less fortunate (Agozino, 2003; Tauri & Webb, 2011).

The paper begins with a brief overview of the globalisation of crime control products; followed by a critical discussion of the processes through which the Indigenous life-world has come to play a significant part in the developing globalised RJ Industry, elements of which rely heavily on Indigenous culture for the marketing of their products. I argue that the increasing inter-jurisdictional transfer of specific crime control products is having a profound impact on Indigenous peoples residing in settler colonial societies, firstly, through the purposeful, and often exaggerated and inappropriate use of elements of Indigenous life-worlds in the construction and subsequent marketing of crime control products; and secondly, through the impact this activity is having on the ongoing struggle of Indigenous peoples to resurrect our traditional justice processes and/or achieve some measure of jurisdictional autonomy (Tauri, 2011).

A Brief Comment on the Globalisation of Crime Control Products

'Criminologists are, together with other criminal justice professionals, becoming increasingly eager exporters of knowledge.' (Aas, 2009:409)

During the past twenty years globalisation has become established as a legitimate area of criminological inquiry, albeit one that is responded to in equal measures of admiration and suspicion (Hopkins, 2002; Newburn & Sparks, 2004; Robertson, 1990; Scholte, 2005). For some, the prevalent image of globalisation as ever-increasing flows of capital, people, data and cultural artefacts is a welcome development that presents new opportunities for breaking down perceived barriers related to ethnicity, class, language and culture (see Watson, 2004), overcoming poverty and inequality, and for the development of effective responses to universal issues such as crime and (in)security (Jones & Newburn, 2001; Newburn, 2010) For others, globalisation represents an unfolding tyrannical rule of peoples by a global economic regime that works exclusively for the benefit of Capital, reflected in an ever-increasing exploitation of cultural context for the benefit of policy entrepreneurs and the state (Hay & Watson, 1999; Held & McGrew, 2000; Odora Hoppers, 2000; Teeple, 1995).

According to authors such as Friman (2009:1-2) and Nelken (2004:373), crime has ‘gone global’. This statement signals that the scale and scope of the contemporary epoch of globalisation is unprecedented and unmatched in its degree of globality. The evidence of this phenomena is apparently everywhere, including the transfer of a range of criminological strategies, technologies, policies and interventions including Zero Tolerance (Newburn, 2010; Wacquant, 2009), and Broken Windows (Shichor, 2004) policing strategies, and Mandatory Sentencing (Lynch & Sabol, 1997), and related ‘3-stikes and you are out’-style legislation (Jones, 2003; Schiraldi, Colburn & Lotke, 2004). All of these artefacts are accompanied by sophisticated marketing rhetoric and media friendly soundbites that betray (or perhaps more accurately, reflect) their conservative birth-right:
‘tough on crime’, ‘sensible sentencing’, ‘life means life’, ‘holding offenders accountable’, and so on. However, it is important to note that the growing international market in crime control artefacts is not solely dominated by ‘tough on crime’ conservatives and their (supposedly) punitive policies and interventions. Arguably one of the most significant players on the international market – to use perhaps a rather inaccurate collective term for what is a broad, often disparate movement – is the Restorative Justice Industry (Cunneen & Hoyle, 2010; Daley & Immarigeon, 1998).

**The Globalisation of Restorative Justice**

According to popular origin myths, the antecedents of contemporary RJ began in Canada in the late 1970s when a parole officer from Kitchener, Ontario introduced a process that enabled victims and offenders to meet face-to-face (Peachey, 1989). From there it steadily grew, with the development of community boards in San Francisco in the 1980s; the proliferation of justice boards throughout North America through the 1980s/1990s; Family Group Conferencing (FGC) in New Zealand in the early 1990s, and Sentencing Circles in Canada. All this activity has since been followed by an explosion of RJ-related activity across North America, Western Europe, and of late throughout parts of Asia and South America. That RJ is now a full-blown industry that plays an increasingly important role in the globalised crime control market is undisputable. For example, Miers (2007:447) writes that “viewed globally, informed observers estimate that, by 2000, there were some 1,300 (RJ) programmes across 20 countries directed at young offenders”.

The contemporary development of the RJ Industry has played a significant part in both the Academy’s commodification of Indigenous life-worlds and the global spread of RJ products. For example, Deukmedjian (2008:122-123) recounts the introduction by the Royal Canadian Mounted Police of RJ into its practices via community justice forums that were based heavily on the police-centred, Australian formulated ‘Wagga Wagga’ model. The global trajectory of this model of RJ, based on the so-called ‘Maori’ approach to justice, can be traced from its successful insertion into the U.S in 1994 in Anoka, Minnesota (McDonald, Moore, O’Connell & Thorsborne, 1995). As Deukmedjian (2008:122) recounts, this successful foray into the U.S “inspired McDonald and O’Connell [two of the architects of the Wagga Wagga model] to form the Transformative Justice Australian advocacy and consultancy group” that subsequently travelled throughout North America in the mid-1990s marketing a standardised form of FGC to both practitioners and policy makers. Their travels included meetings with Indigenous elder’s councils in Ottawa and other Canadian jurisdictions (Rudin, 2013, personal communication). Eventually the Wagga Wagga model became the standard for RJ-related service delivery by the RCMP throughout Canada (Chatterjee, 2000). Further highlighting the rapid globalisation of the FGC as part of the developing market in RJ products, both Chatterjee (1999) and Richards (2000) recounting that RCMP officials visiting New Zealand and Australia in 1996 to see first-hand the FGC model in action, after which they negotiated a cost-sharing agreement with the Department of Justice (Canada) for 3.75 million each, for roll-out in 1997 of the RJ initiative known as Community Justice Forums (Deukmedjian, 2008). Subsequently, the RCMP contracted Transformative Justice Australia to train members to run the new RJ programme, which was very much a derivative of the New Zealand FGC and Australian Wagga Wagga conferencing models.
Restorative Justice and the Commodification of Indigenous Life-Worlds

'Family group conferencing was a gift from the Aboriginal people of New Zealand, the Maori.' (Ross, 2009:5)

The appropriation of components of Indigenous life-worlds by state functionaries and criminologists for the purpose of indigenising crime control products and culturally sensitising systems and products, is well documented in the extant literature (see Havemann, 1988; Tauri, 1998; Victor, 2007). Arguably, the most influential colonising project of this kind in contemporary times came with the passing of the Children, Young Persons, and Their Families Act 1989 (the Act) by the New Zealand Government, and with it the introduction to the world of the FGC forum. Advocates of the FGC process make a number of claims about the relationship between the format of the process, traditional Maori justice practices, and the role the forum has played in responding to Maori concerns with the formal criminal justice system (see Jackson, 1988). For example, it is often claimed in Australasian-focused literature that:

i) the Act was influenced by Maori concerns for the prevalence of institutionally racist and culturally inappropriate practices within the New Zealand criminal justice system (Fulcher, 1999; Goodyer, 2003; Ministerial Advisory Committee, 1988);

ii) because the conferencing process and Maori justice practice have ‘restorative elements’, it provides the state with a culturally appropriate forum for addressing the justice needs of Maori (Hassell, 1996; McElrea, 1994; Olsen, Maxwell & Morris, 1995); and

iii) the conferencing process provides evidence of the system’s ability to culturally sensitise itself, and also empower Maori to deal with their youth offenders in culturally appropriate ways (Doolan, 2005; Morris & Maxwell, 1993).

Over the past two decades the oft-made claims of the Maori/Indigenous origin of the FGC forum and its ability to culturally sensitise New Zealand (and other Settler-Colonial Society) youth justice systems, has largely been uncritically replicated in the international restorative justice and wider criminological literature (see Braithwaite, 1995; Carey, 2000; Griffiths & Bazemore, 1999; Leung, 1999; Lupton & Nixon, 1999; McCold, 1997; Roach, 2000; Strang, 2000; Umbreit, 2001; Weitekamp, 1999; Zehr, 1990). Specific examples of the way in which, to use Daly’s (2002) expression, the ‘origin myth’ of this particular RJ forum, especially the constant refrain to its supposed ‘Maoriness’, are reflected in the following statements from well-known advocates of the FGC forum, and of the RJ movement:

'The river [of ‘restorative justice’] is also being fed by a variety of indigenous traditions and current adaptations which draw upon those traditions: family group conferences adapted from Maori traditions in New Zealand, for example.' (Zehr, 2002:62)
'[T]he principles of restorative justice are particularly consistent with those of many indigenous traditions...including...Maori people in Australia and New Zealand and the practice of...family group conferencing by Maori people in Australia.' (Umbreit, reported in Richards, 2007:385)

Perhaps the most startling elements of the origin myth of the New Zealand FGC, from a critical Indigenous perspective, is the claim that the forum was designed in part to enable Maori families to manage the offending of Maori juveniles (see, in particular, Morris & Maxwell, 1993 and Serventy, 1996).

The constant reiteration of the origin myth within the restorative justice literature of (mostly) Western European criminologists and practitioners, has resulted in it acquiring the status of a seemingly uncontestable, taken-for-granted ‘truth’ (see Pavlich, 2005), one that RJ advocates refer to constantly in their accounts of the emergence of restorative justice practice in the contemporary moment. And yet somehow, while focusing on the ‘Maoriness’ and the ‘restorativeness’ of the FGC forum, these same authors consistently overlook readily available evidence that problematises almost all aspects of the origin myth (see discussion below), including, for example, the following ‘confession’ by Doolan (2005:1), one of the primary architects of the 1989 legislation, that “those of us who were involved in the policy development process leading up to the new law had never heard of restorative justice”. He further states that empowering Maori families to have any form of ‘control’ over responses to the offending of their youth was not a major consideration of policy makers. Instead, Doolan goes on to affirm that the primary goal of the new forum was making young people responsible for their offending behavior and decreasing the use of the Youth Court.

In comparison to the grand mythologising of many RJ exponents, there is the growing literature from critical Indigenous and non-Indigenous commentators that directly contests the monolithic origin myths of restorative processes such as the FGC. These commentators provide evidence of high levels of dissatisfaction amongst Indigenous communities with the introduction of restorative justice interventions more broadly, and of the FGC forum in particular (see Blagg, 1998; Cunneen, 1997, 2002; Moyle, 2013; Tauri, 1998, 2004; Zellerer & Cunneen, 2001). These critics also take advocates of RJ to task for making “selective and ahistorical claims... about indigenous social control conforming with the principles of restorative justice, while conveniently ignoring others” (Cunneen, 2002:43; see also Pratt, 2006 for discussion of the tendency in RJ literature to romanticise Indigenous justice by ignoring evidence of the use of non-RJ type punishment practices by Indigenous communities).

In her ground breaking critique of the philosophical foundations of the modern RJ Industry, Richards (2007) provides a succinct analysis of the ways in which the Industry formulates and sustains origin myths of forums like the FGC. Richards achieves this by demonstrating the extent to which the Daybreak Report, authored by the Ministerial Advisory Committee for the New Zealand Department of Social Welfare (Ministerial Advisory Committee, 1988) is continuously, and erroneously portrayed by members of the RJ movement as both the impetus for the introduction of restorative justice in New Zealand, and as providing evidence of extensive Maori input into the development of the
FGC (for examples of this perspective, see Braithwaite, 1995; Doolan, 2002; Fulcher, 1999; and Lupton & Nixon, 1999). Richards analysis of the *Daybreak* report shows that the oft-repeated notion that Maori communities ‘mobilised against Pakeha’, were successful in pressuring the New Zealand government into adopting a more culturally suitable criminal justice system, in the form of a ‘Maori inspired’ FGC, is a significantly romanticised and exaggerated version of what took place. In summary, Richards (2007) demonstrates that:

- the initial working party appointed to consider what changes were necessary in New Zealand’s youth justice/child welfare system was formed without Maori representation; and
- no specific recommendation was ever made by the Ministerial Advisory Committee that the Department implement family group conferencing.

Undoubtedly, suggestions made by the Committee for reconfiguration of New Zealand’s youth justice system clearly resonate with the core philosophies and practices associated with RJ. It is also true that we are able to make broad comparisons between the governmental forum (FGC), and certain aspects of Maori customary justice practice. The Committee recommended, for example, that the *Children and Young Persons Act* (1974) be amended to include greater consideration of the role of the family when dealing with Maori children, and the increased participation of Maori families in matters relating to child welfare and juvenile justice (Ministerial Advisory Committee, 1988). Later in the report, the Committee (1988:29) returns to these issues, claiming that a “substantial ideological change” would be necessary in order to amend the *Children’s and Young Persons Act* (1974) to cater to Maori needs. However, as Richards demonstrates, the Committee did not make any specific recommendations, preferring instead to present a range of principles that they believed should shape changes to the legislation. Furthermore, the original *Children and Young Persons Bill*, precursor to the CYPF Act 1989 made no reference the Committee’s proposals. Finally, Richards relates that Annex 2 of the report focuses specifically on what the Committee believe should be done in regards to child welfare and youth justice practices. In this section, the Committee (1988:54), rather than advocating significant empowerment of Maori to practice their own justice, or ‘control’ responses to their families and youth offenders, clearly stated that “[f]urther, we believe that the establishment of new Courts and special Judges would be unnecessary.” By rejecting any significant changes to status quo, and advocating for ‘cultural sensitivity training’ for court officials, and the construction of a state-centred forum, the Committee was following a strategy with a long history in the colonial context; namely the utilisation of components of Maori cultural practice through a process of indigenisation to provide the appearance of cultural sensitivity (see discussion below and Havemann, 1988; Tauri, 1998).

When considering all the above, it is evident that both the focus of the Committee and the contents of the *Daybreak* report is thus “less romantically - and more prosaically-oriented than ‘restorative justice’ advocates often imply” (Richards, 2007:109). Furthermore, the notion that the FGC forum emerged in New Zealand in response to an "uprising of indigenous communities keen to implement traditional justice processes," is not endorsed by the very report that is often cited within the RJ literature to support this contention. It is, therefore, an exaggeration to declare that the *Daybreak* report is responsible for the
implementation of the FGC forum in New Zealand as supporters of restorative justice often claim. And with this realisation, comes the collapse of the origin myth of one of the most significant forums behind the contemporary globalisation of crime control, especially of restorative policies and interventions.

**Indigenous Response to the Grand Mythologising of Restorative Justice**

Over the past 15 years the origin myth of the FGC forum has been heavily critiqued by critical Indigenous and non-Indigenous scholars alike, including Blagg (1997) and Cunneen (1997) in the Australian context; Lee (1997), Rudin (2005) and Victor (2007) presenting Indigenous Canadian perspectives\(^9\), and Love (2002) and Tauri (1998, 2004) from a critical Maori perspective. These authors expose a number of significant issues including much of the empirical research on Indigenous satisfaction is exaggerated, and that Indigenous experiences of this type of forum do not match the glowing reports of their cultural appropriateness and ability to meet Indigenous aspirations for jurisdictional empowerment reported in the academic literature and through the pronouncement or RJ advocates (for example, see Love, 2002; Tauri, 1998, 2004; and Walker, 1996 for detailed discussion of the exaggerated claims of ‘cultural sensitivity’ in the Maori context). Schmidt and Pollak (2004:133) underline Maori criticisms of both the origin myth and the ‘myth of empowerment’ so prevalent in RJ literature on the FGC forum, when they write that:

‘Maori writers such as Love (2002), Tauri (1999) and Walker (1996) have challenged the popular notion that the adoption of conferencing was a victory. Rather, they argue that FGC has co-opted and incorporated Maori perspectives, leaving intact the structural power relationships within child welfare.’

Much of the government-sponsored research underscores the co-optive nature of the FGC process and the marginalisation of whanau (family) members and ‘cultural experts’ (for example, in the New Zealand context re: FGC practice, compare Morris and Maxwell, 1993 and Tauri, 1998 and Maxwell et al., 2004; and Tauri, 2004). Alternatively, it has been argued that both the 1989 Act and the FGC process were influenced by Governments’ need to be seen to be ‘doing something constructive’ in the face of a perceived rise in juvenile offending, particularly amongst Maori youth, and continued criticism of the operations of the formal system (Richards, 2007; Tauri, 1998, 1999).

Despite the contested nature of the findings of research on the FGC process and its empowerment (or not) of Maori, what is evident is that over the past decade the FGC has become an increasingly popular commodity on the international crime control market.

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\(^9\) In relation to Canada, Rudin (2005:97) demonstrates that much the same myth-making is happening in relation to Eurocentrically-derived ‘indigenised’ programmes developed there, as is happening with the FGC forum, when he argues that: “The belief that sentencing circles are a form of Aboriginal justice displays a serious misunderstanding of the hallmarks of an Aboriginal justice programme...the use of circles was pioneered by judges in the Yukon, particularly Judge Barry Stuart”, and “it must always be kept in mind that sentencing circles are not an Aboriginal justice initiative or programme; they are judge-made and judge-led initiatives”.
This is particularly evident in the settler-colonial jurisdictions of Canada, Australia and the United States of America. It should be noted that all these jurisdictions have significant over-representation of Indigenous peoples in their criminal justice systems. As related earlier, evidence exists that New Zealand’s FGC forum and its Australian derivative were purposely and at times aggressively marketed in other settler-colonial jurisdictions. The marketing of these products was aided significantly by the fact that much of the academic literature uncritically promoted the origin myth discussed previously (see Consedine, 1995; LaPrairie, 1996; Morris & Maxwell, 1993; Olsen et al., 1995 and Umbreit & Stacey, 1996. For more contemporary manifestations of the reiteration of the myths see Maxwell, 2008; Ross, 2009 and Waites, MacGowan, Pennell, Carlton-LaNey & Weil, 2004). The Indigenous origin myth has recently featured in commentaries on the spread of RJ forums across Great Britain and Western Europe (Barnsdale & Walker, 2007), and central and South America (Scuro, 2013). The transfer process appears to be taking place in an organised manner, involving a range of policy workers, franchise companies and RJ advocates. These ‘activists’ are heavily involved in creating viable markets for crime control products through the commodification of ‘culture’, in particular Indigenous cultural practices (see Lee, 1997; Takagi & Shank, 2004; Tauri, 2004, 2013, for analysis of these practices).

Undoubtedly, the exportation of the FGC forum to various Western jurisdictions has been heavily influenced by the arguments discussed earlier. Particularly important is the fiction that the FGC product provides a forum that empowers Maori/the Indigenous Other, and signals the ability of the imposed criminal justice ordering to culturally sensitise itself. This process is driven by the co-option (intentional or otherwise) of Indigenous/Maori cultural practices and the purposeful utilisation of these selected cultural elements (such as ‘circles’) as a key marketing tool for marketing this type of product across Western European crime control markets, and more recently across Asia and Latin America (Tauri, 2013).

**Indigenous Justice and the Fictions of the Restorative Justice Industry**

'The final belief is to believe in a fiction, which you know to be a fiction, there being nothing else, the exquisite truth is to know that it is a fiction and that you believe it willingly.' (Shanley, 1997:685)

Given the previous discussion, what are we to make of the following comment from Gabrielle Maxwell, one of New Zealand’s staunchest advocates, both nationally and internationally, of the FGC forum?

'In New Zealand there has been criticism that family group conferences have not been managed in ways that conform to traditional practice of Maori or those from other cultural backgrounds. It has been suggested that the high proportion of Maori staff managing the process and the inclusion of Maori greetings and blessing is little more than tokenism and can rarely be described as a truly Maori process. This is despite the undisputed origins of
many aspects of the conference process in traditional Maori procedures (Consedine, 1995). On the other hand, on occasion, the management of the conference process is sometimes passed over to a Maori social service group.’ (Maxwell, 2008:87)

In this quote we observe many of the issues Maori and other critical Indigenous/non-Indigenous commentators have identified with much of the Academy and RJ advocates’ writing on the FGC forum. Firstly, the most obvious issue is the claim that the FGC’s Maori foundations are undisputable. The previous discussion, especially the work of Richards exposes that this claim is an exaggeration. In reiterating the origin myth and presenting it as ‘undisputable’, Maxwell ignores a significant amount of literature exposing this fallacy that has been published since Consedine’s book was released. This fact highlights another of the criticisms levelled by Indigenous scholars at some members of the RJ Industry, namely the lack of engagement with the critical Indigenous/non-Indigenous literature (see Tauri, 2012; Tauri & Webb, 2011). Secondly, Maxwell’s own published research on the FGC process contained criticisms by Maori FGC participants with the tokenistic way in which Maori culture was afforded space in the process by state officials, usually confined to allowing elders to recite karakia (prayer) at the beginning and end of the process (see Morris & Maxwell, 1993; Maxwell et al., 2004). This situation is far removed from the claims by advocates that the process provides a meaningful forum for the empowerment of Maori (for example, see Maxwell, 2008). Thirdly, in the above quote Maxwell is replicating a fundamental weakness in the FGC/Maori justice scholarship; namely ignoring the lack of direct Maori input into the design of the Act and the FGC forum. Also overlooked is the fact that officials involved in the developing the process, most notably the chief policy architect, Doolan, have acknowledged that the focus of work on the 1989 Act was never on developing a Maori justice process, or indeed a restorative one.

Restorative justice advocates are constantly, and erroneously equating Maori requests for a ‘traditional forum’ (more especially in Moana Jackson’s 1988 report He Whaipaanga Hou than in Daybreak), with Maori justice philosophies being foundational to the formulation of the forum itself. To do so is to ignore the reality of policy making in the New Zealand context, in particular the historical tendency for the criminal justice sector to indigenise Eurocentric crime control processes (see Jackson, 1995; Tauri, 1998, 2009; Tauri & Webb, 2011; Williams, 2000). It also ignores the fact that the supposed Maori and restorative elements were identified long after the formulation and implementation of both the Act and the forum (Tauri, 2004). As Daly (2002:63) effectively argues “the devising of a (white, bureaucratic) justice practice that is flexible and accommodating towards cultural differences does not mean that conferencing is an indigenous justice practice”. Daly (2002:4) then goes further, revealing that Maxwell herself is aware of this distinction when she includes the following quote from Maxwell and Morris’ original 1993 study:

’A distinction must be drawn between a system, which attempts to re-establish the indigenous model of pre-European times, and a system of justice, which is culturally appropriate. The New Zealand system is an attempt to establish the latter, not to replicate the former. As such, it seeks to incorporate many of the features apparent in whanau [extended family]
An indigenous commentary on the globalisation of restorative justice

decision-making processes and seen in meetings on marae today, but it also contains elements quite alien to indigenous models.'

The Canadian scholar Stephanie Vieille (2012:174) highlights a fundamental flaw in this perspective when she writes that:

'Even though both FGCs and tikanga appear to adopt similar approaches to doing justice, for instance, by putting emphasis on active participation of victims, offenders, and the community, their underlying values differ significantly. This is illustrative of a wider and problematic tendency to equate Indigenous approaches and mechanisms of justice with the all-encompassing restorative justice approach.'

How do we begin to explain the ongoing recitation of the origin myth by RJ proponents, when significant evidence that contradicts it is ignored? In part, understanding the situation requires recognition of how important the origin myth is to the marketability of RJ products like the FGC.

Marketing the Indigenous

In much the same way as Kathryn Shanley in her 1997 article The Indians America Loves to Love and Read, I argue that:

'...we can identify neo-colonial cultural appropriations, thefts of ‘cultural property’ [and that] such cultural appropriations inextricably belong to overall totalisation efforts – the political and ideological domination of indigenous...peoples.' (p. 676; emphasis included)

The appropriation of Indigenous life-worlds is carried out in many different ways, sometimes in a blatant, unapologetic ‘stealing’ of Indigenous artefacts, such as when sports teams utilise Indigenous names and symbols (see recent debates regarding the Washington Redskins, especially in The Huffington Post, 2013), and at other times through sleight of hand, as in the case of the New Zealand state, non-Indigenous academics and, eventually, restorative justice corporations marketing of the FGC process. The sleight of hand terminology is purposeful as it denotes the magic that often forms the basis of criminological musings, and the constructions of crime control policy.

As an Indigenous person I find it easy to understand why Western criminologists, policy makers, academics and private RJ companies seek to appropriate elements of the Indigenous culture context to bolster the marketability of their products. After all, one of the fundamental rules of modern marketing is ‘sex sells', and indeed the Indigenous life-world can be very sexy and erotic. This process - the Western criminological enterprise utilising Indigenous motifs, phrases, practices to indigenise and market their products, should be presented for what it really is, the eroticisation of Western crime control (see Acorn (2004) for discussion of the eroticisation of justice, specifically in relation to RJ).
It is evident that many RJ practitioners and advocates are driven by a desire to do good, but what is also driving this process is the desire to strengthen the marketing potential of products on the competitive international crime control market. But let’s be clear what it is not about, at least in the first instance, the empowerment of Indigenous peoples. Nor is all this activity about returning to Indigenous peoples the ‘gift’ of once again being able to practice our traditional responses to social harm (Tauri, 2013). It is within this understanding of the development of products that are marketable in settler colonial crime control markets, that enables us to begin to answer the criminological question, so what? Why is this issue important both for Indigenous peoples and critical criminological inquiry?

**So What?**


There is growing anecdotal evidence that the global transfer of crime control policy is negatively impacting Indigenous peoples (see Tauri, 2004 on New Zealand and Victor, 2007 on Canada). This is particularly evident in the restorative and youth justice contexts. From a distance it appears that the process is impacting Indigenous peoples in a number of ways, including:

- containment of Indigenous critique of neo-colonial state formal justice systems through the production of state-centred indigenised policies and programmes (Tauri, 2013); and
- blocking Indigenous activities aimed at enhancing their jurisdictional autonomy and ability to develop their own responses to social harm, via the importation of ‘culturally appropriate’ crime control products (Victor, 2007).

In 1997 Gloria Lee, a member of the Cree First Nation in Canada, published an article titled *The Newest Old Gem: Family Group Conferencing*. Lee expressed concerns about the recently imported family group conferencing forum being forced upon Canadian Indigenous peoples at the expense of their own justice mechanisms and practices. In particular she argued that “First Nation communities are vigorously encouraged to adopt and implement the Maori process and to make alterations to fit the specific community needs, customs and traditions of people who will make use of the new process” (Lee, 1997:1). Lee’s concerns with the nature of the importation of the FGC/conferencing process into the Canadian jurisdiction, and the impact it might have on Indigenous peoples justice aspirations in that country have been shown to be valid.

The importation of the FGC forum into the North American context provides a neat case study on the impact of the globalising activities of policy entrepreneurs and RJ advocates. Almost twelve years since the publication of Lee’s article many Canadian Indigenous peoples are still struggling to gain state support for the implementation of their own justice processes. The increasing employment of Indigenous life-worlds in the marketing of RJ products should be considered a significant component of the neo-colonisation of
Indigenous peoples: having faced a sustained period of colonisation, during which their systems of justice were all but destroyed, Indigenes now have to deal with a new colonising project. This particular project involves the purposeful exportation of restorative products from Australasia to the North American continent. The marketing of this product, and others like it, such as sentencing circles, is heavily reliant on exaggerating the Indigenous foundations of the products themselves.

We can demonstrate the potential negative impact of this process by citing just one case study, that of the Stolo First Nation of British Columbia and their experience of the importation of the ‘Maori justice process, FGC’ by the RCMP in the mid 1990’s. Katz and Bonham (2006:190) relate that in 1997, the Royal Canadian Mounted Police adopted a policy which gave the police the discretion to utilise restorative justice. Based on family group conferences used in Australia and New Zealand, as presented around Canada by ‘Real Justice’ advocates such as Moore and O’Connell (Rudin, private communication, 2012), the RCMP subsequently developed guidelines for community justice forums (Chatterjee & Elliott, 2003). The forum that was marketed around North America at the time was based on the police-oriented ‘Wagga Wagga model’ developed by Terry O’Connell (see O’Connell, 1993).

Dr Wenona Victor, a criminologist and activist from the Stolo Nation of the Fraser Valley in British Columbia, underlines the impact the transfer of FGC’s to Canada had on First Nation justice aspirations in that jurisdiction, thus demonstrating not only the effectiveness of the marketing process, but also the concerns Lee expressed in the late 1990s. Dr Victor describes receiving training on implementing FGC within Stolo territory, a process that had been sold to them as “developed by the Maori, the indigenous people of New Zealand”:

’On the first day [of FGC-related training] we all eagerly awaited her [the trainer’s] arrival. We were somewhat surprised to see an extremely “White” looking lady enter the room; however, we have blonde blue-eyed, even red-headed Stolo among us, and so, too, we presumed, must the Maori. However, it did not take us long to come to realise this lady was not Maori and was in fact Xwelitem [European]. Ah, the Maori had sent a Xwelitem; okay, we do that too, on occasion. It is one of the many ironies of colonisation whereby Xwelitem often become our teachers...[t]here are times when it is an Xwelitem who is recognised as the Stolo ‘expert’ and therefore, is the one talking even when there are Elders present. But by the end of the three day training course I was convinced the Maori had lost their minds! There was absolutely nothing Indigenous about this [FGC] model of justice whatsoever!’ (Palys & Victor, 2007:6)

Through the experiences of Maori and the Stolo, we might view restorative justice products such as these in terms of Tsing’s (2005) “packages of political subjectivity”, meaning that they are:

’[C]reated in a process of unmooring in which powerful carriers reformulate the stories they spread transnationally...These packages carry the
inequalities of global geo-politics even as they promote the rhetoric of equality. Those who adopt and adapt them do not escape the colonial heritage, even as they explore its possibilities.'

The exports in question, including the FGC, are seen by some Indigenous peoples, as a welcome and overdue extension of formal state justice processes beyond the Eurocentric bias of its response to social harm, and of enabling ‘other’ ways of doing justice (Hakiaha, 1999; Maori Council, 1999; Quince, 2007). However, we must be careful not to oversell the homogenising impact of these supposedly Indigenous-derived products. We must always be mindful of what Aas (2009:412) refers to as the “geo-political imbalances of power between ‘exporters’ and ‘importers’ of penal policies and interventions”. We need to be wary of the parasitic relationship between some importers (government/think-tank/administrative criminologist/private security company, etc.), exporters (another nation state/government agency) and the ‘customer’, who is all too often a community or an individual who has been given little choice in receiving these cultural appropriated ‘gifts’. As Tsing (2005:76) argues, we should always keep in mind “the particularity of globalist projects”; critically analysing who constructs them, and for whose (primary) benefit they are subsequently exported and implanted on the globalised crime control market.

Final Comments

This paper was intended to contribute to ongoing Indigenous resistance\(^\text{10}\) to the homogenising impact of much of the Western crime control industry’s activity. Hopefully, it will also serve as a wake-up call to criminologists and RJ advocates to ‘get real’ about the often negative impact of their marketing of their products is having on Indigenous peoples residing in settler-colonial contexts (Tauri & Webb, 2011).

The business of crime control is complex, multi-dimensional, global and profitable. Like any business enterprise, participants seek to market their products in ways that distinguish them from those of their competitors, be they franchise companies or policy entrepreneurs from other jurisdictions. As exposed in this paper, one key selling point for the RJ Industry is the supposed Indigenous foundations of key products such as FGC, and sentencing circles. As the saying goes, “sex sells” and the Indigenous world is ‘different’ and erotic, and therefore considered extremely effective for marketing initiatives in

\(^{10}\) One issue I have not dealt with in detail is Indigenous resistance to the ‘travels’ of neo-colonial policies and interventions such as those manufactured by the RJ Industry. That particular topic warrants an entire paper of its own; there simply is not the room here to do the topic justice. However, I wish to state that it was not my intention to imply that Indigenous peoples are always non-responsive recipients of ‘White Man’s Law’. After all, we are not without agency. Sometimes we acquiesce, fully accepting and implementing appropriated products of the ‘West’, and playing powerful roles in their construction, dissemination and utilisation. The periphery is not simply the site of unchallenged reception of imported policies and interventions: it can be, and often is, “a space that defies simplistic perceptions of chaos and social exclusion; it is marked by potential, innovation and creativity, organisation of new social movements and new conceptions of citizenship” (Aas, 2009:415). This we can see playing out in the Idle No More movement in Canada, and the ‘South American Spring’ that emerged in Brazil in late June 2013.
jurisdictions dealing with an Indigenous over-representation problem. The techniques utilised by the Industry has been well identified in the extant literature; be it the appropriation of Indigenous terms and language, or specific, boutique cultural practices. Or, as often happens, providing restricted space for Indigenous cultural practice within Eurocentric, standardised programmes. From an Indigenous standpoint, all this activity amounts to the continued subjugation of our life-worlds, in this case, for the benefit of policy makers, and RJ entrepreneurs.

The impact the globalised crime control market on Indigenous peoples is very real, and at times negative and subjugating. Those making money selling their biculturalised products to state and Federal governments should consider the consequences of the continued appropriation of the Indigenous life-world for the benefit of themselves and the Industry they participate in. Perhaps it is time for all these non-Indigenous profiteers to begin looking to their own cultural contexts for the next ‘big thing’ in restorative practice. After all, we are often told by the demi-God’s of RJ about the lost restorative practices of Western European culture (Weitekamp, 1999), so why the need to plunder our cultural context? Given the contents of this paper, and the growing critical Indigenous literature, they can be sure that the critical Indigenous gaze is now firmly turned towards them.
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An indigenous commentary on the globalisation of restorative justice


WOMEN EXITING PRISON: SUPPORTING SUCCESSFUL REINTEGRATION IN A CHANGING PENAL CLIMATE

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Abstract
The rise in the number of women caught up in the criminal justice system draws attention to what distinct and distinctive strategies are needed to divert women away from the courts and support them to address the risk factors that propel them into offending. This paper discusses how Corrections Victoria in Australia identified particular risk factors that propel women into offending and developed a specialised response to women offenders, with particular emphasis on supporting their re-integration into the community. The Better Pathways Strategy developed in 2005 by Corrections Victoria identified the key importance of housing, employment and family connections to successful reintegration of women offenders into the community. Participation in offender based programmes as well as intervention in physical and mental health concerns, and in alcohol and other drug use problems also influenced women’s self efficacy and thus confidence in their community reintegration. However gender based programmes and diversion responses for women offenders are increasingly being challenged by the rise of the risk paradigm, where surveillance and monitoring draw draws resources away from therapeutic and community based responses. Women are particularly affected given the nature of their social problems brings contact with criminal justice: intellectual disability, mental health, dual diagnosis, drug and alcohol related behaviour problems and homelessness, all of which are classified as high risk. Yet where ‘joined-up’ services have been implemented, they have successfully facilitated transition from prison to community, and reduced re-offending. However, constrained budgets and community disfavour challenge the successful partnerships developed and policy attention which have positively supported this group of marginalised and vulnerable women.

Keywords
Women offenders; community reintegration; risk; corrections policy
**Introduction**

The *Better Pathways* strategy was launched in 2005 by Corrections Victoria in response to a growing number of women entering the Victorian corrections system. In 2011, the Victorian female prisoner population was 322 compared to 248 in 2001, a 30% increase in the population size over this decade (ABS, 2011). In 2012, around 2,200 women were imprisoned across Australia, forming 7.1% of Australia’s prison population (ABS, 2012). This proportion reflects international statistics which demonstrate that women tend to comprise a low percentage of the total prison population. For example, the UK Ministry of Justice reported that women accounted for about 5 per cent (or 3,869) of prisoners in England and Wales in March 2013 (UK Ministry of Justice, 2013).

The implications of women’s imprisonment are far-reaching. Social and economic costs are incurred not only by the women themselves, but by their families - especially their children - who may experience dislocated and disadvantaged lives. The *Better Pathways* strategy is a gender-responsive strategy for women offenders, responding to factors both associated with women’s offending behaviour and those which affect women’s reintegration after their release from prison. Its overarching goals are to reduce women’s offending and re-offending, to reduce women’s imprisonment, and to reduce women’s victimisation. To achieve this, Corrections Victoria committed considerable resources to partnerships between government and non-government sectors to cater for women after their release from prison or on community orders (Corrections Victoria, 2009b). The *Better Pathways* strategy identified a different approach to managing women’s correctional obligations giving greater focus to community supports to assist them with their resettlement in the community for women, and to delivering a more ‘holistic’ response to women, integrating programmes and interventions with the responsibilities women may have (e.g. carer responsibilities) (Corrections Victoria, 2005). The strategy placed great emphasis on community-based court orders and educating the legal and court systems about the utility of community orders, and their ‘fit’ with women and offending.

This article reports on the impact and effectiveness of the *Better Pathways* programmes in reducing women’s re-offending. Central to Corrections Victoria assessment of the progress of the *Better Pathways* strategy is a post-release survey of women exiting the two women’s prisons (one, the maximum security prison; the second, a minimum security, regional-based prison). The survey involved interviews with women just prior to release, and at three months, six months and 12 months post-release, commencing with women exiting prison during the six months October 2011 to April 2012. The study aimed also to better understand the characteristics and issues relevant to women released from prison, the breadth of contributing factors that influence successful reintegration, their service use, and their health (including mental health and substance use) and psychosocial outcomes (including housing, employment, family/child custody).

There is negligible research into women exiting prison in the Australian context; but it believed that although the study is Victoiran, and Australian, in its focus, the women’s experiences of prison and post-release are typical of women leaving prison and resonate across the established literature (see Bloom, 2005;2009). The initial findings flagged in this article offer insights into a range of domains and factors that influence outcomes for women after prison: offending behaviour, reintegration with networks in the community,
employment, housing, participation in post-release programs, reported physical and mental health issues, alcohol and other drug use (Condon, Hek & Harris, 2008). These are insights which lay the groundwork for policy service provision for women and how these might be funded by government. In a climate of reducing and privatising resources and a swing away from committing to gender specific initiatives, it is important to provide evidence about the significance of distinctive responses to women offenders; where these are not heeded there are increased demands on the criminal justice system and the criminalisation of women extended (Bergseth et al., 2011).

**Women exiting prison**

The proportion of women in prison has grown from 5.4 to 7.5 per cent of all individuals in prison (Australian Bureau of Statistics, 2011). In Victoria, by August 2011, when there were 322 women in prison in Victoria (ABS, 2012), overwhelmingly, these women were either on remand or on short sentences. In the years 2009-10, 36% of women in prison were on remand, 7% were on sentences of less than one month, 10% had sentences of one to three months, and 13% of the women had sentences of three to six months (Corrections Victoria, 2010). Between June 2008 and March 2009, there was an increase of 35% in women placed in prison, and factors associated with this increase speak to the distinctive nature of women’s incarceration and the challenges posed for their transition to the community. In Victoria, during the 12 months 2008-09, there was a 41% increase in unsentenced women prisoners remanded in the women’s prison. During the same period there was also a significant increase in women aged less than 25 years (n=35) entering prison, forming 13.1 per cent of the female prisoner population in March 2009.

What this demonstrates is not only an increase in women in prison and thus a greater number of women for whom support is needed after prison. The increased use of remand, and short sentences, points to a decline in the use of diversion and the use of prison as a ‘last resort’ option, some of which flows from the increased offences in drug trafficking and cultivation and the assumed risks of flight associated with such offending. This response to women’s offending and the use of incarceration reflects also shifts in community thinking and sentencing practice and the carefully considered gender specific approaches to women and their offending, the development of which characterised criminogenic policy and research throughout the 1990s and early 2000s.

The use or remand and short sentences compromise women’s opportunities to engage in programmes which encourage desistance. In Victoria, in October 2010 women in remand were one-third of the female prison population, and as a group they are rarely eligible for the programmes provided for women in custody. Remanding women in custody and or giving them short sentences disrupts their resettlement, relationships with children and families and reduces the opportunity to have accommodation or employment in place, creating more problems for women after release and turning away from offending behaviours. Shorter sentence lengths is a particular issue for Indigenous women who generally serve shorter sentences than their non-Indigenous counterparts (ABS, 2011) (as at August 2011 there were 22 Indigenous women of the 322 women in prison in Victoria). Indigenous women are imprisoned more than others for public order offences (ATSISIC 2002). It is an approach which heightens their vulnerability; as a group of female
prisoners, Indigenous women have serious psychiatric issues and are over-represented among prisoners at risk, and at risk of hospitalisation for mental health concerns (Behrendt, Cunneen & Liebesman 2009; SCRCSP, 2009b).

The impact of drug offending is seen in an increase in women in custody with such offences or charges; in March 2009, 39.4 per cent (n=46) women were in custody for a drug offence and 31.6 per cent (n=25) women with robbery offences (Corrections Victoria, 2010). This peak in offences of violence signals a shift in the nature of women’s offending and a changed profile of women in custody, with resulting impacts on programmes to support women reduce re-offending and to manage in the community after prison. The nature of supports for women and the policy developed to provide these is challenged by the changes in the cohort of women coming into prison and what has propelled them into offending. The increase in offences associated with drug use and trafficking are a feature in offending by Vietnamese women, very often associated with males involved in criminal activity, and believed to be linked to settling debts incurred as a result of problem gambling (Reynolds, 2010); and there is a general increase in women prisoners from CALD (Culturally and Linguistically Different) communities. By October 2011 Vietnamese-born women in prison custody in Victoria had increased to 48, forming 15% of women in custody. Not only does this pose particular challenges for support for women and their families, it also reduces any opportunity for diversion from custody and meaningful transitions from custody to community, as up to two-thirds of these women will be deported to their country of origin once their time in custody has expired (DCPC, 2010).

**Risk factors**

Corrections Victoria (2006, p. 7) identified key risk factors influencing the escalating use of custody for women, factors consistent with international research around women and offending (see Bloom, 2005; 2009). Factors relating to health, addiction, trauma, victimisation, debt, family issues and homelessness all created a high level of personal and social need in the women, needs which remained unaddressed both by the community and by customary prison services, and predisposing women to ‘risk’ of offending and imprisonment (McIvor & Burman, 2011; Van Voorhis et al., 2010; Corston, 2007; AIHW, 2010). What was also clear was that the increased use of remand for women with inadequate accommodation and complex treatment and support needs increased risk for women; risk associated with the latter clearly identified by the concerning extent of mental illness and self-harm in the female prison population (Ogloff & Tye, 2007; Tye & Mullen, 2006).

Thus **Better Pathways** focussed on a gender-responsive strategy with close attention to partnerships between government and non-government sectors to meet the needs of women after their release from prison or whilst serving community orders. Particular attention was given by **Better Pathways** to offering practical supports to women, with funding to support women with long-term, affordable, secure housing, together with a suite of wrap around services that assisted them directly with legal and court issues; with family reunification and parenting skills; access to drug and alcohol support ; to education, training and employment ; with financial management (and debt management-particularly with managing utility bills for water/gas/electricity which women may not have paid and

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then be unable to access); and importantly, with independent living skills for those who have been incarcerated for some time and struggle to re-engage with living away from a highly structured, routinised, congregate care setting such as prison (Corrections Victoria, 2007a).

**Programmes for women in Victoria’s prisons**
The Better Pathways strategy developed a range of programmes for women in prison, primarily for sentenced prisoners, with a particular focus on offending behaviour, although there is a range of support/treatment programmes as well as transitional services for women on release. The programmes attend to personal, family and social relationships (mothers and children; dealing with family violence; sexual assault counselling), to specific treatment and support needs (drug and alcohol treatment), as well as to offending behaviour (exploring change; anger management). The transitional programmes focus on case management for women exiting prison with a holistic service aim to incorporate psychological intervention, drug treatment, housing, income support, employment and other related services (Sheehan, 2011). The provision of mentoring from the community is a key component, recognising the considerable support women need to either achieve reintegration or maintain community orders. Investment in this approach was hoped to reduce the number of women coming into prison, thus reducing re-offending and consequent inter-generational exclusion which draws prisoners’ children into a cycle of disadvantage, recognising the harm that comes from loss of housing, contact with families, and exclusion from employment. It was considered that this approach offered a social return on investment, enhancing better outcomes for women and their children (Corrections Victoria, 2007a).

**Housing**
It is well established that that the lack of secure and appropriate housing for women exiting prison results in costly impacts (Malin, 2007; Baldry, 2007). For example, women prisoners may not be able to be granted parole if they have no accommodation, and remain in prison past their parole date. Alternatively, women may be released with no parole conditions but have no suitable accommodation, making it difficult to assist them during the crucial transition period. The Corrections Victoria Housing Project (CVHP) developed transitional housing for women on bail, including Indigenous women, as well as for women after their release from prison, both to divert women from being remanded into custody and assist women after prison transition to appropriate long term accommodation (Corrections Victoria, 2007a).

**Family and children**
It is also well established that where family integration is strengthened, and where accommodation is stable, women transition to community living in a more sustained way (Sheehan & Flynn, 2007; Brown & Bloom, 2009; Wright et al., 2012). Central to this also is financial security, a more challenging prospect for women who very often have been largely unemployed prior to prison, have lower formal education rates and little formal training that qualifies them for work (Goulding, 2007). The Better Pathways strategy pays particular attention to community work programmes for women offenders, given that many women have orders directing them to work in community settings; thus
concentrating on work settings for women which offered skill development that could be transferred to paid employment (Corrections Victoria, 2008). The same principle has been applied to women on community-based orders, where the requirement to fulfil unpaid community work hours as part of orders as well as participating in rehabilitation programs are both directed at enhancing women’s life skills and employment chances (McPherson, 2007). Offering practical support to women offenders on community-based orders is essential to achieve both meeting conditions on orders and negotiating housing, employment etc. Corrections Victoria has implemented specific childcare and transport subsidies to support women with child care responsibilities and access to appointments associated with their orders.

Fundamental to family integration is personal and family safety and the Better Pathways strategy funds a family violence programme to assist women to understand nature of family violence, how it impacts on them and their children and their ability to parent (Stathopoulos, 2012). This programme works with women while they are still in custody so that when they return to the community they have some sense of control over their circumstances, hoping to avoid being drawn back into violent relationships believing there are no other realistic options or support (Corrections Victoria, 2008). Mentoring is highlighted as key to assisting women to transition to the community after prison and women on community based orders; mentors offer practical assistance, and importantly, friendship, and this is a key component of the personal and social supports women need for life after prison (McIvor, Trotter & Sheehan, 2009; Corrections Victoria, 2008).

Responding to women’s needs
Evaluation of the Better Pathways strategy (PriceWaterhouse, 2009) found women offenders and prisoners identified accommodation and family reunification as their highest priorities, with health, education and employment as subsequent needs (Burgess and Flynn, 2013). The women commented that programmes which provided them with supports in these areas or facilitated contact with family had the greatest impact, and the integrated services which indeed assisted with housing, finance and employment were positively rated. The success of the Better Pathways Strategy supported the ongoing reduction in the rate of women in prison with rates of imprisonment reducing during the five years from 2003 to 2008. Both absolute numbers of women in prison and rates of imprisonment reduced over these five years (Corrections Victoria, 2010). Preliminary findings from the post-release survey of women exiting prison 2011-2013 (conducted by Monash University and Department of Justice, Victoria) support these earlier findings; where holistic services offer practical supports and opportunities for changing behaviour, women’s offending is reduced (Trotter, McIvor & Sheehan, 2012; NOMS, 2005; Pearce, 2007). The challenge is to maintain these services in an increasingly complex funding, political and offending context (Gelsthorpe et al., 2007).

The risk paradigm
The tension between risk versus rehabilitation remains a constant challenge. The risk paradigm challenges therapeutic and community based responses to women offenders. Women are particularly affected, their social problems bringing contact with criminal justice: intellectual disability, mental health, dual diagnosis, drug and alcohol related
behaviour problems and homelessness, classified as high risk (Hannah-Moffat, 2005; Stenson & Sullivan, 2001). Risk undermines rehabilitation, imposes a surveillance framework on people and services, draws resources away from therapeutic and rehabilitative programs.

A key consideration in terms of assessment procedures is that given the multiple and complex needs of women offenders, their levels of risk on an assessment tool are likely to be rated as relatively high, which disadvantages women in a system that punishes higher risk offenders (Trotter, 2007). In other words, it is important not to directly equate high need with high risk (Martin, Kautt & Gelsthorpe, 2009). There appears to be widespread concern about this issue and that the distinct and distinctive needs of women offenders have been inadequately accommodated or researched in the development of risk classification instruments (Hardyman & Van Voorhis, 2004; Martin, Kautt & Gelsthorpe, 2009; Orbis Partners Inc., 2006). However, some studies propose that the principle of risk is equally applicable to women and that tools based on studies of mixed populations such as the LSI (Level of Supervision Inventory Revised) risk-assessment tool, used in Australia and other English-speaking countries, could even more successfully predict recidivism for women than for men (Ross et al., 2005; Raynor & Miles, 2006; Andrews & Dowden, 2006; Trotter, 2007).

**Political context**

Joined up services are clearly essential to facilitate transition from prison to community, and women offenders confirm their positive benefit in terms of reducing re-offending and community reintegration. However, such an approach is dependent on a ‘joined-up policy’ commitment across probation, health and housing sectors (Sheehan, 2012). Equally, it is important to challenge increasing calls for more punitive responses to women and offending, and to re-assert the use of diversion and community re-integration. It is important to give community provision prominence, in order to avoid courts thinking the only place women’s needs can be met is in prison, so that prison is not seen ‘as the new social services’ (Gelsthorpe et al., 2007, p. 13). However, despite the commitment from and to Better Pathways, legal and court responses to women have turned away from ‘community first’ approaches; suspended sentences have recently been removed in Victoria (in 2012), which is particular affects women. There is renewed political attention to growing the prison estate, with increased government funding for prison accommodation and less prominence to the community based approaches which women identify as key to their successful transition away from offending (Hedderman, 2004a). Corrections Victoria has committed considerable resources to catering for women offenders, but constrained budgets and community disfavour challenge the successful partnerships developed and policy attention to this group of marginalised and vulnerable women.
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RESPONDING TO ANTISOCIAL BEHAVIOUR IN NEW SOUTH WALES: YOUTH CONDUCT ORDERS
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Abstract
Responding to behaviour from young people that is deemed troublesome but is not necessarily a breach of the criminal law is a challenge in many jurisdictions and this paper discusses responses to young people in New South Wales who engage in antisocial behaviour, specifically Youth Conduct orders, the readiness to resort to Youth Conduct Orders; the terms of YCOs and custodial net-widening. The paper draws links and connections between the policy, practical and legislative responses to ASB in New South Wales and the approaches taken in England and Wales. It argues that in both jurisdictions there has been a disjunction between the public discussion of antisocial behaviour and the ability of relevant authorities to implement the resulting legislation effectively. Effective responses to ASB are often those that are outside the criminal justice system and away from public attention. This paper develops a critical analysis of the political and ideological significance of the problematisation of antisocial behaviour (ASB) and the criminalisation of young people through social policy associated with enforcement driven ASB strategies.

Keywords
Antisocial behaviour; youth conduct orders; youth justice
What is Antisocial Behaviour?

The legal definition of antisocial behaviour in both England and NSW is broad, constantly requiring subjective evaluation (Ramsay, 2004; Millie, 2007:612–614). The definition of behaviour, conduct and circumstances that regulatory policies endeavour to counteract is blurred, which may lead to a net deepening and a net-widening of the juvenile justice system, bringing more young people into the system and at an earlier stage, increasing rather than decreasing their involvement in the juvenile justice system.

Antisocial behaviour is a deliberately vague concept (Brown, 2004). In England, the Crime and Disorder Act 1998 defined ASB as ‘acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household’ (Home Office, 1998). Concerns had been expressed that the proposed Antisocial Behaviour, Crime and Policing Bill uses an even wider, vaguer definition, utilising the phrases ‘nuisance’ and ‘annoyance’ thereby potentially bringing even more young people into the system (Monbiot, 2014). The House of Lords in the UK rejected this new definition in January 2014, returning to the test used in the ASBO legislation. Within the NSW context, antisocial behaviour has not been structured around a set definition, there is no conceptual simplicity, rather a blurring between incivilities and criminal offences. Criminology has long observed that unclear boundaries in deviancy control evade the subject of whether a law has in fact been breached (Cohen, 1985). The development of professions engaged in controlling deviancy leads to more classification systems to create new categories of deviance that then must be filled (Cohen, 1985; Brown, 2004). However, as Donoghue (2010) argues, there has been general public concern about antisocial behaviour and measures to address it have been popular with the public and should not necessarily simply be seen as attempts to extend the social control reach of the state.

The mixing of incivilities and criminal offences raises fundamental questions of justice and civil liberties (see Chakrabarti & Russell, 2008) and can increase public fear and anxiety. Producing a clearer definition of antisocial behaviour would help to unravel the nature and extent of the problems and develop a workable solution. Millie et al. (2005:2) recognised two reasons why it is important to be clear and distinct in how we distinguish more serious criminal behaviour from more minor incivilities. Firstly, antisocial behaviour remedies such as YCOs can forcefully remove the liberty of those on whom they are imposed, and it is important to be clear about the limits to the use of those powers. Secondly, tackling ASB requires strategic thinking and partnership work which, in turn, demand that the agencies involved are clear about the problems they are seeking to tackle.

Youth Conduct Orders in NSW

Responding to behaviour from young people that is deemed troublesome but is not necessarily a breach of the criminal law is a challenge in many jurisdictions, including the UK and in New South Wales (NSW), Australia. The New South Wales government has used Youth Conduct Orders (YCOs) to respond to such behaviour and this article will discuss the application and impact of these orders and will consider some similarities and differences in how antisocial behaviour has been dealt with in England and Wales. YCOs met a
political need for a response to antisocial behaviour but, in practice, have fallen into disuse.

Youth Conduct Orders (YCO henceforth) were introduced by the NSW Government in 2009 as an antisocial behaviour intervention. They were initially established as a pilot project to fill a noticeable enforcement deficit at the level of localised youth crime and disorder by facilitating a shift in thinking to allow the law to respond to behaviour that had previously been considered minor. YCOs could address the increasing impact of a range of behaviours which, individually, might have seemed relatively minor but become intolerable when endured on a daily basis (Bottoms, 2006) The stated objectives of YCOs were to (Nous, 2012):

- Establish a scheme to deal with young people charged with offences under the Young Offenders Act 1997 for whom the Act’s diversionary scheme is not appropriate;
- Address underlying causes of antisocial behaviour by such young people to promote socially acceptable behaviour;
- Provide a co-ordinated multi-agency response to these young people.

The YCO regime is complicated and complex, making the implementation process a lengthy one (Nous, 2012). The Children’s Court has the authority to place a young person on a YCO if they have been charged with or been found guilty of a relevant antisocial offence. YCOs can restrict particular behaviours and movements and it uses coordinated case management to direct young people to participate in constructive activities and intervention programmes (Nous, 2012). The imposition of a YCO is usually not compulsory so those young people who have completed it have willingly engaged with the programme.

YCOs were developed around the institutional classification of risk, whereby young people were considered in terms of the risk they posed to others, and government concern about young people and antisocial behaviour (Cunneen & White, 2011), based closely and explicitly on the use of Antisocial Behaviour Orders (ASBOs) in the United Kingdom. ASBOs were introduced by the Labour Government in the UK in 1999, as part of their policy to extend the criminal law to deal with perceived antisocial behaviour; during the time they were implemented, they were the subject of academic attention and political and public controversy (Millie, 2006). The Antisocial Behaviour Order itself was introduced in the Crime and Disorder Act (1998). It was a civil order, not a criminal order, but any breach could constitute a criminal offence (Muncie, 2009) and consequently bring individuals on such orders back to court. In contrast to YCOs, ASBOs were not specifically targeted at young people but three-quarters of ASBOs were imposed upon young people (Squires and Stephen, 2005). The policy underwent extensive Home Office review which led to significant amendments to the regime, including a White Paper, the setting up of the Antisocial Behaviour Unit and, ultimately, the Antisocial Behaviour Act 2003. This Act also created new interventions, including Parenting Contracts, Fixed Penalty Notices and Dispersal Orders (Muncie, 2009). The policy became strongly associated with the New Labour government so it was no surprise that it was removed in 2010, when Conservative Home Secretary, Theresa May, called it a ‘gimmick’ and announced that Antisocial Behaviour Orders would be withdrawn immediately (May, 2010). However, the practice
of responding to perceived nuisance behaviour by way of high-profile legislation continues; at the time of writing, the Antisocial Behaviour, Crime and Policing Bill is proceeding through the British Parliament (Home Office, 2014).

In July 2013, the NSW Government designed another program called “Youth on Track” to be piloted in selected NSW areas (see NSW Government, 2013). This program is also aimed at intervening early in the lives of young offenders by taking an individualised approach in the form of a one on one case management model. Youth on Track focuses on the risks and needs of young offenders, rather than the actual crime committed. While still in its early stages, since its inception, Youth on Track was projected to capture 300 young offenders but by October 2013 ‘of the 60 young people referred to the Youth On Track service by police, 21 refused to participate’ (Patty, 2013: no pagination). Attorney-General Greg Smith told parliament only 30 children were being case-managed (Wood, 2013).

The Youth on Track model takes into consideration the recommendations put forward by the Noetic Group in their 2010 review of the NSW Juvenile Justice System, particularly the need to focus on ‘early intervention’ and the risk associated with young people (re)offending (see Noetic Solutions, 2010). However the introduction of this programme raises the question of where Youth Conduct Orders are now positioned in the juvenile justice system. Both initiatives aim to ‘intervene’, reduce and prevent further antisocial and criminal behaviour, assess risk and case manage young offenders and provide services that target the specific ‘needs’ of young offenders. Can NSW juvenile justice system have room for both initiatives or will this programme mark another step towards the redundancy of the Youth Conduct Order scheme? The more the system expands, the more likely that young people will continue to be caught up in a variety of programs, contradicting the objectives of diversionary programs to keep young people away from the system.

**NSW Policy Responses to Antisocial behaviour**

The UK antisocial behaviour policy was originally created to provide a sanction for particular behaviours that had previously been considered socially important but legally trivial and so had not been covered by existing legislative powers, and a similar position was taken by the NSW government. The term ‘antisocial behaviour’ was attractive to politicians in the UK as it was vague and elastic but hinted at toughness (Garrett, 2007) and the same concerns were prominent for New South Wales policy makers. YCOs were introduced with a focus on “offences covered by the Young Offenders Act 1997, but for whom the diversionary scheme created by that Act is not appropriate” (S 48A (a) and (b)). These orders were identified as a sanction to assist “in the fight against anti-social behaviour” (Hatzistergos 2008:10488). Of particular concern at the time was the perceived ineffectiveness of existing provisions, such as cautions and warnings, for dealing with young people.

The stated purpose of the YCO scheme may be positive in its attempts to address the underlying factors of young people’s offending. Richard Torbay (2012: no pagination) commented that;

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'...youth conduct orders and the review of the Young Offenders Act are making a difference and have proved effective in pre-empting the flow of young people into the criminal justice system.'

Once a young person has been identified as being eligible for a YCO, they are allocated to a lead agency (such as Health, Department of Education and Training, TAFE, Department of Community Service, Department of Attorney General and Justice), which are responsible for coordinating and monitoring the combined case management process. The lead agency is required to be actively coordinating the case, to develop and implement the case plan, deliver services and monitor progress and ongoing risks that the young person may be confronted with. The 2012 Nous Report shows that all of the 22 young people on Final Orders had at least two additional agencies, with three young people having five agencies that worked together to support and monitor them. This form of intervention has the potential to bring young people further into the juvenile justice system in order to deal with their welfare needs, rather than dealing with established offending behaviour.

The strategy of bringing multiple agencies together in an effort to intensively case manage these young people where it is needed is commendable, as it has been raised by various welfare and social services and there is acknowledgement from community members that ‘antisocial behaviour very often comes from disaffected youth who have been marginalised by society, high unemployment and a clash of cultures’ (Hatch 2013: no pagination). However, linking such support to court ordered conditions such as curfews, non-association (where young people are prohibited from associating with certain other young people) and place restrictions in addition to compulsory attendance at particular programs for up to 12 months runs the risk of setting up young people to fail. All these conditions have previously been imposed as bail conditions on young people but have high rates of breach. Breaching bail conditions leads to incarceration of young people and it is possible that a similar inability to comply with the court ordered conditions of YCOs may also lead to harsher outcomes. Of real concern is the coherence of overall youth justice regime and the possibility that YCOs will dilute and undermine the operation of the Young Offenders Act (YOA) in particular the use of Youth Justice Conferences (which bring together victims and offenders).

YCOs were established as penalties for young people and graffiti, possession of knives, possession of liquor and theft have been highlighted as appropriate behaviours against which an order may be issued (Hatzistergos, 2009). The moral dimension of these orders cannot be underestimated. YCOs were expressed by Hatzistergos (2009: no pagination) ‘a tough new approach to tackling youth crime and getting young people to face up to their anti-social behaviour before they embark on a life of crime’. However this type of intervention is distinct from prior attempts. Previously, the removal of the young people from the environment in which they engaged in their antisocial behaviour was practiced; YCOs are a civil order which seeks to prohibit particular behaviour(s), with positive and negative consequences. It is this YCO condition of negatively sanctioning young people that can cause concern for their experiences with the juvenile justice system. Welfarist approaches have sought to prevent children being tainted by the criminal label, a breach of the YCO may very well result in their return to the court system. The concern here, is in regards to the ready use of such orders, which have led YCOs to be perceived as a risk-
management, punitive and restrictive responses; a measure that blames young people who themselves may be victims and their families.

In contrast to the high profile discussion of ASBOs in the UK, the use of YCOs has received much less public and political attention in New South Wales over the past four years, with limited public information available and two evaluation reports that raise many questions. The NSW Government announced the YCO scheme to be implemented as a ‘careful balance of law enforcement responses to the management of antisocial offences’ (Hatzistergos, 2008:10488).

The Nous Group Evaluations of YCOs
The NOUS Group, an Australian Management Consultancy Company, has undertaken two independent evaluations of Youth Conduct Orders. The first evaluation took place after one year of operation and concluded that the just 5 final Youth Conduct Orders that had been issued at that time were an ‘insufficient’ sample to ‘evaluate the effectiveness of YCO’. (NOUS, 2010:3). Based on the recommendations made in this report, the NSW government prolonged the time frame required to pilot this policy, and also expanded the locations for which the project would cover (now including the medium sized conurbations in Western Sydney of Blacktown, Liverpool, and Macquarie Fields).

In the second and ‘final’ Nous Group evaluation report the evaluators summarised their findings into how YCOs had been used and showed little significant increase in the use of YCOs. Since the commencement of the YCO as a pilot in 2009, 226 young people were deemed eligible for YCOs, of which 106 were in Mount Druitt, 80 in Campbelltown (both areas of Western Sydney) and 40 in New England in northern New South Wales. At the time of the evaluation, 14 young people had commenced final orders, 12 orders had been completed and 14 young people had received interim orders. Of the cohort, 84% were male, 29% identified as Aboriginal or Torres Strait Islander and on average were 16 years of age (Nous 2012:7). Of the 22 young offenders that received a final order, the type of offences varied from ‘break, enter and steal’, to ‘breach of AVO’, ‘shoplifting’ and ‘malicious damage’. Fifteen of the young people were reported to have not re-offended during and following their participation, with an average of 17 month period of not re-offending (Nous 2012:17). The report does not break down the reoffending statistics with regard to those who completed or did not complete the programme but clearly as 12 young people completed the order and 15 did not reoffend there were some who did not complete the programme but did not go on to be convicted of further offences. Considering the traditional political dichotomy and appeal to what works and evidence based policy, these results give way to contesting the effectiveness of YCO in meeting its objectives of providing a diversionary scheme, address underlying causes of antisocial behaviour to reduce reoffending and provide support to young people. The Nous Report (2012:26) indicates that the current evidence is insufficient to determine the overall success of the YCO scheme, and they recommend that the YCO scheme should be practiced for ‘further time’ so that Juvenile Justice NSW can ‘accurately assesses the potential’ benefits of the YCO scheme in the long run.
An interesting aspect of the NOUS report was the description of the alternative methods that were used for young people that were deemed eligible for an YCO but not actually placed on an order. The diversionary alternatives reverted back to the mechanisms that the justice system had in place, such as good behaviour bonds, probation orders and youth justice conferencing. The use of these measures further questioned the need for YCOs; if, based on the data provided, over 168 ‘alternative’ options were used\(^\text{11}\) (2012:10) why was there a need to introduce a new measure of a YCO? What benefit did those young people who had received a YCO achieve ahead of those who were dealt with by the alternative, traditional measures? The Nous Report (2012:10) also highlighted the inconsistencies of the data recording between the locations; that impact on data analysis and possible conclusions. For example, of the cases where alternative methods were used to deal with the young offenders, 51 of these methods were listed as ‘unknown’.

The Nous Report identified a strong tendency to utilise YCOs for Aboriginal and Torres Strait Islander young people. 226 young people had been considered for YCOs since the scheme was introduced, with 66 of those (29%) identified as Aboriginal or Torres Strait Islander. However, of the 22 young people who received final orders, 13 of those (60%) identified as Aboriginal or Torres Strait Islander. In the absence of further data it is difficult to interpret these figures, although they might suggest a ground for concern about a possible unwillingness to divert Aboriginal and Torres Strait Islander young people to other diversionary options. In NSW Aboriginal young people are more likely to be arrested and charged by the police than non-Aboriginals (Cunneen, 2008:50). Research by the Bureau of Crime Statistics and Research (Beranger, Weatherburn & Moffatt, 2010) has reinforced a continued belief that, to reduce Aboriginal contact with the criminal justice system, the focus should be on rehabilitation and assistance with complying with orders. Is it essential to reduce Aboriginal contact with the criminal justice system from a young age, as research indicates that Aboriginal young people are at higher risk of reoffending if they are arrested under the age of 14, making them highly visible and vulnerable to risk prevention efforts (Weatherburn, Cush & Saunders 2007:9). A more positive interpretation would say that Aboriginal and Torres Strait Islander young people are being given the opportunity to complete an intervention programme that has significant positive benefits, including the opportunity to have their charges dismissed. The fact that a YCO is often a non-compulsory intervention, evidenced by Section 48(L) of the Children (Criminal Proceedings) Act 1987 which states that consent by the young person to the order is required (although it can be imposed if the young person is found guilty of an offence) and that some young people and families have continued to engage in it even after the order has completed (Nous, 2012) suggests that it might be that the over-representation of Aboriginal and Torres Strait Islander young people could be seen in a different way than their over-representation in the criminal justice system generally and custodial settings in particular. It would, however, be important to seek more data before settling on a positive interpretation of the statistics (for more discussion of the over-representation of Aboriginal and Torres Strait Islander people in the Australian criminal justice system see the resources provided by the Australian Institute of Criminology (AIC) (AIC, 2014).

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\(^\text{11}\) Some candidates received multiple alternative options.
The YCO policy has positive intentions including its multi-agency, collaborative and cooperative operation between key stakeholders and agencies, including the local police. The policy’s ambitious aims were not only to reduce antisocial behaviour and act as a deterrent, but also to address underlying causal factors of youth offending. A short sample of the 22 participants that reached an interim or final order was provided by the Nous Report (2012) and it identified the leading agencies working with the young people involved. Overall, 45% of the young offenders were allocated to Health as their lead agency to deal with their order and provisions (involving support for mental health issues), followed by five to the Department of the Attorney General and Justice (DAG&J), three to the Department of Education and Training, only one was given to EACH OF the Department of Correctional Services (DoCs), TAFE (Technical and Further Education) and Police as their lead agency. So, it appears that young people with welfare needs are being processed through the criminal justice system to then be referred to welfare agencies to deal with those needs.

A multi-agency approach also provides many advantages for the young people against which action is being taken. This approach allows agencies to collectively address the wide-ranging factors associated with antisocial behaviour, for example unemployment, lack of education, alcohol and drug misuse, and troubled inter-personal relationships. A multi-agency approach therefore assists young people and families to become more socially included within their community and prevent behaviour from escalating into criminal activity (Burney, 2009). It might be that the imposition of a YCO promotes this inter-agency working but, alternatively, YCOs could simply be imposed upon young people who already have a lot of agencies working with them.

**Justice or Welfare? Children as risky or at risk?**

The use of YCOs reflects two distinct political narratives about young people and crime in NSW. On the one hand, young people are scapegoated as the main perpetrators of general disorder and antisocial behaviour. Authoritarian and punitive responses have been invoked such as increased police powers of dispersal of young people (Crawford, 2009). However, there is no clear logic to policy concerning children and young people in NSW, with a second narrative of concern about their welfare being articulated at the same time as concern about their actual or potential deviance. The previous NSW Youth Action Plan pledged to support potential youth contribution, create safer milieus and provide an avenue for leisure and cultural activities (YAPA, 2006). As an individual policy it provided alternative ways of providing interagency support to enhance and cater for young people’s needs and to interact with young people in choices that impact on their lives. However, the NSW Youth Action Plan was situated within a broader set of NSW Government policy objectives that positioned youth as social ‘risks’ and related to issues such as crime, delinquent behaviour, risky drinking, illegal drug consumption and perilous driving (NSW Government, 2013a). Young people are known within the current policy context in paradoxical, conflicting and multifaceted ways. These confusing, and sometimes negative, messages about young people echo the discourse in the UK, where young people were constructed as a separate constituency from ‘the public’ (Garrett, 2007). Young people need to constantly negotiate the differing and often inconsistent
messages of both support and regulation evident among the diverse fields of government policy making.

The NSW Government has recently moved away from a focus on antisocial behaviour within the NSW State Plan objectives, shifting to broader goals including preventing and reducing the level of crime and re-offending (NSW Government, 2013a). The NSW Police Plan (see NSW Government, 2010) continued to maintain antisocial behaviour as a priority for their objectives and performance targets, however the current NSW Police Plan (2012-2016) has also shifted its priorities to creating safer communities, reducing alcohol fuelled violence and reducing crime. These objectives are also contrasted against the previous Youth Action Plan (2006–2010, see YAPA, 2006) that represents a focus in both support and regulation of young people. Such policy developments at the NSW state level demonstrate successive pendulum swings between a punitive approach, and a more welfare-based philosophy.

The tension between care and control is not distinct to the YCO regime; wider policy concerning young people displays this same need to strike a balance between protecting young people from harm and protecting society from young offenders. This complexity of governing young people has been demonstrated by the NSW Government review of the legislation governing the Juvenile Justice System, namely the Children’s (Criminal Proceedings) Act 1987 along with the Young Offenders Act of 1997. The review was established to ‘ensure that the legislation continues to reflect best practice and meets the needs of young people and the community, including victims’ (NSW Government, 2013b).

It seems that within contemporary rhetoric, the young person continues to be considered as a potentially dangerous delinquent. The recent inclusion of YCO demonstrates a clear concern about young people’s offending behaviours and is an outworking of the need to place individual responsibility and accountability of delinquent youths and their parents central to the political agenda. The modern response to high risk young people has been to develop legislation that attempts to address specific problems. Each legislative measure (such as the Young Offenders Act 1997 and Children’s (Criminal Proceedings) Act 1987) identifies and isolates the problem behaviours, holds someone responsible for the behaviours (in most cases the youth or their guardian) and imposes accountability – through restrictive or punitive measures. These initiatives were developed to regulate youth who are at risk of becoming entrenched within the NSW Juvenile Justice System. Despite some efforts to limit the youth control system in NSW, it has in many respects expanded (and continues to expand) and with each additional expansion and the creation of new forms of interventions such as YCO, the social control net widens. This has the effect of widening the net to catch more of the youth population, many of whom would not have been caught if it were not for these increasing social control mechanisms. The use of YCOs could be an example of criminalising young people for political purposes (Cunneen & White, 2011). Net-widening was also a consequence of ASBOs and it led to the capturing of more marginalised and vulnerable groups within the system (Millie, 2006).

YCOs are issued in recognition of individual culpability of the young person, a response that favours justice over welfare, and, as such, has done little to tackle factors associated
with involvement in antisocial behaviour. Constructive action for tackling the causes of bad behaviour has been brought about through the introduction of intensive case management. The order imposes positive obligations upon the offender to address the underlying causes of criminality and avoid a breach of the YCO, which based on current results, have proven to be ineffective. Judge Mark Marien, reiterates this when he commented that ‘too many children are still being brought before the court’ in NSW, suggesting here that young people continue to reoffend (Wallace & Jacobsen, 2012: no pagination).

**Discussion**

NSW requires effective policies against antisocial behaviour, to protect the community from criminal and antisocial behaviour, and to divert young people from the stigmatising court processes. This responsibility goes beyond short-term, day-to-day politics; and requires policy makers to take the responsibility to look at the research to determine what works, to adopt the mechanisms that work and properly resource them. What is not clear is whether such policies require new legislation, or need to be led by justice agencies. The YCO is a politically attractive intervention, of questionable effectiveness, that represents a further increase in the power of the state.

The use of the criminal justice system to respond to antisocial behaviour is detrimental to the interests of young people but also a poor use of the skills and resources of some criminal justice professionals. Matthews et al. (2007:15) suggested that police officers may be of the view that ‘controlling anti-social behaviour was not proper police work and distracted them from concentrating on realising their crime targets’, implicating that many police officers either do not take this issue seriously or do not see it as police work. Furthermore, it has also been argued that when tackling antisocial behaviour the power that the NSW Police holds often allows them to disproportionately dominate via their enforcement ‘gatekeeper’ role to the juvenile justice system (Burney, 2009), as they are able to act quickly and have greater resources. The consistent emphasis placed on enforcement ensures the continuation of a punitive stance towards antisocial behaviour, in which perpetrators are socially excluded rather than included (Young, 1999).

YCOs represent a bubble of legislative policy in which governments are viewed as doing something about crime, as the ‘governmental preoccupation with petty crime, disorder and ASB reflects a sense of “anxiety” about which something can be done in an otherwise uncertain world’ (Crawford, 2002:31–2, cited in Stephen & Squires, 2005:521). Tackling antisocial behaviour of young people swiftly has a more instant impact then utilising long-term obligations to address underlying causal factors (Stephen & Squires, 2005:521). However, the New South Wales YCO scheme has had less of a negative impact when compared with the response to antisocial behaviour in the UK. Criticisms of the UK system are summarised by Muncie and Goldson (2006:37):

'It has been subject to a barrage of criticism such as its merging of civil and criminal law, its ignoring of due process, the eligibility of hearsay ‘evidence’, its criminalisation of incivility and its exclusionary effects.'
They also refer to the antisocial behaviour legislation’s focus on rowdy young people, its geographical inconsistency of application and its ability to bring young people into the criminal justice system even when they have not committed criminal offences. Some, but not all, of these criticisms could be levelled at the NSW YCO regime. It is certainly the case that YCOs extend the reach of the criminal justice system by responding to incivility and nuisance and by utilising criminal justice processes to meet young people’s welfare needs. There is also a blurring of the civil and the criminal law. Whereas the UK system was criticised for its ignoring of due process, the New South Wales approach has faced the opposite criticism of being unduly cumbersome and complex. The complexity of the system is clearly a factor in the low number of eligible young people who have proceeded to completed orders but this is not necessarily a matter for concern. A process that allows a lot of young people to be diverted to appropriate agencies would have a lot to commend it. There are other positives about the NSW Youth Conduct Order scheme. It has referred some young people to appropriate alternative approaches with, it is hoped, some positive impact on their lives. The large number of agencies involved and the emphasis on good communication and interagency working are also positive aspects.

Ultimately, the use of ASBOs in the UK and YCOs in NSW lead us from two different directions to the need to respond to two key questions. Firstly, does a high profile political response to the 'antisocial' behaviour of some young people bring benefits to young people? The answer to that would seem to be a negative one; the NSW government have been able to introduce a regime to respond to such behaviour without the need for the excessive demonization of young people that was apparent in the UK. Secondly, is the involvement of the criminal law a helpful addition to the other remedies available? Here, the limited success of the NSW experience leads to the same conclusion as more troubled experiences in the UK. Where there are positive outcomes they are often led by health, welfare or education and in most cases the best that the criminal justice system can do is to link the young person with the right support. This work should not be underestimated, there can be many reasons why a young person has not previously had access to services, including lack of awareness or a failure to meet entry criteria, and the criminal justice system can facilitate access that otherwise might not have been granted. The imposition of a statutory order may facilitate access to services that might previously have been refused to a perceived risky young person. If the stigmatisation and demonisation of young people represents the worst of antisocial behaviour legislation then this ability to link to services might represent the best aspect of such a regime.
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Young Offenders Act, 1997 (NSW, No. 54).
PARADIGMS FOR REHABILITATION IN AUSTRALIA AND THE SYDNEY DESISTANCE PROJECT
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Abstract
In this paper I reflect on the extent to which Australian jurisdictions have used various theoretical paradigms to inform their rehabilitative practice in recent years and I explore reasons why one approach appears more extensively used than others. In doing so I draw on my experience as Director of Offender Programs in New South Wales between 2004 and 2013. To describe the Australian context, I briefly outline the current Australian criminal justice system and describe how prison and community supervision services are organised. Each theoretical approach to rehabilitation programs is discussed and I then describe the Sydney Desistance Project, an attempt to redress the balance and stimulate work in a relatively neglected area.

Keywords
Correctional programs; rehabilitation; desistance research
Criminal Justice and Corrections in Australia

The settlement of Australia arose in part from the efforts of the British Government to deal with crime and keep their citizens safe by reducing the risk that those who had committed crime would do so again, at least in their native land. Over time, approaches to the issue of reducing this risk have included exposure, punishment, deterrence, incapacitation and rehabilitation (Allen, 2002; Applegate et al., 1997; Freiberg, 1999), and public policy settings have reflected the weighted values of these elements. But in 1788 when the British government began offloading its surplus felons on the shores of the east coast of New South Wales, the policy was not devised on the advice of criminologists but of a gentleman botanist from Yorkshire, Sir Joseph Banks. It continued the practice on and off until 1868 when the last shipment of Irish rebels was brought to Western Australia. The states of Victoria and South Australia were settled by free settlers and did not have convict purposes.

The Commonwealth of Australia is now a federation of six States and two Territories. State and territory courts have jurisdiction in all matters brought under state or territory laws (Commonwealth of Australia, 2013) and handle most criminal matters. Each state and territory legislates independently, with the High Court as the arbiter of the constitutionality of the legislation in cases of dispute. Prison and probation services are constituted and run by states and territories: there is no separate federal or Commonwealth prison or probation services. Where an offender has been convicted of a federal offence, their custody and/or community supervision are the responsibility of the state or territory where the offender resides. According to the Australian Bureau of Statistics, there were 30,775 prisoners (sentenced and unsentenced) in Australian prisons on June 30th 2013, an increase of 5% (1,394 prisoners) from 30 June 2012. This represented a national imprisonment rate of 170 prisoners per 100,000 of the adult population, compared to 165 prisoners per 100,000 of the adult population in 2012. Figures for those under supervision in the community for the corresponding period are not available, but in the June quarter 2011, there were, on average, 54,609 people in adult community-based corrections in Australia, a rate of 314 people per 100,000 adult persons (Australian Bureau of Statistics, 2013). As a comparison, in England and Wales there were around 88,000 inmates in custody in June 2013, a rate of about 145 per 100,000 of population, and some 225,000 persons under the supervision of the probation service, a rate of about 370 per 100,000.

Australian states and territories usually have an agency called variously ‘Corrective Services’, ‘Correctional Services’ or ‘Corrections’. This agency may or may not have a Minister and may or may not be part of a wider Department of Justice or of an Attorney General’s Department. The excellent review by Heseltine, Day and Sarre (2011) gives an overview of the mandates and guidelines for rehabilitative programs in the legislation of each state and territory.

As with other jurisdictions, several of the Australian states and territories have recently sought an evidence base on which to construct programs and services for offenders. The stated purpose of these programs and services varies from jurisdiction to jurisdiction but they are by and large designed to reduce the risk of re-offending and increase the
likelihood of integration into society for ex-offenders. The approaches that Australian jurisdictions have used fall under four headings: 1. The Risk-Needs-Responsivity paradigm; 2. The Good Lives Model; 3. Therapeutic Jurisprudence; 4. Desistance from crime. We will describe each of these in turn and comment briefly on how they have been used in an Australian context. The comments that follow rely on information posted on the public websites of Australian jurisdictions and on knowledge of state and territory systems gained by the author as a former clinician and service manager. For a critique of the adequacy of these approaches the reader is directed to such scholarly accounts as Gendreau, Smith and Theriault, (2009), McNeill (2012) or Polashek (2012).

The Risk-Needs-Responsivity Paradigm
Two hundred years after the landing in Sydney Cove, and in another ex-penal colony, Robert Martinson surveyed the rehabilitation literature as he saw it in 1974 and concluded that there was no evidence that anything that was being done was working to stop offenders who had already offended from committing crime again. It is well known how his seminal paper gave rise to a re-examination of the efforts to encourage rehabilitation, and how that re-examination led to what has come to be called the ‘what works’ literature. This crystallised into the Risk-Needs-Responsivity (RNR) model described by Andrews and Bonta (1994 and five subsequent editions up to 2010).

In the decades following Martinson’s paper, researchers began to examine the truth of the finding that nothing worked, and a literature emerged that indicated how interventions targeting the right clients with the right content, the right duration and the right delivery could impact on rates of reoffending. Meta-analytical techniques were employed to examine series of studies and determine an effect size in studies deemed to meet best practice in terms of design and implementation. Lipsey (1989) and Andrews, Zinger et al. (1990) undertook landmark meta-analyses that showed very significant reductions in reoffending rates with well-designed and conducted programs. Lipsey reviewed programs for juveniles and Andrews and colleagues reviewed programs for adults. Hand in hand with this went the development of a psychology of criminal conduct (Andrews, Bonta & Hoge, 1990; Andrews & Bonta, 1994) in contrast to the sociological criminology that ‘located the cause of crime in the social structure and was more interested in explained aggregated crime rates than individual criminal behaviour’ (Andrews & Bonta, 2010 p.44).

Briefly, the RNR model entails directing interventions to those at highest risk of reoffending, targeting known criminogenic needs, and delivering interventions in such a way as to maximise the client’s possibility of responding to them. It is broadly a deficit model of intervention: the client is found wanting in some way, the service applies an intervention and waits to see whether the client ‘gets better’. If the intervention works and the client gets better, the service measures the time that the improvement lasts. If the improvement is temporary, another dose of intervention may be applied to see whether the client simply needed more. In medicine, where this paradigm originated and prevails, it is tested and validated by the use of randomised controlled trials (RCTs) to avoid causal bias. In correctional intervention literature there are almost no RCTs that this author knows. In correctional terms ‘getting better’ means that the client does not reoffend. The service can measure this outcome in a number of ways: whether the offender
re-offends within a given time band (12 months, 24 months), the actual time until the offender re-offends, the frequency of offending, the relative severity of the re-offence, whether it is violent or not, or whether it is sexual or not.

In Australia in 2003, the New South Wales Department of Corrective Services (now called Corrective Services New South Wales) adopted a set of program accreditation criteria in the Strategic Accreditation Framework (DCS, 2003). These criteria were based on previous sets of criteria from England and Wales, Scotland, Canada and New Zealand and were to ensure that group programs aligned with the findings of the ‘what works’ literature and specifically the RNR paradigm. In 2004 New South Wales also established the Offender Programs Unit (O’Sullivan, 2006) to oversee the implementation of evidence-based group programs across custodial and community settings. At about the same time attempts were made under the aegis of the Australian Correctional Services Administrators’ Conference to compile a set of group program standards to be applicable to all correctional programs in Australia, but although considerable work was done to design and test these, they have not been adopted at the time of writing, nor have most other Australian jurisdictions published criteria for program accreditation. However, a search of the websites of all Australian state and territory correctional agencies using the term Risk-Needs-Responsivity yielded a total of 921 posts, indicating that the terminology has penetrated widely.

The Good Lives Model
The Good Lives Model (GLM) focuses on the reasonable desire of the person to achieve ‘goods’ for him or herself, with crime being largely a perversion of the means by which to achieve them. ‘Goods’ are understood here as ‘good things’ of whatever nature to be enjoyed, rather than objects to be acquired. Ward and Stewart assert that: ‘an enriched concept of needs embedded in the notion of human well being can provide a coherent conceptual basis for rehabilitation and also avoid the problems apparent in the concept of criminogenic needs (Ward & Stewart, 2003a:125).

Ward and Brown (2004) and Ward and Marshall (2004) identified eleven ‘primary goods’. These include such items as knowledge, excellence in play, excellence in work, excellence in agency, pleasure and others. The GLM holds that all people aspire to all the primary goods in some way, but that they weight the relative importance of each according to personal values.

In this model, the successful pursuit of the primary goods leads to increased psychological well-being (Ward and Brown, 2004). The clinician questions the client about their commitments and values and attempts to understand what can be gleaned about these from the offending behavior itself. Once the clinician understands the client’s (in the case of Corrections, the offender’s) view of what would constitute a ‘good life’, a rehabilitation plan is constructed which allows the client to achieve goals in a socially acceptable way. At the same time, the client is helped to address criminogenic needs that might get in the way of achieving positive outcome. The GLM approach has been largely elaborated in Australasia, with its principal proponent, Professor Tony Ward, occupying positions at universities in New Zealand (Victoria, Canterbury) and Australia (Deakin, Melbourne). Its
presence has been most obviously felt in sex offender programs. The GLM has influenced a number of sex offender programs in Australia and has also informed the culture of the Hopkins Correctional Centre in Victoria under the guise of the Better Living Model. In recent years, some authors (for example Ward & Maruna, 2007) have emphasised the practical links, rather than the differences, between the RNR and GLM approach. These links are perhaps more obvious to clinicians than to theoreticians.

A search of the websites of all Australian state and territory correctional agencies using the term ‘Good Lives Model’ yielded a total of 365 posts with 163 of these coming from Victoria.

**Therapeutic Jurisprudence**

The third area of enquiry that informs action on re-offending in Australia concerns therapeutic jurisprudence (TJ). This is an approach to the role of the law proposed by David Wexler and Bruce Winick (1991) in which the legal process itself is considered as an agent that can effect therapeutic or anti-therapeutic outcomes. The act of administering the law is not seen as a mechanism external to the parties and simply delivering judgment, but as a potentially powerful mover in achieving desired change. TJ is ‘a framework for the study of the role of law’ (Birgden, 2002:182) or ‘the use of social science to study the extent to which a legal rule or practice promotes the psychological or physical well-being of the people it affects’ (Slobogin, 1995, p.196). It considers in what way the legal system contributes to a therapeutic intervention with the offender. ‘Therapeutic’ here is used in the sense of being helpful to positive change.

There are several initiatives in Australia that come under the rubric of therapeutic jurisprudence. The first Australian drug court was established in New South Wales in 1999, followed by similar courts in South Australia, Western Australia and Queensland (Indermaur & Roberts, 2013). A follow-up evaluation of the New South Wales drug court (Weatherburn, Jones, Snowball & Hua, 2008) found that it was more cost-effective than prison in reducing the rate of re-offending among offenders whose crime is drug related and that participants had significantly lower recidivism rates than a matched comparison group. An evaluation of the Domestic Violence Integrated Court Model (Birdsey & Smith, 2012), also in New South Wales, found that the court achieved some of its objectives (such as time to finalise matters) but not others (such as the proportions of guilty pleas, bonds or imprisonment).

A related initiative is the Compulsory Drug Treatment Correctional Centre (Birgden & Grant, 2010) set up in Sydney in 2006. Birgden and Grant point out that whilst ‘compulsory treatment law is inconsistent with a therapeutic jurisprudence approach’, a rehabilitation framework has been established at the centre that supports autonomous decision-making as well as physical, social and psychological needs and that has an ongoing judicial input to support progress of participants through the program. An evaluation is awaited.
A search of the websites of all Australian state and territory correctional agencies using the term ‘Therapeutic jurisprudence’ yielded a total of 18 posts.

**The Desistance Paradigm**

While psychologists focused on actuarial prediction of re-offending risk and the RNR and GLM intervention models, criminology and social work approached the issue of re-offending from the point of view of desistance. If it is true that there is no commonly agreed definition of desistance as an outcome (i.e., how long does the offender have to be crime-free to be considered to have desisted?), there is a greater degree of consensus about its processes. Over time, research into desistance has focused on one of two approaches: the ontogenic (maturational) approach or the sociogenic (life course / life event) approach (McNeill & Weaver, 2010). Maturational approaches stress the importance of age and life stage in growing out of crime. Life event approaches stress the importance of significant social turning points such as relationships, parenthood or employment. Since 2001 with the publication of *Making Good: How ex offenders reform their lives* (Maruna, 2001), a third line of research has explored the role of self-narrative in the desistance process. Desistance as a narrative process has to do with the efforts that a person makes, having ceased offending, to establish for him or herself a non-criminal identity in society, to be a ‘regular person’ as opposed to being an ‘offender’ or an ‘ex-offender’. Many scholars are now describing ways in which these phenomena interact in a more integrated fashion (see for example Vaughan, 2007). Fergus McNeill puts it thus: ‘...it is not just getting older, getting married or getting a job, it is about what these kinds of developments mean...to offenders themselves and whether they represent compelling enough reasons for and opportunities to change the patterns of one’s life’ (McNeill, 2009:27).

Research into desistance from crime is an area that is growing fast. Over the last twenty years the number of papers published about desistance from crime has at least doubled in each five-year period. A search of the term ‘desistance from crime’ using Google Scholar on December 1st 2013, shows that between 1993 and 1997 there were 420 publications and from 1998 to 2002 this number doubled to 840 items. This jumped to 2330 between 2003 and 2007, and in the last five years, 2009 to 2012, the number has again doubled to 4740.

Desistance is perhaps of particular interest to community-based corrections professionals rather than to their custody-based colleagues, as many of the variables that have been associated with desistance (such as accommodation, employment and relationships) are potentially available to the offender in the community rather than to the offender in jail. Desistance research provides an alternative paradigm to the Risk-Needs-Responsivity approach described above. It is difficult to identify any initiatives in Australian correctional practice that are explicitly informed by the desistance paradigm and a search of the websites of all Australian state and territory correctional agencies using the term ‘desistance’ yielded a total of 10 posts.
The Penetration of Theory in Australian Jurisdictions: Concept Salience Testing

A comprehensive review of program-related policy-making around Australia is outside the scope of this paper, but concept salience testing may give some indication of how present the theoretical approaches we have just discussed are to those writing and posting documents about the management of offenders and the issue of re-offending. Each Australian state and territory correctional agency has a publicly accessible website on which items of interest or relevance to the operation of the agency are posted. It is reasonable to suppose that posts on these websites concerning theoretical approaches may provide a proxy marker for the relevance of that approach to the policy and operation of the agency. Entering the words ‘risk needs responsivity’, ‘good lives model’, ‘therapeutic jurisprudence’ or ‘desistance’ into the search engine of each website given below on December 13th 2013 yielded the responses which are given in Table 1. New Zealand and England and Wales are included by way of comparison.

### Table 1: Concept Salience of RNR, GLM, TJ and Desistance in Australasian Correctional Websites

<table>
<thead>
<tr>
<th>State or Territory</th>
<th>RNR</th>
<th>GLM</th>
<th>TJ</th>
<th>Desistance</th>
<th>Website searched</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>545</td>
<td>41</td>
<td>1</td>
<td>3</td>
<td><a href="http://www.dcs.nsw.gov.au">www.dcs.nsw.gov.au</a></td>
</tr>
<tr>
<td>Victoria</td>
<td>291</td>
<td>163</td>
<td>15</td>
<td>5</td>
<td><a href="http://www.corrections.vic.gov.au">www.corrections.vic.gov.au</a></td>
</tr>
<tr>
<td>Queensland</td>
<td>73</td>
<td>153</td>
<td>2</td>
<td>2</td>
<td><a href="http://www.queenslandcorrections.qld.gov.au">www.queenslandcorrections.qld.gov.au</a></td>
</tr>
<tr>
<td>South Australia</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td><a href="http://www.corrections.sa.gov.au">www.corrections.sa.gov.au</a></td>
</tr>
<tr>
<td>Tasmania</td>
<td>12</td>
<td>8</td>
<td>0</td>
<td>0</td>
<td><a href="http://www.justice.tas.gov.au">www.justice.tas.gov.au</a></td>
</tr>
<tr>
<td>Western Australia</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td><a href="http://www.correctiveservices.wa.gov.au">www.correctiveservices.wa.gov.au</a></td>
</tr>
<tr>
<td>Northern Territory (*)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td><a href="http://www.correctionalservices.nt.gov.au">www.correctionalservices.nt.gov.au</a></td>
</tr>
<tr>
<td>Australian Capital Territory</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td><a href="http://www.cs.act.gov.au">www.cs.act.gov.au</a></td>
</tr>
<tr>
<td>New Zealand</td>
<td>52</td>
<td>2</td>
<td>0</td>
<td>5</td>
<td><a href="http://www.corrections.govt.nz">www.corrections.govt.nz</a></td>
</tr>
<tr>
<td>England and Wales</td>
<td>72</td>
<td>87</td>
<td>1</td>
<td>84</td>
<td><a href="http://www.justice.gov.uk">www.justice.gov.uk</a></td>
</tr>
</tbody>
</table>

Note: (*) Search engine did not appear to work

Table 1 points to two issues that may be of interest and deserving of further research. Firstly, it indicates that of the eight Australian jurisdictions, only four publicly acknowledge a theoretical basis described in the literature as being related to reducing reoffending. In the other cases, it may be that such a theoretical basis exists but is not mentioned. In the instance of the Northern Territory where, as noted, the search engine did not appear to respond to the enquiry, the author examined the Annual Report for 2013 and found no mention of any theoretical framework despite there being a newly-created Directorate of Offender Services, Programs and Indigenous Affairs (Northern Territory Government, 2013). Secondly, with the exception of Queensland, results indicate that the most prevalent model by far is the RNR paradigm. The GLM is well-represented in Victoria and Queensland, but references to TJ and the desistance paradigm are negligible. This deserves some discussion.

A comprehensive analysis of the use and adoption of different theoretical approaches to repeat offending would be useful to give some clarity to the issue of how the various jurisdictions view their task and the means of accomplishing it. In the present, brief,
review an examination of some posts indicates that in the case of RNR and GLM, there are abundant explanations of what these mean and how they apply in practice. References to TJ and desistance, by contrast, usually amount to passing mentions of the term. Only one post about desistance (Graffam, Shinkfield, Mihailides & Lavelle, 2005) includes a discussion of the meaning and complexity of the approach. More typically, for example, an evaluation of a cognitive skills program for indigenous offenders in Victoria asserts that ‘stable post-release environments contribute to desistance’ without further explanation (Atkinson & Jones, 2005).

There are several possible factors contributing to the way in which the risk-based RNR approach has attained this pervasive presence. The first is that risk-based approaches are attractive to public agencies in that they use a language that is intuitively acceptable to the general public who appear sceptical about the ability of justice agencies to influence offending or promote integration. At a time when more is being written than ever before about how to carry out successful interventions in corrections aimed at reducing re-offending, confidence in the ability of correctional agencies to achieve positive outcomes is extraordinarily low. In a recent Australian survey, Roberts and Indermaur (2009) found that a ‘majority of survey respondents had very little or no confidence in the prison system in terms of rehabilitating prisoners (88%)’. Interestingly, a large majority also reported little or no confidence in the system’s ability to deter future offending, teach skills, or even to provide a form of punishment (Roberts & Indermaur, 2009 p.4).

Some recent examples of public policy initiatives in Australia emphasise risk over management. In New South Wales, the Crimes (High Risk Offenders) Act, 2006 introduced ‘extended supervision and continuing detention’ for high-risk sexual and violent offenders in New South Wales. The stated objects of the Act are ‘to ensure the safety and protection of the community’ and ‘to encourage high risk sex offenders and high risk violent offenders to undertake rehabilitation’ (Section 3:1). The Criminal Code (Criminal Organisations) Regulation 2013 in the State of Queensland declares 26 named motorcycle clubs to be criminal organisations. Associating with members of these gangs places citizens at risk of committing a criminal offence.

The second reason for the popular, almost hegemonic status of RNR is that when, in the mid to late nineties, jurisdictions around the English-speaking world moved to implement evidence-driven approaches to rehabilitation programs, the prevailing paradigm was RNR. In 1999 the UK government created the Joint Accreditation Panel (later the Correctional Services Accreditation Panel) and other English-speaking jurisdictions followed suit. This gave rise to the creation of dedicated units like the Offending Behaviour Programs Unit in the UK (see www.gov.uk) or the Directorate of Reintegration Programs in Canada (http://www.csc-scc.gc.ca/text/plcy/cdshtm/726-1gl-eng.shtm) and later on in Australia, the Offender Programs Unit described above. One of the principal tasks of these bodies was to create and implement a set of criteria against which programs could be accredited for use and to monitor compliance in practice. Perhaps chief among these criteria was the stipulation that programs should be based on a model of change supported by published evidence. Given that these operational measures coincided with the dissemination of the RNR model, the evidence criterion was addressed by explicit reference to the ‘what works’ literature, meaning the RNR model.
The third reason may be that RNR appears to translate easily into correctional programs that can be designed and conducted along the lines of the medical model referred to above. These can be quality controlled and evaluated (although many of them are not): they can be neat and contained. While demonstrably valuable and fruitful in both heuristic and clinical terms, such programs have some limitations. For example, although a number of the criminogenic needs the model proposes are socio-economic (like education, poor pro-social friendship networks and others), the content of interventions offered by this approach tend to target the individual’s thinking about crime. These programs generally use psycho-educational approaches and variants of cognitive therapy. This means that structured interventions such as can be provided by a correctional system can only ever address a small number of identified needs.

The Sydney Desistance Project – work in progress

From the foregoing remarks, it will be clear that research and practice in the desistance paradigm appear to be uncommon in Australia. The Sydney Desistance Project (SDP) will contribute work to this field and is based in the Wentworth Forensic Clinic in central Sydney, a joint initiative of the School of Psychology of the University of New South Wales and Corrective Services New South Wales. The project will provide an ongoing base for researchers with an interest in desistance from crime and its mechanisms. The SDP will focus on so-called ‘secondary’ desistance (Farrall & Maruna, 2004) meaning not just a cessation of criminal activity, but a change in the self-narrative of the ex-offender. We will test the ‘belief in redeemability’ both in the public as in Maruna and King (2009), and also in the desisting and persisting offender populations. We are also mindful of McNeill’s (2009) caution to attend to social capital as well as human capital. The former refers to the capacities that the ex-offender needs to build, the latter to the opportunities that have to be present for him or her to be able to enact their capacities and succeed. In raising the profile of desistance research, the SDP seeks over time to build a database that will permit the longitudinal studies required to test the stability of change in offenders’ lives. A number of studies are in progress.

Study 1 – A narrative study of how clients change their lives

This study explores how people view change in their lives specifically in their attempts to change from committing crime to leading a law-abiding life.

This study is similar to a number of other studies (Maruna, 2001; Presser, 2008) but we believe it is the first to be undertaken in Australia. It is based on life-history interviews with offenders under supervision in the community, whether on parole or on community bonds. Interviews last a minimum of one hour and take place by preference in a neutral setting or in the participant’s home. Interviewees are invited to talk about how they deal with challenging events in their lives and about how change happens in their context. Interviewees are asked to talk about ‘some good things that have happened to you and how you view them’, ‘some difficult or negative things that have happened and how you view them’, and ‘what has helped most to make a difference in your effort to change and make a good life’. They are told that there is no need to discuss their offences in any detail.
Interviews are transcribed and analysed using the Content Analysis of Verbatim Expression (CAVE) methodology (Schulman, Castellon & Seligman, 1989). This is a structured way of analysing text based on the Attributional Style Questionnaire (Peterson et al., 1982). Causal attributions (‘this happened because that happened’) are extracted from the text and coded for the dimensions of stability, globality and internality. The stable versus unstable explanations indicates whether the speaker believes that the cause persists over time. Globality versus specificity reflects the degree to which the causal link affects all domains and outcomes or is limited to specific occurrences. Internality versus externality indicates whether the speaker believes the cause relates to a characteristic of the speaker versus situational characteristics. This study is in preparation and will be submitted for publication in 2015.

Study 2 – Questionnaire construction: pilot study

Life history-based studies such as Maruna (2001) and Presser (2008) yield rich narratives and an abundance of detail but are obviously time consuming. Correctional systems around the world deal with large numbers of clients and have relatively small numbers of offender management staff. The SDP is attempting to provide a quantitative alternative to life history studies by constructing an index to gauge the respondent’s view of the prospects of change. For the first stage of this project, a questionnaire was constructed using phrases reported in the literature. Phrases were gleaned from the published literature supplemented by phrases recorded in interviews with ex-offenders in the qualitative study described above. The phrases were chosen for their face-value relation to the idea of ‘redeemability’, that is, the idea that ex-offenders can somehow ‘buy back’ their place in society through changing their lives. Before use in the questionnaire, the phrases were reviewed for readability and altered where necessary. Thirty seven phrases were listed in the pilot questionnaire with a five-point Likert scale indicating ‘Strongly agree, Agree, Not sure, Disagree, Strongly disagree’. The explanatory note at the top of the questionnaire read: ‘Here are some things that men and women have said about ‘going straight’ and staying away from crime. Please tick the number that best describes how strongly you agree or disagree with each statement in your own life’. Data were collected from attendees at offender group programs in Community Corrections offices. Fifty sets of data were collected for the pilot study and the results are being prepared for publication. Analysis of the pilot data yielded a brief, 10-item questionnaire that will be used in a planned large-scale study with offenders to examine whether patterns of scoring are related to desistance from crime.

Study 3 – Australian public attitudes to desistance from crime

The ability of offenders to make good lives and integrate with the community may well be influenced by the views of the community as to whether they are capable of, and should be allowed to attempt, such integration. Using the 10-item questionnaire from Study 2 as a basis, we constructed a 10-item questionnaire aimed at canvassing opinions about desistance from the general public. The questions aimed to elicit views about: 1) the possibility of change from ‘offender’ to ‘ordinary citizen’; 2) the part that the ex-offender’s own efforts play in this transformation; 3) whether someone who is an offender is in some sense ‘worthy’ to be welcomed back into the community. In January 2014 this was included in an omnibus poll conducted by Newspoll, an Australian market research
company. Over 1200 sets of responses were obtained and are currently being analysed for publication.

Other studies are planned and the project welcomes collaborative projects with practitioners and academics in the field.

**Conclusion**
Judging by posts on the jurisdictions’ websites, four jurisdictions in Australia show signs of having accessed the literature on rehabilitation to inform their practice. In the case of the other four there is no readily available evidence that this has happened, although it may be the case. The approach that appears most frequently is the Risk-Needs-Responsivity approach followed by the Good Lives Model.

However, it is hard to estimate the impact of these approaches in Australia in terms of program outcomes given the dearth of published evaluations. A major recent Australian review of Correctional Offender Rehabilitation Programs (Heseltine, Day & Sarre, 2011), which was a follow-up study to a previous review from 2004 (Howells, Heseltine, Sarre, Davey & Day, 2004) alludes to a number of program evaluations planned or under way, but very few of these appear to have been made public. If jurisdictions have seriously espoused a theory-driven approach or approaches, one can reasonably expect the measurement of predicted outcomes as part of the scientific method. It is possible that although an evidence-based terminology has been adopted, the reality of implementation does not always match the aspiration (O’Sullivan, 2014). Further, more detailed, studies are needed to understand how jurisdictions have used the various theoretical approaches to inform their practice and how they have evaluated the process and the outcomes.

In the case of the desistance paradigm, the Sydney Desistance Project is designed to offer a research-based approach to explore the promotion of desistance from crime in Australia. A number of studies are already under way and publications will be submitted over the coming years. The project welcomes the interest and collaboration of practitioners and researchers.
References


Social Workers and post-sentence detention and supervision - A critical view

In common with other western countries, many Australian state governments have passed legislation which enables the detention of certain offenders beyond the sentence imposed by the courts when they are assessed as posing a high risk of reoffending. New South Wales (NSW) has recently extended this power to offenders convicted of offences of violence and who may also have been assessed as having a high risk of reoffending. In other states the power is restricted to sex offenders.

Leaving aside concerns about the accuracy or appropriateness of the instruments currently used to assess risk, particularly in relation to indigenous offenders; many concerns about the implications and efficacy of such schemes remain. Despite the fact that the High Court in Australia has found that post sentence detention does not constitute punishment, the fact that such offenders are currently housed in prisons and are subject to the regimes of those institutions leaves no doubt that this system is certainly experienced as additional punishment by offenders.

While the numbers of prisoners actually detained as a result of this legislation is low, as many are instead subjected to extended supervision orders, concerns still arise as to the human rights implications of the treatment of one group of offenders differently from others who may be assessed as just as likely to offend. The ethical implications for social workers, particularly those employed by Corrections as probation and parole officers are therefore much greater than those posed by the mere existence of compulsory or mandatory treatment.

The absence of discussion among social workers who may be called upon to implement such policies as part of their work indicates that many may not have a sufficiently clear understanding of the role of the social worker and their ethical responsibilities. The question “who is the client?” is rarely asked and assumptions about the rehabilitative qualities of such schemes may be made without recourse to evidence or to the views of
those subject to the regimes. Given the shameful history in Australia of the role of social workers in implementing what are now seen as genocidal policies such as child removal, it may be that social workers in Australia should face up to the reality of their role as agents of social control and engage in real debate about whether social workers should be involved in such schemes.

Patrick Keyser and Bernadette Mc Sherry12 interviewed human services and medical professionals – 8 social workers were involved - about their concerns about these schemes. Prominent in the responses was the recognition of the lack of an adequate evidence base for these practices. While proponents of the type of psychological programmes currently required of these offenders claim small but significant improvements in rates of recidivism, it is of concern that many programmes have not been adequately evaluated. Many of the post sentence detention cases in NSW demonstrate that completion of such programmes is a mandatory requirement and that DCSNSW refuses to provide programmes in the community, thus requiring the community to foot the bill for the provision of programmes inside prisons at much higher cost. This practice contravenes the need for evidence based practice, as it has been shown that programmes outside prison are much more effective in rehabilitation.

The other important concerns for social workers reflected in Keyzer and McSherry’s study are the human rights implications of the legislation. In spite of the High Court’s decision in Fardon, many of the respondents were concerned that imprisonment on the basis of unreliable risk assessment may breach international human rights standards. A particular concern in this regard is the use of anti-androgen medication, commonly known as “chemical castration.” Again, the evidence as to the efficacy of this practice is debatable at best, and the characterization of a coercive practice that causes serious side effects as “treatment” is of concern. While social workers may not be directly involved in the prescription or administration of this medication, their involvement in case planning which includes it implicates them in a practice with highly punitive and damaging side effects.

The real question is whether social workers need to examine their role in the maintenance of regimes that may conflict with their professional and ethical responsibilities to their clients. Silence on the damaging effects of their role as agents of social control is particularly concerning in Australia, given its shameful history in relation to the indigenous population. The prominence of Aboriginal offenders in the Australian prison population makes the analogy even more appropriate, as many of the offenders being subjected to these schemes are Aboriginal. Space does not allow a discussion of the many concerns about the use of risk assessment instruments with this population, suffice it to say that they are more likely to be assessed as “high risk” than other offenders.

While sexual and violent offenders are not likely to elicit sympathy in the current punitive social and political climate, it is arguable that it is even more important for social workers and other criminal justice practitioners to carefully examine work with stigmatized and

demonized populations to ensure that practices align with evidence and the ethical basis of our profession.

**Good intentions and bad outcomes: Violence and intoxication in Australia**

The image of alcohol related violence which resonates with the Australian image of a heavy drinking “macho” culture was recently epitomised by a series of violent “one punch” assaults resulting in the death of the victim. As is common in criminal justice in Australia, a media outcry resulted in a flurry of legislative activity. In a classic example of media- fuelled penal populism, the New South Wales (NSW) state government rushed through laws with mandatory minimum sentences for assaults causing the death of the victim and an aggravated version when the offender is intoxicated. However, the speed of the drafting and implementation of the legislation has led to concerns. Adding a new homicide offence without adequate consideration and consultation may pose more problems than it solves. It is notable that the purpose of the act was expressed by the Premier of NSW to be “to deal with violence on our streets” and no mention was made of other types of alcohol related violence.

Intoxication is a contentious and complex notion in NSW law. Only relevant to mens rea in relation to offences of specific intent, other legislation such as the sexual assault provisions reflect a policy stance that self- induced intoxication should not be used as a reason to deny culpability. Indeed, if the victim is intoxicated, this fact may negate any consent claimed by the defendant. However, if the offence is assault with intent to cause grievous bodily harm, the intoxication can be relevant to a consideration of mens rea or intent. Already, the existence of self -induced intoxication cannot be used as a mitigating factor in sentencing, and controls around alcohol use have never been stronger. The new offences view alcohol more clearly as an aggravating factor than any other offence except those concerned with driving.

At the same time as the public outcry around street drunkenness and violence a much more insidious form of violence has been festering away out of the spotlight. Violence against women continues to wreak havoc with the lives of women and children. Recent statistics from the Bureau of Crime Statistics in NSW show that, contrary to trends in all other offence categories, the number and rates of women subjected to domestic violence are higher than they have been in 15 years. Three quarters of the women murdered in NSW are killed by their abusive partner or former partner. Police received an average of 74 calls per day related to domestic violence in 2013. Alcohol related violence is present in 44% of intimate partner violence and 87% of cases involving indigenous victims, according to the Australian Institute of Criminology.

The public gaze in Australia appears to be more outraged by the spectacle of public violence than that occurring in the shadows. In a terrible irony, it appears that in Western Australia, where “one punch laws” similar to those in NSW have been in place for some time, the main effect has been to allow domestic violence perpetrators to avoid more serious charges. This is not to say that there have been no attempts to improve the way
the legal system responds to intimate partner violence. In Victoria, abolition of the common law partial defence of provocation and the creation of a category of “defensive homicide” has led to a further terrible irony – this law which was intended to provide further options for women who kill following domestic violence has merely provided another option for domestic violence perpetrators to minimise their culpability. The Victorian government has recently announced its repeal.

NSW has recently amended the law around provocation and now requires “extreme provocation”. It remains to be seen whether this is a more successful approach to preventing men from justifying violence and allowing women to use the partial defence more successfully in domestic violence situations. The new Bail Act in NSW has replaced a complex set of presumptions attached to offences with a “risk assessment” based approach. However, the “unacceptable risk” test has already led to media reports of an alleged wife murderer being granted bail. Removing the connection to the offence and replacing with a “risk to the community” test may simplify matters, but it remains to be seen as to the effect on the protection of female victims of domestic abuse. In NSW, police can now take out Apprehended Violence Orders, and the creation of a new offence of “strangulation” (previously characterized as “assault”) may be seen as positive steps.

However, recent changes to funding of services to survivors of domestic abuse has meant that many smaller agencies in NSW have been unsuccessful in tendering processes which favour large, corporatised and often religious and church based charitable organisations. Long standing services with strong community roots, such as Elsie’s, the first women’s refuge in NSW, are either closing or being swallowed up by religious organisations, such as St Vincent de Paul. Six districts out of 15 will have no refuges for women fleeing violence – including Bourke, with 10 times the state’s domestic violence average, Walgett, with nearly 20 times the average, and Wilcannia, with 14 times the average.

Despite the public outcry about alcohol related street violence, domestic violence elicits a more muted response. The road is littered with failed legislative attempts to help victims and current Federal and State government policy is limiting funding to support services. Concentration on public order offences continues to maintain the public/private dichotomy that contributes to the ongoing failure to address the epidemic of domestic violence.

**UK COMMUNITY JUSTICE FILES**

*Edited by Nick Flynn, De Montfort University*

**Sentences in The Community: Reforms to restore credibility, protect the public and cut crime**

The Centre for Social Justice, a think tank co-founded by Conservative MP Iain Duncan Smith, has published a report highly critical of community sentencing in England and Wales. Intended to contribute towards the success of the Coalition Government’s Transforming Rehabilitation Programme, the report published in May 2014 argues that “sentences served in the community are currently proving ineffective, and are suffering
from high reoffending rates and low public confidence” (p. 9). Reasons for the failure are identified as:

- Offenders not successfully completing sentences through termination due to non-compliance and/or reoffending;
- A lack of basic information on the outcomes of sentences provided to magistrates to inform future sentencing decisions;
- Long waiting times before offenders commence community sentences;
- Drug Rehabilitation Requirements which do not ensure abstinence.

Accepting that the Transforming Rehabilitation Programme will introduce innovation to the delivery of probation services, the paper “seeks to contribute towards the success of these reforms by setting out the current challenges facing sentences in the community and presenting ideas on how to make them more effective in reducing reoffending” (p. 6).

Solutions recommended to rectify weaknesses in the community sentencing system include:

- guaranteeing sanctions of imprisonment are made swiftly (within 24 hours of breach) and are proportional to the frequency and the manner in which offenders fail to comply with the requirements of community sentences;
- implementing a system of court reviews by which magistrates can assess the progress of community sentences;
- providing magistrates with information on offenders who breach and/or reoffend;
- ensuring the period of time between sentencing and commencing a community sentence does not exceed one month;
- introducing randomized drug tests for offenders on Drug Rehabilitation Requirements;
- enabling families and mentors to support offender rehabilitation, for example by attending probation meetings.

*Sentences In The Community: Reforms to restore credibility, protect the public and cut crime* can be found at:

**Personalisation in the Criminal Justice System: What is the potential?**

A very different analysis of the reforms to community sentencing being pursued presently by the Coalition Government is contained in a new policy briefing paper published by the Criminal Justice Alliance. Central to the paper is the question of whether it is possible for the criminal justice sector “to promote individual choice and control, given the need for deprivation of choice implicit in the very concept of punishment” (p. 1). Rather than prioritize increased compliance and the certainty of penal sanction as the Centre for Social Justice does, the paper focuses on improving relationships, active citizenship and opportunities for offenders to make their own choices, for example in respect to
education, training and employment opportunities. Drawing on reforms made to the social care sector some twenty to thirty years ago which resulted in the decarceration of disabled and mentally ill people from long stay hospitals into community living arrangements, the authors argue that a new agenda of ‘personalisation’ can motivate offenders to change and make positive progress towards rehabilitation.

As well as community care, the concept of personalisation is grounded in two related criminal justice ideas: first, the ‘Good Lives Model’ of criminal desistance which affirms the importance of allowing offenders to make certain decisions for themselves; and second, ‘Justice Reinvestment’, the idea that local community settings, if properly resourced, can provide opportunities for local agencies to work together to support the rehabilitation of the high number of offenders who live in high crime communities. At issue is whether this progressive agenda of personalisation and local community development fits with the Transforming Rehabilitation reforms currently being made to probation. On the plus side, it is argued that Transforming Rehabilitation and the new payment by results funding mechanism on which it is based, reduces the requirement of providers to deliver services to offenders in ways previously determined by government, so encouraging greater innovation. And yet, as the capital investments necessary to meet the risk of not receiving payments for reducing reoffending are likely to be met only by large, commercially driven, private sector companies, community and voluntary groups, the front line organizations that tend to drive social innovation, will be marginalized. The paper concludes that transforming culture in the criminal justice system is the most significant challenge facing the roll out of a personalisation agenda... “It involves the managed transfer of power from monolithic state organizations to professionals and then on to end users and requires trust to be built in users’ abilities to manage those resources effectively” (p. 14).


Tension between national and local governance is also identified as a major challenge facing progress towards a more innovative criminal justice system by the House of Commons Justice Committee in their recent report on crime reduction policies. The report asserts that “the Home Office and the Ministry of Justice... overemphasise the significance in attempting to reduce crime of measures taken entirely within the criminal justice system” (p.68). In particular, “the incapacitation benefits of putting people into prison for longer... taking into account also the sometimes counterproductive impact of imprisonment on reoffending, remains largely unanswered” (p.67).

A lack of research is emphasised. The report notes that since 2010, recorded crime rates have been falling but there is no clear understanding within Government circles to account for this downward trend. Also underlining the merits of Justice Reinvestment, the Committee is keen to emphasise the contribution of local, community based crime
reduction activity. The “evidence highlights the clear benefits of collective ownership, pooled funding and joint priorities for crime reduction” (p. 69). And again the impact of ‘Transforming Rehabilitation’ to hamper progress towards this goal is a key area of concern. The report notes the following:

Nationally-commissioned rehabilitative services seemed to some of our witnesses to be out of kilter with the Government’s stated commitment to local, responsive services, and could disrupt the progress that has been made in developing these... The new probation providers introduced by the Transforming Rehabilitation reforms, and the new National Probation Service need to support this approach and to avoid undermining it. There is scope for truly integrated localised approaches, but there is a danger that their development will be inhibited by the extent to which national management remains a feature of the criminal justice system. (p.69)

The report ends with a note on political rhetoric. Also advocating a shift in culture, the Committee warns that “the language used by politicians when talking about crime... can create unrealistic expectations, conceal the value of programmes that are more effective, influence sentences inappropriately and demoralise or discourage those working to achieve rehabilitation and cut offending” (p.73-74).

BOOK REVIEWS
Edited by Marian Duggan, Anne Robinson & Jake Phillips

THE ANATOMY OF VIOLENCE: THE BIOLOGICAL ROOTS OF CRIME

The name Lombroso is seen differently in Adrian Raine’s latest book, Anatomy of Violence. Within the field of criminology, it is general knowledge that though Cesare Lombroso brought scientific methodology to the study of crime, his findings are widely discredited as they posit that criminality is genetic and is identifiable through many physiological features. But with Raine’s ability to shift once infamous ideas into thought provoking ones, Lombroso is depicted as a criminologist who had the right idea regarding the origins of crime.

In Anatomy of Violence, Raine sends the reader on a journey of developments in neurocriminology, arguing for the consideration of biological factors in crime policy. An unusual but refreshing combination of autobiography (the reader learns how Raine established his interests in the biology of crime), quirk (comic book hero Tintin is involved) and honesty (sometimes he admits that the relationships for crime and violence are complicated), the book clearly demonstrates Raine’s passion and enthusiasm toward his research. Unlike a standard academic text that exclusively targets fellow scholars, Anatomy of Violence is an open invitation for anyone interested in crime.

The approach is reminiscent of an amicable conversation between a teacher and student. The writing style acknowledges the reader, using plenty of “you”s. Raine aptly fuses mainstream references and his academic work to create accessibility to his lifetime’s work, a skill that tends to be lacking in academia. Understanding plays a major role in the exchange as Raine provides numerous examples, stories and hypothetical scenarios for the reader to follow along. In a way, it is interactive, and the reader finishes the book knowing just as much about Adrian Raine as about his research, demonstrating that his life is intertwined with his work.

Raine showcases ground breaking studies he and his colleagues have conducted, from abnormal areas of the brain to malnutrition, supporting evidence that crime, particularly violence, has a biological basis. But Raine is also honest with the reader. He points out the findings’ limitations and contradictions and carefully emphasises that biological factors are not the only culprits increasing the likelihood for violence. Rather, the social environment
plays an important interaction with biology to either protect or place individuals at risk for violence.

The challenge for Raine is how to convince a sceptical reader that genetics and bad brains are responsible for some of the most horrendous and sensationalised acts of violence. The idea of a biological basis for crime is controversial and Raine mentions a panel he attended where protestors broke in and denounced him as racist despite having his study sample as all Caucasian Dutch. The inferences from this research are also disturbing: according to his work, free will is an illusion and policy implications hint dystopia. But without genuine understanding of Raine’s work, the visceral reaction is one of instant repulsion because biological factors are associated with the notion of fixed fates and actions that are beyond one’s control. However, like the psychologist that he is, Raine is already aware of his reader’s mind and impressively addresses all concerns, misunderstandings and fears that arise from the neurocriminological literature. He anticipates these throughout the book and offers counterpoints that leave the reader pausing. For instance, in the concluding chapter, Raine sends the reader to an alternate reality where governments fund programmes that rehabilitate prospective violent offenders called LOMBROSO. Critics would argue that such programmes deny basic human rights, a return of eugenics. However, Raine points out that in the current climate, criminals are imprisoned and denied the right to send or receive sperm, a form of passive eugenics. Few are aware of this point and it shifts one’s original perspective.

Raine persuasively argues his point, leaving the reader convinced that there is credence in biological factors for violence. The question is to what extent? Raine does not make it particularly clear as at times, he dazzles the reader with evidence supportive of biological markers for violence, only to add caveats that the relationships between biological factors and violence are complicated. As a result, some may accuse Raine of lacking a stance. Others may find his approach as a honest and accurate depiction of criminological research. Although the middle of the book seems to teeter between uncertainty and support of neurobiological factors for violence, Raine makes it clear in his conclusions that there is strong evidence for the influence of neurobiological factors on violence—Fish eating and low resting heart rate included.

*Anatomy of Violence* is a reflection of extensive thoughtful research from one of the most prominent criminologists. It is hard to believe that decades ago, without tenacity and enthusiasm, this research may never have come to light.

Laura Bui, PhD Candidate, Cambridge University
THE MODERN PRISON PARADOX: POLITICS, PUNISHMENT, AND SOCIAL COMMUNITY

Lerman opens her book with a persuasive analogous retelling of the now infamous Stanford Prison Experiment after which Philip Zimbardo, the study’s principal investigator, concluded: ‘We had created a dominating behavioural context whose power insidiously frayed the seemingly impervious values of compassion, fair play, and belief in a just world. The situation won; humanity lost’ (p.3). She uses this to lay the groundwork for her assessment that the American prison system, and California in particular, have produced a contemporary criminal justice paradox: ‘the crime control politics of the past half-century have given rise to institutions that (re-)create the conditions that arguably gave rise to criminality in the first place, and they do so in a particularly intense and toxic form’ (p.12).

The Modern Prison Paradox examines the relationships between prisoners and prisons, the rising influence of politics on punishment, and the impact these have had on the social community over the past fifty years. Her primary argument is that ‘the social ties forged in prison ultimately foster social norms that are anathema to broad-based, cooperative community engagement’ and ‘the result is that, by sending people to increasingly punitive and dangerous prisons, we do not resocialise them into the norms and roles of American culture. Rather, we socialize them into the norms and roles of prison culture’ (p.12). Lerman presents data from multiple sources specific to the state of California to provide evidence of how the varying cultures developed within prisons result in varying effects on people, institutions, and communities. Although focused on the American correctional system, the analysis is universally applicable and relevant, especially in the UK, as the prison population continues to rise and overcrowding, the building of Titan prisons, and politics are influencing the penal landscape more and more.

The book departs from existing literature and research in four important respects: it centralizes the state by establishing it as a key player in shaping citizenship; emphasizes institutional variation through the ways in which some prisons have more damaging effects than others; goes beyond ‘just’ inmates to explore the impact of correctional environments on officers and their lives; and tests causality at these individual levels. Lerman stresses that, ‘This book is about prisons, but it is also a broader story about why political institutions matter for how citizens come to view their social world, how they interact with others, and how they experience and respond to the particular context in which they are placed’ (p.23).

The first three chapters review the changing use and culture of incarceration, how these act as a reflection of shifts in political values and priorities (the ‘politicization of American corrections’), and how institutional characteristics influence civility, as well as social networks and social norms of citizens. Lerman contends that prisons, along with other institutions of crime control, teach people that certain attitudes and behaviours, rather than others, are normal and ‘role appropriate’, and that ‘prisons can powerfully reshape social identity and orientation toward the broader social world’ in both positive and
negative ways (p 58). The ways in which prisons promote the ‘dark side’ side of social capital (e.g., prisons as schools of criminality) is interwoven throughout.

The subsequent four chapters present her methodologies and data, with substantial analytical discussions regarding the social effects of incarceration and prison work, and how those living and working within prisons transmit these effects to outside communities. For me, ‘The Social Effects of Prison Work’ is the most compelling chapter, as it attempts to unpick the complex professional roles of prison officers, to what extent they produce distinct institutional cultures, and how these impact on officers’ lives within the community. Lerman’s analyses reveal several noteworthy findings that carry important implications for institutional reformation. For example, when examining the attitudes of guards, their orientation towards prisoners, and workplace satisfaction, she finds that ‘for those who work within more punitive prisons, daily experiences can be conducive to the construction of strong social solidarities with peers, while simultaneously incubating a broader sense of distrust’ (p 124) and that ‘officers at higher-security prisons are more likely to believe that incarceration in the prison where they work has a detrimental effect on inmates’ (p 132). Her analysis also shows that ‘prison context appears to have a significant effect on attitudes toward rehabilitation programs but no effect on attitudes toward rehabilitation as a professional ideology’ (p.142).

As we continually revisit, and struggle with, what the purpose and goals of prison and punishment are and should be, we often fail to recognize the significance of prison officers in the process and delivery of ‘justice’.

The findings presented in The Modern Prison Paradox bring to light two important features of the prison experience: prisons are socializing institutions, and prisons are social institutions; indeed, they are not hermetically sealed storage areas, rather, they are ‘small communities unto themselves, and the context of life inside these state institutions has important consequences for the kinds of people they produce’ (p 7). Lerman’s work continues to impress me, and this book does not fall short. Anyone interested in the ramifications of often damaging institutional practices, and potential solutions toward reforming them, should read this. It is beautifully written, and the author’s passion shines through, especially in the epilogue. In the final pages she poses a challenge that all practitioners, researchers, and students should continually contemplate: ‘The question, then, becomes how we create institutions that encourage the kinds of thought and action we hope to achieve’ (p 200).

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13 I would be remiss, however, if I did not suggest that substantial research in this area has and is being carried out in the UK, and I refer specifically to the studies conducted by Alison Liebling and her colleagues. Their work on prison culture and its effects on suicides, institutional performance, wellbeing, and the work of prison officers could have advanced the analysis and provided a valuable avenue in which to further examine how culture impacts those who live and work in penal establishments.
WOMEN EXITING PRISON: CRITICAL ESSAYS ON GENDER, POST-RELEASE SUPPORT AND SURVIVAL

The damaging impact of women’s imprisonment has been a focus of international attention for many years. The punishment of women, many of whom have been criminalised as a direct result of their attempts to survive poverty, violence and abuse, has been highlighted as a phenomenon that is replicated internationally, and one which continues to perplex policy-makers, politicians and academics. The ‘revolving door’ appears to be an international phenomenon, where women are given short-term prison sentences for minor but frequent offences (often related to addiction); such sentences do not provide sufficient time for interventions within the prison (if such facilities exist) to take effect, but do effectively and consistently ensure that women will accrue additional problems as a direct result of the period of incarceration. Internationally, reforms have been implemented with little visible effect; leaving activists and abolitionists struggling to ameliorate the damaging effects of prison as they are experienced by individual women, while at the same time, waging ongoing campaigns for a broader abolitionist agenda that links into their calls for wider structural reforms.

Women Exiting Prison engages with these debates by focusing on the issues facing women as they leave prison. The post-release period is considered as one aspect of a lifetime trajectory; and a potential opportunity for individual (ex) prisoners to make a new start in their lives. This state of transition is referred to in official-speak in a variety of ways: ‘reintegration’, ‘through-care’, ‘re-entry’. However, as this edited collection of critical essays highlights, unless the circumstances that impacted on the lives of women prior to imprisonment are addressed, their chances on the outside are likely to be limited. The provision of adequate post-release support often appears to be lost in wider preoccupations with penal policy and ‘effective interventions’. The international dimension of the ‘post-release and reintegration industries’ (Carlen and Tombs, 2006) is referred to throughout the book; as is the significance of ‘intersectionality’ where multiple structures (gender, class, race) interact.

Drawing upon international research, this edited collection highlights the variable policy attention directed towards post-release support and the subsequent allocation of resources. Contributors draw upon examples of prison exit from the United States (Bumiller, chapter 1; Shaylor and Meiners, chapter 9); Australia (Carlton and Baldry, chapter 3; Baldry, chapter 5; Kilroy et al., chapter 8); Canada (Hannah-Moffat and Innocente, chapter 4); England and Wales (Kendall, chapter 2; Corcoran and Fox, chapter 7) and Northern Ireland (Kerr and Moore, chapter 6). The introduction (Segrave and Carlton) and postscript (Carlton and Segrave) set the context of the book by focusing on gendered transcarceral realities; and the significance of a radical vision for system and social change.

While each chapter provides a thorough account of the circumstances facing women post-release within these national contexts, a number of themes are evident throughout the
book which powerfully illustrate the international limitations of reforms initially intended to reduce the imprisonment of women but which actually serve to increase or to draw more women into supervisory and surveillance measures. Bumiller (chapter 1) highlights this process with her analysis of the links between re-entry and labour markets, illustrating the overlap between welfarist and punitive state institutions in the US. The international congruence of penal policy operating as a form of social control is evident with specific impact on marginalised groups. Baldry (chapter 5) powerfully evidences the impact of penal policy on indigenous women in Australia, directly resulting from the colonial past and its continuing legacy. Her account of the impact of systemic discrimination clearly illustrates the structural impacts that govern individual experiences. Kerr and Moore (chapter 6) highlight the effects of post-conflict transitions and the impact of this on systems of punishment, as mediated by gender. Kendall (chapter 2) illustrates how the implementation of the Corston Report, despite good intentions, has served to expand punishment within a neoliberal structural context wherein voluntary service providers are co-opted into wider systems of punishment. The ongoing individualisation and responsibilisation of women is highlighted by Hannah-Moffat and Innocente (chapter 4) who illustrate the tendency of parole boards in Canada to individualise women’s needs, thus deflecting attention from system issues in the process.

The book powerfully illustrates the way in which systems of criminalisation impact on women and the harmful effects of this for women and communities. Contributors provide rigorous accounts of the way in which well-intentioned reforms become distorted in the process of implementation and operation, as a result of the dominance of neoliberal social forms and the punitive pull centred on the prison.

This book is certainly likely to convince the reader of the need for action at a global level to challenge the continued incarceration – and abysmal support at the point of decarceration – for women. For some contributors, increased government spending and support for struggling communities was posited as the way forward. Given the powerful depictions of the limits and potential distortion of short-term reforms, this did not appear likely to address the co-option and failure of limited reforms identified throughout the book. Urgent calls for radical social change were evident however, in the contributions of anti-prison activists and advocates (Kilroy et al., chapter 8; Shaylor and Meiners, chapter 9) who clearly and powerfully presented the need for alliances across social institutions, ongoing campaigns focused on the abolition of imprisonment and the need to challenge social structures that marginalise, criminalise and punish.

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References
Over the last few months, I’ve had the opportunity to meet and speak with a number of individuals working in the justice sector. We discussed their journey through corrections, their love and passion for social justice and the wonderful work their organization was doing. From the moment I met each of these front line workers, I was intrigued and excited. I wanted to immerse myself in the world of justice and understand their passion and drive to strengthen their communities and reduce crime. As it happens, I had the opportunity to review Streetcraft and found myself reading interviews with front line justice pioneers who, like others I had met, spoke about their work with passion, love and care. I was impressed with their approach to justice and their positive attitude to the work they were performing. While reading Streetcraft, I felt connected to the stories offered by the practitioners and found myself thinking about the struggles each practitioner and/or their organization has faced. I was impressed by their dedication and their love for justice.

Throughout this book, it is the voice of criminal justice practitioners, their hard work and dedication and their passion to make a difference that stands out from other more traditional justice books. The talented and caring individuals shared stories, memorable moments and struggles over the years they have been involved in criminal justice. The book has a positive outlook, yet the discussions of struggles and obstacles were essential and important in understanding the dedication and work that is required for justice innovation. It is often through resistance and limitations that successes follow. Indeed, this is precisely what practitioners discovered and discussed in their interviews. While reading about the struggles that some practitioners faced, I found myself rooting for them to succeed whilst also recognizing my own struggles and limitations in conducting criminological research and/or attempting to become involved with criminal justice organizations. Throughout the book, practitioners display enthusiasm, perseverance and optimism with regards to the current justice system. The strength of this book lies in its uncut perspective of the practitioners. By reading this book, the reader has a clear understanding of what it is like to work in the criminal justice system.

Streetcraft is divided into twenty nine case studies, with an introduction, a ‘top lessons’ list as well as an annex describing the practitioners. Each case study is approximately two to three pages in length and includes a number of interview questions. The questions presented in text have been taken from a larger interview schedule. The questions presented were interested, captivating and provide a nice overall balance between introduction of the organization or previous work history, particular challenges or struggles faced and lessons learned throughout their work history. Each case study also includes a quote in larger print from the practitioner. This particular quote was in a bold coloured writing as to draw attention to an important aspect of the practitioner. I found these bolded quotes especially useful and interesting; they were very much in line with the spirit of enthusiasm and perseverance that was evident throughout the book. Moreover, in some cases a small black and white picture of the practitioner was provided.
The interview questions were both general and in-depth which provided the reader with a general overview of how the practitioner became involved in the criminal justice, but also focused on particular projects, programs or new developments the practitioners were involved with. Similarly, the tone of the interviews was positive focusing on lessons learned, the importance of collaboration and innovation.

*Streetcraft* is an interesting, provocative and empowering book. The practitioners interviewed for the book become a small group of individuals on a mission to make the world a better and safer place. The discussions of criminal justice policy, programs and youth, men and women in conflict with the law are respectful and centered on progress and success rather than failure. Moreover, I particularly enjoyed the ways in which the practitioners humanized offenders, discussing them with care and encouragement. In this way, *Streetcraft* was refreshing to read. One of the main strengths of this book was the vast array of practitioners interviewed. In fact, the authors provide an annex at the end of the book which summarizes all twenty nine practitioners, which included police officers, prison staff, probation staff, sentencers, reformers, and specialists in a number of areas including youth, domestic violence, technology and restorative justice.

*Streetcraft* provides a unique approach to examining the role and work of criminal justice practitioners. The range of practitioners interviewed provides a good overall view of criminal justice work and the importance of collaboration and innovation. This book creates an atmosphere of enthusiasm, perseverance, dedication and care. Simply reading the book is empowering as it allows readers to understand the balance between innovation and struggles and illustrates that lessons are learned despite failures or setbacks, I often myself becoming somewhat of a ‘cheerleader’ for the practitioners who were trying to make the world a better place. Despite setbacks, obstacles and resistance, the practitioners pursued their work with strength and dedication. As a social justice enthusiast, *Streetcraft* provided hope for my future justice endeavours and provided a place to retreat in order to feel connected and inspired. *Streetcraft* is fervently recommended to all criminal justice practitioners, students, those interested in justice innovation, collaboration or anyone who is passionate about making the world a better place.

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