

DRUGS AND CRIME PREVENTION COMMITTEE

INQUIRY INTO STRATEGIES TO PREVENT HIGH VOLUME OFFENDING BY YOUNG PEOPLE

DISCUSSION PAPER AUGUST 2008



PARLIAMENT

OF VICTORIA



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DRUGS AND CRIME PREVENTION COMMITTEE

**INQUIRY INTO STRATEGIES TO PREVENT
HIGH VOLUME OFFENDING AND RECIDIVISM
BY YOUNG PEOPLE**

Discussion Paper

August 2008

The Discussion Paper was prepared by the Drugs and Crime Prevention Committee.

Drugs and Crime Prevention Committee

Inquiry into Strategies to Prevent High Volume Offending and Recidivism by Young People –
Discussion Paper

DCPC, Parliament of Victoria

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Functions of the Drugs and Crime Prevention Committee

The Victorian Drugs and Crime Prevention Committee is constituted under the *Parliamentary Committees Act 2003 (Vic)* as amended.

Section 7

The functions of the Drugs and Crime Prevention Committee are, if so required or permitted under this Act, to inquire into, consider and report to the Parliament on any proposal, matter or thing concerned with:

- a. the use of drugs including the manufacture, supply or distribution of drugs;
- b. the level or causes of crime or violent behaviour.

Terms of Reference

The Drugs and Crime Prevention Committee of Parliament is to inquire into and report upon justice and crime strategies in high volume crimes such as theft and property-related offences, which often involve young people; with the Committee to provide recommendations on:

- (a) causal factors that may influence patterns of high volume crime, with particular emphasis on repeat offences committed by young people; and
- (b) strategies that may be effective in addressing the underlying causal factors or recidivist patterns of offending.

The Committee is to make its final report to Parliament no later than November 2009.

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1. Introduction

In 2008 the Australian Institute of Criminology (AIC) estimated the annual cost of crime to the Australian community at \$35.8 billion (Rollings 2008). This includes both the personal financial costs of criminal victimisation and the administrative costs of investigating and processing these crimes through the criminal justice system. If nothing else, these estimates provide a stark reminder of just how important the problems of crime and criminal victimisation are to the Australian community.

Perhaps even more pertinent is the now widely cited and frequently replicated recidivist offender studies of the early 1970s and 1980s which illustrated that the vast majority of crime was attributable to a small fraction of the population. The first of these studies, conducted by Wolfgang and his colleagues in 1972 (Wolfgang, Figlio & Sellin 1972), examined the offending profile of a group of young people born in 1945 in Philadelphia. In this study it was found that just 35 per cent of those born in any single year had contact with the police before the age of 18, and of those who did, 18 per cent would be classified as chronic recidivist offenders. In all, these chronic recidivist offenders represented just six per cent of all persons born in 1945 and accounted for more than half of the group's recorded offences to the age of 18.¹ It is now widely accepted in the criminal justice field (see Farrington 2003) that high volume offenders contribute significantly to the overall prevalence and cost of crime. Their offending behaviour is such that targeted interventions provide promise for sustainable reductions in crime and improvements in community safety into the future.

Crime prevention and reduction strategies are premised on the idea that the causes and correlates of high volume offending can (and should) be identified and targeted. In the developmental tradition, criminologists have focused much of their attention on the early life factors that precipitate the onset of antisocial and criminal behaviour, as they believe that these social and personal experiences will invariably shape later-life outcomes. Since the early 1980s, criminologists have dedicated much of their time to examining the relationship between age and crime, and while the underlying causes of crime are still a matter of much controversy there is some consensus that most crime is committed by persons under the age of 30, and that antisocial behaviour peaks in the mid-to-late teenage years (see Hirschi & Gottfredson 1983). According to the most recent crime statistics report in Victoria (Victorian Police 2007), nearly half (46%) of all recorded incidents of crime in the 2006/07 financial year were committed by individuals under the age of 25.²

1 Methodological problems associated with measuring recidivism are discussed in Chapter 2. Conceptual issues pertaining to recidivism are explained in Chapter 3.

2 58,841 of 125,801 alleged offenders in 2006/07 were 25 or younger.

As a result of such concerns, the Drugs and Crime Prevention Committee of the Parliament of Victoria has been asked to examine justice and crime strategies in high volume crimes, such as breaking and entering, which often involve young people. This is not an Inquiry into juvenile offending per se nor is it an exercise in 'scapegoating' young people. Nonetheless, it is important to address those cases where youth offending and re-offending is apparently prevalent as indicated in the statistics. This is important not only to provide recommendations for strategies that alleviate community concerns with regard to such crime but also to provide young people themselves with opportunities to reduce their involvement in offending thereby increasing their quality of life.

Terms of Reference

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- (a) causal factors that may influence patterns of high volume crime, with particular emphasis on repeat offences committed by young people; and
- (b) strategies that may be effective in addressing the underlying causal factors or recidivist patterns of offending.

The Committee is to make its final report to Parliament no later than November 2009.

Scope of the Inquiry

In conducting this Inquiry the Committee will examine available reliable data with regard to youth offending in Victoria, predominantly from Victoria Police statistics. Part of this exercise will be to investigate what precisely can be counted as a 'high volume' crime. In addition, problems that are associated with measuring youth re-offending or recidivism will be discussed. The issue of what ages are included also needs to be discussed. Equally important is the need to examine the criminal 'careers' or pathways of youth offenders. Whilst some offenders may indeed be long-term and frequent offenders with a wide repertoire of crimes and a long criminal history, it is well established that other young people may get caught up in the criminal justice system for a one-off offence or at least relatively infrequently. The distinction between short-term offenders and long-term or multiple offenders is important as different strategies and approaches may need to apply in each case.

The Discussion Paper

The purpose of the Discussion Paper is to highlight the scope and complexity of issues to be addressed, analyse and provide an overview of the current data on 'high volume' crime using official police crime statistics,³ raise specific questions to be addressed and invite community responses.

In particular, the Discussion Paper will ascertain what are the most common high volume crimes being committed in Victoria and by whom they are being committed. It will also look at the factors that may be contributing to youth offending and what strategies can be identified to address this problem.

3 Victoria Police 2007, *Crime Statistics Report 2006/07*, Victoria Police, Melbourne.

This Paper is divided into five chapters:

Chapter 1 introduces the Inquiry and defines the key terms that will be used throughout the Discussion Paper.

Chapter 2 provides a descriptive account of high volume crime in Victoria using published data from Victoria Police.

Chapter 3 looks at a variety of issues pertaining to contemporary youth offending in this state, including the notion of criminal career pathways and repeat offending.

Chapter 4 is a critical examination of the concept of causation with regard to juvenile crime.

Chapter 5 is a brief summary of some of the type of strategies (both preventive and secondary) that have been implemented with regard to youth offending generally.

It should be noted that this Discussion Paper is not intended to be exhaustive, as the Committee has only conducted preliminary research thus far. It is anticipated that additional issues will be brought to the Committee's attention as the Inquiry proceeds. Each chapter of the Discussion Paper ends with a series of Questions for Discussion. The Committee welcomes submissions on any matter related to the Terms of Reference of the Inquiry and particularly those that answer or address these Questions for Discussion. Submissions should be forwarded to the Committee by 8 September 2008.

Following the publication of this Discussion Paper and the receipt of public submissions, the Committee will continue to undertake research of the relevant literature. Public Hearings will also be conducted, the details of which will be published in *The Age* and *Herald-Sun*. The Final Report will bring together all the information obtained during the Inquiry.

Submissions are invited

The Committee welcomes written submissions in response to the issues raised in this Discussion Paper or on any matter related to the Terms of Reference of the Inquiry.

To assist interested parties in making submissions a number of questions have been posed throughout the Discussion Paper.

Details of how to make a Submission are included in the Insert. The Committee requires all submissions to be signed hard copy originals but would also appreciate an electronic copy.

Submissions should be sent by Monday 8 September 2008 to:

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Definition of terms

High volume crime

For the purpose of this Inquiry, high volume crime has been used to refer to those crime types with the highest overall recorded frequency, and recidivism has been defined as the act of repetitious offending among young offenders. As such, two statistical parameters are required to inform this inquiry. First is the identification of those offence types that are most frequently committed by young people at the aggregate population level. Second is the identification of repeat young offenders, both in terms of the overall size of the repeat young offender population and the quantity and type of crimes for which these young offenders are accountable.

In the context of this Discussion Paper the term will refer to those crimes for which the highest number of offences are recorded in the official statistics used by the Victoria Police.

Recidivism

At the outset, it is important to recognise that no single definition exists for the term recidivism. This is due, at least in part, to the great variety with which recidivism has been measured in the academic research and the great diversity with which it has been used throughout policy development and evaluation circles. A recent major research report on recidivism in Australia by the AIC (Payne 2007) explored some of the many challenges faced in the interpretation and incorporation of recidivism research into policy development and evaluation processes. It highlights that although defining recidivism seems relatively straightforward:

Underlying this seemingly simple and generic term is a complex web of research studies whose definition of recidivism varies with each different methodological approach. Like most criminological concepts, recidivism is constantly being redefined, as new and innovative attempts are undertaken to understand why offenders re-offend (Payne 2007, p.vii).

In other words, despite the seemingly generic application of recidivism and high volume crime across a range of sectors and domains, the reality is that such terms are far from having general applicability. Recidivism for example, although generally used to describe a pattern of repetitious criminal activity, varies significantly depending upon the decision made regarding: (1) the nature of the sample for whom recidivism is measured; (2) the type of data source that is used to indicate the occurrence of repeated criminal activity; (3) the counting rules subsequently applied to those data sources; and (4) the length of time over which repeated criminal activity will be examined. All of these decisions have implications for just how much, for whom, and when recidivism will be measured.

Defining property related offences

The term property offences will refer to all offences under the Victoria Police category 'crimes against property'. It should be noted however, that theft of a motor vehicle, which is considered according to the definition to be a high volume crime, will not be considered because it was the subject of an Inquiry by the Drugs and Crime Prevention Committee of the 54th Parliament.

Crimes under consideration

A detailed review will need to be undertaken of Victoria Police Statistics to identify the particular offences that will be the focus of the Inquiry.

Young person and young offender

Clearly a discussion of youth offending requires as a first principle a uniform understanding of what constitutes a young person. This concept is not as straightforward as it first seems. Whilst jurisdictional limits as to when a person can appear in a Youth Court or equivalent are usually

defined by legislation, the concept of a young person is, as Vignaendra and Hazlitt comment, incompletely understood not only by the law but also generally:

The term 'young people' refers to all of the following things and to none of them in particular: chronological age; developmental maturity; unformed moral values requiring guidance; a type of innocence that nonetheless accommodates a capacity to commit offences but not always criminal culpability. Such factors are not mutually exclusive. They do, however, refer to the different aspects of young people that distinguish them from their adult counterparts. Which of these factors distinguishes them for differential treatment for [legal] and sentencing purposes, has not, however, been made clear (2005, p.5).

An analysis will need to be undertaken to identify the age group to be investigated for the purposes of this Inquiry. At present, different data sets and government policies vary in the way they define young person. Although in all states and territories once a person has attained the age of 10 years they are deemed to have criminal responsibility, variations exist thereafter as to how they are treated by the formal criminal justice system. For example, whilst in most states young people are considered legally juveniles or minors until they become 18, in Queensland for the most part the juvenile justice system is no longer applicable to a person who is 16 or older at the time the offence is committed (Australian Institute of Health and Welfare (AIHW) 2007, p.2).⁴ Until relatively recently Victoria also had 16 as the cut-off point at which the courts and juvenile justice system treated a person as a young person. In 2005 however, the age jurisdiction of the juvenile justice system increased as a result of the *Children, Youth and Families Act*. It is now 10 years to 17 years of age inclusive.

In addition, Victoria's unique dual track sentencing system allows (but does not compel) adult courts to sentence a person aged from between 18 to 20 years to a juvenile justice centre as an alternative to adult detention.⁵ This is because the legislative age refers to the age at which the offence occurred rather than the age the young person is whilst under the supervision of juvenile justice (AIHW 2007, p.2).

Justice and crime strategies

Justice strategies will include interventions related to the criminal justice system including diversionary strategies such as cautioning, conferencing and other court-based interventions.

Crime prevention strategies will encompass a broad range of interventions including both social and behavioural crime prevention strategies and situational crime prevention strategies aimed at preventing and/or reducing criminal activity.

Primary and secondary prevention strategies

Primary crime prevention strategies in the context of this Inquiry fall into three categories. First are programs that are aimed at the general population and have only an indirect relationship to youth offending. In other words, programs that are not designed necessarily to specifically address youth offending but which may have positive spin-off effects in reducing a young person's involvement in criminal offending and/or antisocial conduct. Some examples include sports programs, recreational camps, outbound and adventure programs and other arts and leisure pursuits. Second are situational crime prevention strategies aimed at changing or modifying the locations in which crime may flourish. A common example may be improving street lighting on a housing estate or security measures in a shopping mall. Again such measures may be of benefit to the wider community and only indirectly have the bonus of preventing or reducing crime.

4 For an overview of juvenile justice systems across Australia, see *Juvenile Justice in Australia 2005–2006* (AIHW 2007).

5 See *Sentencing Act* 1991.

Finally, a different type of primary prevention strategy is that which addresses aspects of a young person's life course and the risk (and protective) factors associated with his or her development. These pathways approaches may include school retention or better parenting programs.

Secondary crime prevention programs on the other hand are largely, although not exclusively, addressed to young people once they have had involvement, however minor, in the criminal justice system. They may include pre-dispositional measures such as cautioning or warnings, educational or vocational programs whilst in detention, or post-release programs aimed at preventing or reducing a young person's involvement in re-offending.

Causal factors

This term will refer to the contributory factors or correlations between various factors and property crime. This will include social factors such as marginalised families, poor school attendance, unemployment, drug and alcohol abuse, sexual abuse and homelessness.

2. High Volume Crime in Victoria

A key task for the current Inquiry is to identify appropriate measures of population-level and individual-level crime so that quality data are available to inform a range of policy development processes. This is not by any means a unique challenge. Criminologists and social scientists have long struggled with the problem of measuring illicit activities, which individuals, unless apprehended by the authorities, are usually unwilling to discuss openly. The dark figure of crime — a term commonly used to describe the proportion of all criminal activity that is undetected, unreported, and unrecorded by criminal justice authorities — remains a salient concern in criminal justice policy development and research.

Nevertheless, it is important to remember that criminal activity can be divided into two discrete subcategories. Firstly there are those offences for which there is some official record. This includes those offences recorded in the administrative systems of the criminal justice institutions such as the police, the courts and the department of correctional services. Secondly there are offences that are never recorded in administrative databases. The fact that they are not reported or recorded by the police makes them difficult to identify and measure.

In light of this persistent challenge, criminologists have relied on four main sources of information to inform an understanding of crime. These include self-reported data, police arrest/apprehension data, court appearance/conviction data, and corrective services contact data. Self-reported data are obtained through surveys and interviews with identified offender populations (such as police detainees or prisoners). They provide the only legitimate access to unrecorded crime by asking offenders to self-report their criminal activity across a range of time frames and crime types. Although useful for estimating the quantity of an individual's offending that has not otherwise been detected, these surveys are often time-consuming, resource intensive, and subject to self-report biases such as under and over-reporting. Moreover, the self-report method is only likely to capture information from identified offender populations, which in the juvenile context is likely to under-count the large number of juveniles and juvenile offences that are subject to formal police cautioning.⁶ For this reason, the self-report method is not considered a feasible methodological option for the present Inquiry.

In the absence of self-reported offending information, this Inquiry must rely on officially recorded data to understand youth offending and high volume crime in Victoria. Of the three available sources (police, courts and corrective services), police data are considered the most appropriate because the administrative databases of both the courts and corrective services contain information only for offences that progress to higher levels of the criminal justice process. Court records, for example, provide information about offences that result in a formal appearance in court, whilst corrective services data contain information about offences that resulted in an order of supervision and/or incarceration. Since a significant proportion of all young offenders (and their offences) are dealt with by way of caution or diversion, court and corrective services data are too restrictive to provide appropriate population-level estimates for high volume offence types in Victoria. Police data, on the other hand, although relating only to offences that are reported or detected, contain information about offences at their earliest contact with the criminal justice system and minimise the under-estimation of offences resulting in cautioning or diversion.

⁶ According to the 2006/07 Victorian Police Statistics Report, 6355 of 24155 juvenile offenders were processed by way of caution. Those offenders receiving cautions are unlikely to be included in self-report surveys.

Measuring high volume crime in Victoria

Even using police data, measures of high volume crime are subject to a number of limitations. Firstly, for the reasons mentioned above, police data contain information only for those offences that are reported to, or detected by, the police. Secondly, of those that are recorded in police administrative databases, not all will have resulted in the apprehension of an offender or the laying of official charges. To illustrate this, the Victorian Police Crime Statistics Report of 2006/07 (Victoria Police 2007) provides four measures of criminal activity that can be used to examine high volume offending. These include:

- ♦ **Offences recorded** – measuring all unique offences recorded on the Victoria Police LEAP database regardless of whether the offence actually occurred or was able to be resolved or cleared by the police. In the case of offences against the person, a single offence is counted for each unique victim, whereas for offences against statute, an offence is counted for each unique offender. Only the most serious offence within the distinct course of the criminal act is recorded.
- ♦ **Offences cleared** – the subset of offences recorded where one or more alleged offenders were processed, where the investigation reveals that no offence occurred, where the complaint was withdrawn, or where the offender was known but unable to be processed by the police.
- ♦ **Alleged offenders** – measuring the total count of the number of offenders processed by the police for each occasion and for each offence for which a person was processed in the fiscal year. Offenders committing multiple offences and on multiple occasions are counted for each offence for which they were recorded. Moreover, where more than one offender is responsible for a single offence, a separate count is made for each offender.
- ♦ **Charges laid** – measuring the total number of unique charges laid for each alleged offender. Where a single offence results in multiple charges and/or charges of a different nature, these are also counted.

It is possible to illustrate the impact of these counting differences on offence count distributions. Consider a single armed robbery offence involving two offenders. Suppose that the offence consisted of one primary charge (armed robbery) and two secondary charges (possession of a weapon and theft). For this one offence, it is likely that there would be one recorded offence, one cleared offence, two alleged offenders, and six charges. Not all charges are classified as violent, despite being the result of a single violent offence.

Using these four measures the Victoria Police statistics (Victoria Police 2007) show that 367,200 criminal offences were recorded in the 2006/07 financial year. Of these recorded offences, 166,997 were cleared by the police, resulting in 155,778 alleged offenders and 254,984 charges laid.

High volume crime, defined for the purposes of this Inquiry as those crime types with the highest overall recorded frequency, can be identified for each of the four measures. Since an offender's age can only be identified in cases where police apprehended the offender, juvenile status is not explicitly examined here. Table 1 provides information on the five most frequently recorded offence types for each of the four measures across the entire Victorian population. It shows that:

- ♦ Theft (other) offences were the most frequently reported and recorded crime, accounting for 15% of all recorded offences.
- ♦ Assault was the offence type with the highest number of alleged offenders (17%) and for which the highest number of charges were laid (18%). It was also the offence for which the highest number of cleared offences (15%) was recorded.
- ♦ Four of the top five most frequently recorded offences were property offences. This declines to three in five for offences cleared, alleged offenders and charges laid. Although not

indicated in Table 1, further analysis revealed that 75 per cent of all recorded offences were property offences. This declines to just 50 per cent when using measures of cleared offences, alleged offenders and charges laid.

- ♦ Justice procedure offences (breach of probation, community service or parole orders) are not within the top five most frequently recorded offences, yet they ranked third or fourth highest among those offences cleared, and those offences for which charges were laid against alleged offenders.

Table 1: Top five high volume crime types, by counting measure

Rank	Recorded Crime			Offences Cleared		
	Offence	Offences (n)	Offence (% of total)	Offence	Offences (n)	Offence (% of total)
1	Theft (other)	56092	14.9	Assault	25108	15.0
2	Property Damage	52482	14.0	Deception	20258	12.1
3	Theft from Motor Vehicle	46497	12.4	Justice Procedure	16893	10.1
4	Assault	31020	8.2	Theft (Other)	14582	8.7
5	Burglary (Residential)	29555	7.9	Theft (Shop steal)	13222	7.9

Rank	Alleged offenders			Charges laid		
	Offence	Offences (n)	Offence (% of total)	Offence	Offences (n)	Offence (% of total)
1	Assault	25794	16.6	Assault	47395	18.4
2	Theft (Shop steal)	15340	9.8	Deception	31801	12.4
3	Justice Procedure	13356	8.6	Theft (Other)	25841	10.1
4	Property Damage	13252	8.5	Justice Procedure	20256	7.9
5	Deception	11197	7.2	Theft (Shop steal)	18600	7.2

Source: Victoria Police Crime Statistics 2006/07. Adapted from Tables 1.1 and 1.3.

Of all the differences highlighted by Table 1, the most notable are that the same offence types do not appear in the same order across all measures, and that the different measures produce different rankings of offence types. This raises the question as to why the most frequently recorded offence types are not those for which the highest number of alleged offenders are apprehended, or for which the highest number of charges are laid.

In part, the answer to this question can be attributed to the differential probability that police will apprehend any person engaging in a specific crime. Consider assault for example. For this offence to be recorded in the operational policing database LEAP, a victim (or other witness) is required to report the incident. It is likely in cases of violence that the perpetrator is known to the victim, so the probability that the investigation will result in the clearance of that offence is high.⁷ Similarly, to be recorded on LEAP some offences almost always require the identification of a known offender. Justice procedure offences, for example, require an already identified offender to have acted in a way known to criminal justice authorities as a contravention of a pre-existing order. These offences are only recorded on the LEAP system when a known offender has been identified, and therefore the offence to offender ratio is high.

Stealing and property damage, on the other hand, are offences not commonly noticed by the victim until some time after the offence has been committed. It is less likely that the victim (or the police) is able to identify the perpetrator/s and the probability that the police investigation

⁷ The Australian component of the International Crime Victimization Survey (ICVS) estimates that half of all Australian victims of personal crime knew their assailant (Johnson 2004).

will result in clearance, apprehension and charge is comparatively low.

Finally, it should be recognised that identified offender measures of criminal activity are not only biased in favour of offences where the probability of apprehension is high, but those where the probability of reporting to the police is also high. Offences that are truly 'high volume' are possibly so minor that they are never reported to the police in the first instance and, therefore, rarely investigated to the point of apprehension and offender identification.

Measuring high volume crime among young people in Victoria

A focus of this Inquiry is on young offenders. However, attributing crime to different age groups can only be done where police have identified an offender. For this reason, recorded crime measures – those that include offences not cleared or resolved by way of police apprehension – cannot be used to estimate high volume juvenile offending in Victoria. Instead, age-relevant measures of high volume offending can only be estimated using offence counts by alleged offenders, for it is here that an offender's personal details (age and gender) are recorded.

The following tables highlight the five most frequently recorded offences by juvenile status (Table 2), for four discrete age group categories between 10 and 29 years (Table 3) and by gender (Table 4). Since an offender's age is only identifiable for offences where an offender has been apprehended, these data count only those offences for which there was at least one identified offender. The data illustrate that in Victoria for the 2006/07 financial year:

- ◆ The offence type with the highest number of apprehended juvenile offenders was shop stealing (16%), followed by property damage (15%) and assault (13%). Among adults, the top three most frequently recorded offence types included assault (17%) justice procedure offences (10%) and deception offences (9%).
- ◆ Property offences dominated among juveniles, accounting for a total of 64 per cent of all alleged offenders. Among adults, property offences accounted for less than half (45%) of all alleged offenders.
- ◆ The profile of offending among juveniles aged 10–14 was similar to the overall profile for juveniles. Shop steal, property damage and assault offences ranked as the top three most frequently recorded offence types. One notable difference was that shop stealing and property damage offences accounted for a larger share of total offending among those aged 10–14 years.
- ◆ With the exception of assault, property offences also dominated the offence range of those aged 15–19 years. The increased prominence of assault may be confounded by the fact that the age range for this group includes two ages, 18 and 19, which overlap with the typical adult/juvenile classification.
- ◆ High volume juvenile crime types varied by gender. For males the most frequently recorded crime type was property damage (17%), followed by assault (13%) and shop stealing (10%). For females, shop stealing ranked as the most frequently recorded offence type (37%) followed by assault (14%) and property damage (9%). Overall, the top five offence types accounted for 55 per cent of all offences recorded for males and 70 per cent of all offences recorded by females. This suggests greater diversity in offending among males.

Table 2: Top five high volume crime types for juveniles and adults

Rank	Juveniles			Adults		
	Offence	Offences (n)	Offence (% of total)	Offence	Offences (n)	Offence (% of total)
1	Theft (Shop steal)	4873	15.9	Assault	21575	17.4
2	Property Damage	4558	14.9	Justice Procedure	12366	10.0
3	Assault	4025	13.2	Deception	10686	8.6
4	Burglary (Other)	2066	6.8	Theft (Shop steal)	10348	8.3
5	Theft Of Motor Vehicle	2046	6.7	Drug (Possess, Use)	9241	7.4

Source: Victoria Police Crime Statistics 2006/07. Adapted from Table 1.3.

Table 3: Top five high volume crime types, by age group

Rank	10–14 years			15–19 years		
	Offence	Offences (n)	Offence (% of total)	Offence	Offences (n)	Offence (% of total)
1	Theft (Shop steal)	2119	21.5	Assault	5589	15.7
2	Property Damage	1642	16.7	Property Damage	4731	13.3
3	Assault	1029	10.4	Theft (Shop steal)	3847	10.8
4	Burglary (Other)	827	8.4	Theft (Other)	2424	6.8
5	Theft (Other)	573	5.8	Burglary (Other)	1821	5.1
Rank	20–24 years			25–29 years		
	Offence	Offences (n)	Offence (% of total)	Offence	Offences (n)	Offence (% of total)
1	Assault	4472	16.7	Assault	3461	14.9
2	Drug (Possess, Use)	2534	9.5	Justice Procedure	2350	10.1
3	Justice Procedure	2462	9.2	Deception	2199	9.4
4	Deception	2324	8.7	Drug (Possess, Use)	1987	8.5
5	Property Damage	2319	8.7	Theft (Shop steal)	1942	8.3

Source: Victoria Police Crime Statistics 2006/07. Adapted from Table 4.3.1.

Table 4: Top five high volume crime types among juveniles, by gender

Rank	Males			Females		
	Offence	Offences (n)	Offence (% of total)	Offence	Offences (n)	Offence (% of total)
1	Property Damage	3999	16.6	Theft (Shop steal)	2380	36.7
2	Assault	3129	13.0	Assault	895	13.8
3	Theft (Shop steal)	2486	10.3	Property Damage	558	8.6
4	Burglary (Other)	1848	7.7	Theft (Other)	388	6.0
5	Theft Of Motor Vehicle	1746	7.2	Theft Of Motor Vehicle	299	4.6

Source: Victoria Police Crime Statistics 2006/07. Adapted from Table 4.1.

In an effort to determine whether classifications of high volume crime types have changed in recent years, Table 5 provides the top five high volume crime types for 10–14 and 15–19 year olds. The data is compared for the 2002/03 and 2006/07 financial years. It shows that, with the exception of a small change in rank order, the same offence types appear as the top five among 10–14 year olds. Among 15–19 year olds, offences relating to motor vehicles have declined, replaced in the top five by other theft and burglary offences. Assault offences have increased in prevalence among 10–14 and 15–19 year olds.

Table 5: Top five high volume crime types, by juvenile age group and year

Rank	10–14 years		15–19 years	
	2006/07	2002/03	2006/07	2002/03
1	Theft (Shop steal)	Theft (Shop steal)	Assault	Theft (Shop steal)
2	Property Damage	Property Damage	Property Damage	Assault
3	Assault	Theft (Other)	Theft (Shop steal)	Property Damage
4	Burglary (Other)	Assault	Theft (Other)	Theft of Motor Vehicle
5	Theft (Other)	Burglary (Other)	Burglary (Other)	Theft from Motor Vehicle

Source: Victoria Police Crime Statistics 2006/07. Adapted from Table 1.3.

An alternative method for estimating age-graded differences in offending is to examine the offence types for which juveniles are relatively over-represented. Over-representation in this case indicates the extent to which juveniles committed disproportionately more of a specific offence type when compared with the proportion of offending for which juveniles were generally responsible. For example, in 2006/07, juveniles aged between 10 and 17 years represented 20 per cent of all alleged offenders. To the extent that juveniles are proportionately responsible for all crime types, they could be expected to be evenly distributed (at 20%) across each individual offence type. However, for those offence types where juveniles make up more than 20 per cent, they are considered to be over-represented. For those in which they contribute less than 20 per cent they are under-represented.

Table 6 highlights the five offence types for which juveniles and adults were over-represented. It indicates that juveniles committed disproportionately more regulated public order (57%), theft of bicycle (51%), arson (44%), theft of motor vehicle (40%) and robbery offences (40%). Adults, on the other hand, committed disproportionately more drug (97%), homicide (96%), justice procedure (93%) and deception offences (95%). Adults were also disproportionately more likely to have committed any violent offence (with the exception of robbery).

Table 6: Relative over-representation across offence types for juveniles and adults

Rank	Juveniles		Adults	
	Offence	% accountable	Offence	% accountable
1	Regulated Public Order	56.6	Drug (Cult. Manuf. Traff.)	97.2
2	Theft Of Bicycle	51.2	Homicide	96.2
3	Arson	43.6	Deception	95.4
4	Theft Of Motor Vehicle	40.2	Drug (Possess, Use)	93.7
5	Robbery	39.8	Justice Procedure	92.6
All	All offences	19.7	All offences	79.8

Source: Victoria Police Crime Statistics 2006/07. Adapted from Table 1.3.

Linking high volume offence types to recidivism

Examination of high volume offence types generally leads to a discussion about high volume offending. Ever since Wolfgang, Figlio and Sellin's (1972) Philadelphia birth cohort study, researchers and policy makers have been interested in the small, but not insignificant, group of young offenders who commit crime at comparatively high rates. In their study, just six per cent of the overall birth cohort was responsible for more than 50 per cent of all recorded convictions to the age of 18.

Using data from the Victoria Police Crime statistics report (Victoria Police 2007), it is possible to paint a rough picture of repeat offending among young offenders in Victoria. Table 2.7 provides both the number of alleged offenders and the number of distinct alleged offenders for each age category ranging from 10 to 29 years. Where a single offender has committed more than one crime, they will be counted for each offence for which they were apprehended in the alleged offenders measure, but only once in the distinct offenders measure. The ratio between the two measures provides an estimate of the proportion of recorded offences attributable to repeat offending in the 2006/07 financial year. Table 7 illustrates that:

- ◆ 4489 individuals aged between 10 and 14 years committed a total of 9860 offences. This is equivalent to approximately 2.2 offences per offender and suggests that more than half (54%) of all recorded offences were repeat offences.
- ◆ 14,066 individuals aged between 15 and 19 years committed a total of 35,617 offences. This is equivalent to approximately 2.5 offences per offender.
- ◆ As age increases, the proportion of offences attributable to one single offender also increases. This suggests that high volume offending accounts for a greater proportion of recorded crime at older ages.

Table 7: Relative proportion of crimes attributable to distinct offenders, by age group

	10–14 years	15–19 years	20–24 years	25–29 years
Alleged offenders (total)	9860	35617	26730	23289
Alleged offenders (distinct)	4489	14066	10114	7732
Offences per distinct offender	2.2	2.5	2.6	3.0
Repeat offences (%)	54	61	62	67

Source: Victoria Police Crime Statistics 2006/07. Adapted from Tables 1.1 and 1.3.

Although Table 7 estimates an average offence rate of 2.2 offences for every young offender aged between 10 and 14 years, it is not the case that every young offender committed 2.2 offences. If the results of Wolfgang et al. (1972) are to be believed, it is much more likely that the majority of apprehended juveniles committed just one offence, while a small minority committed the bulk of repeat offences.

Unfortunately, using the available data it is not possible to discern what proportion of the young offender population was responsible for what proportion of repeat offences, and therefore high volume offending at the individual level cannot be estimated. To do this, individual-level unit record data would be required so that each of the recorded offences could be attributed to the correct number of high volume young offenders. This data would not only facilitate the more appropriate analysis of high volume offending in Victoria, but would also provide further insight into the types of offence categories for which young repeat offenders are disproportionately accountable. To this end, obtaining individual-level unit record offending data for a sample of young offenders in Victoria remains an important task for this Inquiry.

As has been described elsewhere (Payne 2007), measuring recidivism and high volume offending can pose significant challenges to researchers – not the least of which is the availability of appropriate data and information systems which facilitate individual-level offender identification and longitudinal analysis. A report on recidivism by the Australian Institute of Criminology (Payne 2007) highlights the lack of cross-jurisdictional and cross-sector criminal justice information databases as a key limitation to the development of recidivism research in Australia. Moreover, it also notes that Australian criminal justice data systems are designed and built for operational rather than research needs, which means that navigating these databases for the purposes of individual-level offending analysis can be difficult. It is not always the case, for example, that individuals can be discretely identified or that data can be provided to a sufficient degree of disaggregation so as to allow for more complex offence type calculations.

The Victorian Auditor-General recently identified similar issues.⁸ Whilst he commended the delivery of juvenile justice services by the Department of Human Services (DHS) and the Department of Justice he found that at the present time: 'Planning, coordination and delivery of services to young offenders need to be underpinned by adequate information and data collection systems' (Victorian Auditor-General 2008, p.39).

As far as individual-level data extraction *can* be facilitated in Victoria, the Committee will also need to consider a full range of alternative definitions for high volume offending. As highlighted by Payne (2007), there is no fixed definition of the terms high volume offending or recidivism. For the most part, these terms have been defined by the discrete research projects that have attempted to measure them, and definitions have varied depending upon:

- ◆ the samples chosen
- ◆ the data collected
- ◆ the counting rules and aggregation techniques applied
- ◆ the observation periods within which re-offending is identified.

Careful consideration of these parameters by the Committee will determine the definition of recidivism used for the present Inquiry.

Finally, it is important that any individual-level data obtained for this Inquiry provide some historical account of past offending. Recidivism and high volume offending, for example, are quantifiable measures of an individual's criminal activity over time. In order to best estimate it, consideration will need to be given to the volume of an individual's offending in both the current and previous financial years. This will require information about the timing of criminal events (date of offence), both current and previous.

8 See Victorian Auditor-General's Report 2008, *Services to Young Offenders*.

Questions for further consideration

- Should data on youth offending be publicly available for researchers, policymakers and practitioners? If so, what type of data should be made available?
- In what way and to what extent would a properly set up statistical system assist in public policy relating to youth offending?
- Is the technology currently available to link up disparate data systems, including across different jurisdictions? If such systems currently exist, what are the barriers to their implementation?
- Do offence type profiles among high volume young offenders provide insight into the underlying causes of their offending (serious property offending being linked to poor employment and education, drug offences being linked to drug habits etc).
- How many career pathways of offending exist in the Victorian youth population? Can these pathways be predicted from early police contact indicators (age at first offence, offence type at first offence, speed of attaining second offence, offence type at second offence, etc)? Are criminal career pathways different in different regions of Victoria?
- What definition should be applied to the term 'high volume'? Traditional measures use arbitrary offence frequency measures (such as 5+ convictions in Wolfgang et al. 1972), but when a single year of data is extracted, how will high volume be defined?
- Are the offence types which the juvenile offender population commit most often the same as those committed most often by high volume juvenile offenders?

3. Repeat Offending: Is there a Career Pathway in Crime?

Offending histories and career pathways

At the outset it is important to bear in mind that whilst there is a discrete core of long-term and/or persistent or multiple offenders, many young people who commit crimes, particularly relatively minor crimes, may desist from further offending after an initial contact with the youth justice system.

There have been conflicting research findings as to the extent to which young people initially commit criminal offences (including 'high volume' offences), re-offend as juveniles and then subsequently offend or re-offend as adults. There is also a notable divergence in thinking as to how policy responses should deal with youth offending. Should a young person's criminal or antisocial behaviour be formally addressed after one contact with the criminal justice system or should precious resources be allocated only to those young people who are shown to be persistent or serious offenders at a later period in their lives? Does the latter alternative avoid the phenomenon of net widening discussed later in this chapter? To a certain extent an understanding of criminal career paths may be useful in addressing these issues.

Since the 1980s much academic and applied research in the area of youth offending has been focused on the notion of criminal careers – that is, how individual patterns of offending change over time: 'In this field of study, the focus is on offending trajectories, including the age of onset, escalation and de-escalation in offending rates, as well as patterns of persistence and desistance' (Marshall 2006, p.2).⁹ More recently, as Farrington notes, developmental and life course criminology has incorporated and built upon the concept of criminal pathways 'to include the study of risk factors and life events that may impact upon these trajectories' (Farrington 2003 in Marshall 2006, p.2).¹⁰

Of absolute importance to note at the outset is that a steady body of research has found that for many juveniles the criminal career is relatively short-lived and/or opportunistic; that is, most young people who come into contact with the juvenile justice system do not re-offend irrespective of whether the offence was detected, prosecuted or processed (Cappo 2007; O'Connor & Cameron 2002; Coumarelos 1994).¹¹ Furthermore, as Prichard and Payne remark, 'Typically youths who commit crimes do so with little forethought; spontaneity and risk taking are characteristics of juvenile crime' (2005, p.11). This fact raises important issues as to whether

9 For some of the earlier accounts of 'criminal career' research, see Wolfgang, Figlio and Sellin 1972; Blumstein, Cohen and Farrington 1988a and 1988b; Blumstein, Cohen, Roth and Visher 1986.

10 A detailed discussion of developmental criminology, risk and protective factors and their relationship to youth offending is given in Chapter 4.

11 Although there are problems associated with establishing the actual 'duration' of juvenile criminal careers. For example, as Coumarelos argues some juveniles may have started their criminal careers a considerable time before their first appearance in Children's Court (1994). It may also depend on the type of offence committed. Violent offenders for example are more likely to be apprehended than property offenders as there are more likely to be witnesses to identify the offender, such as the victim:

Given that offenders are generally not apprehended for the majority of thefts they commit, juveniles who re-appear in the Children's Court for theft offences are likely to have also committed a considerable number of theft offences for which they were not apprehended (Coumarelos 1994, p.11).

scant resources should be spent on strategies and programs addressed at young people who may not in any case have a long-term involvement in the criminal justice system?¹² As the *Victorian Juvenile Justice Rehabilitation Review* noted: 'There is limited value in intervening with young people who are unlikely to re-offend' (Day, Howells & Rickwood 2003).¹³ Indeed as the *Review* noted further such attempts to promote desistance may be counter-productive and lead to the unforeseen consequences of net widening.¹⁴

In addition to long-term and occasional offenders a distinction has been made between early and late onset offenders. Early onset offenders comprise those individuals who begin to offend early in childhood while the late onset group involves offenders who, as a general rule, offend after the age of 14 (Skryzypiec 2005):

The aetiology of the two groups differ, as does the type of prevention strategies needed to prevent or further reduce offending. The early onset group is drawn from families characterised by poor parental discipline, impaired family problem solving and general dysfunction, which reinforces and exacerbates anti-social behaviours that are maintained over the life course. Late onset offenders, however, are described as adolescent limited offenders who through the processes of social mimicry, and motivated by a desire to demonstrate maturity and personal independence, "engage in delinquent behaviours only during adolescence" (Fergusson et al. 2000) (Skryzypiec 2005, p.2).

An added complication for criminal justice policy is that not only does the development of different patterns of offending differ between early onset/late onset offending but also amongst early onset offenders themselves different paths may apply. For example, as Marshall asks, 'Why does one group of early onset offenders desist in their offending during adolescence, and another group persist into adulthood?' (Marshall 2006, p.16). Answers to questions such as these are important, as they will 'enable the criminal justice system and the range of service agencies dealing with young people to provide more appropriate responses to juvenile offending' (Marshall 2006, p.16).

Recidivism and its relationship to criminal career pathways

As discussed earlier, for many young people involvement in crime or the criminal justice system may be 'one off', or at least relatively short-lived; for others, re-offending may indeed be a regular part of their criminal 'career'.

The *conceptual* problems pertaining to recidivism and its relationship to career trajectories are some of the most complex areas of contemporary criminology.¹⁵

12 For a good, if dated, analysis that determines the point at which any given juvenile justice intervention will become cost-effective, see Coumarelos 1994, pp.27ff. As Coumarelos states: 'An intervention would be cost-effective at the point where the savings resulting from the intervention outweighed the cost of the intervention' (1994, p.27). The analysis is much more sophisticated than the previous somewhat axiomatic statement would suggest. Coumarelos argued that it is least cost-effective to target juveniles after their first court appearance given that this group 'accounts for the largest proportion of juveniles who do not re-appear in the Children's Court' (1994, p.34). Despite, as discussed below, more recent studies that suggest this is not true, or at least will not always be true, it is nonetheless important to bear in mind cost-effectiveness as *one* factor in determining how interventions are developed to reduce youth offending. However, the limited scope of this Discussion Paper does not permit further elaboration of this issue at this stage.

13 As another Victorian Government review – *Recidivism Among Victorian Juvenile Justice Clients 1997–2001* noted: 'Effective juvenile justice services need to concentrate their limited resources on those young offenders who are likely to pose a continuing risk to the community' (Department of Human Services Victoria 2001, p.6). This begs the question of course as to how young people thought to be at high risk of re-offending can be identified and assisted. See discussion in Chapter 5 below.

14 Net widening has been described by People and Trimboli as:

A phenomenon where a process which has been introduced as an alternative to court or in order to divert offenders from court or prison results in more offenders being brought into the justice system. The occurrence of net widening is used as an indication that a scheme or pilot is not targeting the intended group of offenders (People & Trimboli 2007, p.4).

15 It is envisaged that problems associated with statistical, definitional and conceptual analysis of recidivism will be discussed in greater detail in the Final Report of this Inquiry. In the interim, the following studies and texts give a good account of some of the issues: Baker 1998; Carcach and Leverett 1999a and 1999b; Sherman, Strang and Woods 2000; Department of Human Services Victoria 2001 (*Recidivism among Victorian Juvenile Justice Clients 1997-2001*); Doherty 2002; Chen et al. 2005; Hayes 2005; Prichard and Payne 2005; Vignaendra and Hazlitt 2005; Jones et al. 2006; Marshall 2006; Vignaendra and Fitzgerald 2006; Hua, Baker and Poynton 2006; Gelb 2007; Payne 2007; Weatherburn, Cush and Saunders 2007.

In particular, one of the key debates in discussing recidivism has pertained to the transition from juvenile to adult offending. The little research in Australia that has been undertaken in the context of juvenile offending has resulted in contradictory findings. Chen et al. argue that research in this area has been hampered by 'the inability of most state and territory governments to track the progression of offenders from juvenile to adult criminal courts' (Chen et al. 2005, p.1). Although certainly a large body of research has found that a person who first appears in court when young (10–12 years) is more likely to re-offend than a person who first appears in court in the late teenage years (Blumstein, Farrington & Moitra cited in Chen et al. 2005).

A study by Coumarelos in 1994 tracked 33,900 juveniles who had their first Children's Court appearance between 1982 and 1986. Coumarelos found that almost 70 per cent of the offenders did not reappear in Children's Court following their first appearance.¹⁶ These findings have been used for many years to justify a longstanding policy of minimising both preventive and rehabilitative criminal justice interventions amongst first time juvenile offenders (Chen et al. 2005). Indeed a landmark review by the Australian Institute of Criminology (AIC) in 2002, *What works in reducing young people's involvement in crime?*, suggests that 'Most juvenile involvement in crime stops without any need for intervention' (AIC 2002, p.13). Recent research, however, has indicated contrary findings.¹⁷

The contradictory findings in criminal justice research pertaining to youth recidivism are indicated in the following account from Prichard and Payne:

The research into juvenile criminal careers is mixed. Some studies indicate that most young offenders desist from criminal activity as they enter adulthood (Farrington 1998; McLaren 2000). This is supported by Australian findings that most youths who appear in court do not reappear on subsequent charges (Carcach & Leverett 1999). Coumarelos's (1994) analysis of juvenile court appearances from 1982 to 1986 in New South Wales indicated that 70 per cent of youths appeared before the courts once and 15 per cent appeared a second time. More recently however, research has found that if followed long enough (into adulthood), approximately 70 per cent of those appearing as a juvenile reappear for additional criminal charges (Chen, Matruggio, Weatherburn & Hua 2005).

The recidivism literature indicates that a small percentage of juveniles are serious recidivists who account for a large proportion of overall youth crime figures. The Coumarelos (1994) study indicated that less than four per cent of young people (those who appeared in court on six or more occasions) accounted for 20 per cent of all court appearances. The risk for these young people is that they will persist with criminality into adulthood, committing crimes of increasing seriousness (Howell & Hawkins 1998). Half of those aged 18 to 20 in the DUCO [Drug Use Careers of Offenders] adult male study reported having served a period of detention as a juvenile. Across the entire sample, one in three had been in detention as an adolescent (Makkai & Payne 2003) (Prichard & Payne 2005, p.11).

Again such findings, if indicative, have important implications for developing policy. If 'one appearance in court indicates that further offending is highly likely, we should begin trying to reduce the risk of re-offending at the first point of contact between a juvenile and the court system' (Chen et al. 2005, p.1). Although, as will be discussed later in this Paper, there is much to be said for keeping young people out of the juvenile justice 'net' as much as possible.

16 Coumarelos found that for that small number of her sample who did persist in offending, appearing in the Children's Court a number of times, there were three main factors that predicted reappearances.

First, (lower) *age* at first proven appearance predicted number of reappearances; second, those charged with the most serious offence at first proven offence predicted reappearances; and third, the number of appearances to date predicted future reappearances. That is, "those with extensive criminal histories are more likely to commit offences in the future" (Coumarelos 1994, p.33).

17 See, for example, inter alia, Lynch, Buckman and Kresnske 2003; Roberts 2005; Chen, Matruggio, Weatherburn and Hua 2005; Vignaendra and Fitzgerald 2006; Weatherburn, Cush and Saunders 2007.

Research undertaken in Queensland conducted by Lynch, Buckman and Krenske 2003 found that the vast majority of young offenders who had been placed on supervised juvenile justice orders progressed to the adult criminal justice system, with one half of those serving at least one term of imprisonment.¹⁸ Moreover, of the cohort under study a staggering 91 per cent of those juveniles who had been subject to a care and protection order progressed to the adult system (Lynch, Buckman & Krenske 2003). It was also found that assigning more severe punishments for *early* criminal behaviour can result in greater recidivism (Lynch, Buckman & Krenske 2003).¹⁹

Research studies in recent years, often using an actuarial approach, have become even more sophisticated in determining the type of factors that can 'predict' recidivism among both juvenile and adult offenders. Scholars from the NSW Bureau of Crime Statistics and Research (BOSCAR) conducted a number of studies that sought to refine the variables that can be used to indicate the risk of offending and re-offending. For example, Weatherburn, Cush and Saunders present a classifying analysis of young offenders coming into contact with the NSW criminal justice system to identify those who ought to be referred to more intensive interventions. Their results indicated that:

The risk of re-offending is significantly higher for juvenile offenders who:

- Are younger at their index court appearance
- Are of Aboriginal or Torres Strait Islander descent (borderline significant)
- Are not living with both natural parents
- Have experienced some form of trauma
- Have been placed in out-of-home care
- Have been the subject of a confirmed report of neglect or abuse
- Have one or both parents deceased
- Were not attending school at the time of the index court appearance (borderline significant)
- Have been suspended or expelled [from school]
- Associate with delinquent peers
- Have committed a theft or deception offence
- Have had more past contacts with the criminal justice system (Weatherburn, Cush & Saunders 2007, p.7).

Of these indicators the authors note that only four factors are required to predict juvenile re-offending to a sufficient degree of accuracy:

[t]he age of a juvenile offender, whether or not the juvenile is at school at the time of the index offence,²⁰ whether or not the juvenile has been suspended or expelled from school at the time of the index offence and the number of prior contacts the juvenile has had with the justice system (2007, p.9).

18 It should be noted that the young people sentenced to supervised orders in the Queensland study were for the most part serious and/or repeat offenders. As the authors point out, those who committed few or minor offences would generally have been diverted out of the system through cautioning, conferencing, or unsupervised orders (Lynch, Buckman & Krenske 2003).

19 For example, the study by Lynch, Krenske and Buckman cited research by Kraus and Smith that concluded that even a relatively short period of custody on remand increased significantly subsequent offending compared to being placed on remand at home (2003). The authors, drawing from more recent work by Trotter, found that:

[M]ore serious orders can influence the propensity to re-offend through a process of criminal socialisation, and that community service orders and other structured programs that bring offenders together can actually serve to magnify the very deviance that such responses to offending are intended to reduce (Lynch, Krenske & Buckman 2003, p.2).

20 That is, the first offence for which the person has been processed and/or convicted.

Specialist or generalist offending?

One final issue that should be considered is 'Do juvenile offenders stay with one particular type of offence or do they show "more versatile" delinquent careers'? In other words, are they specialist or versatile in their offending? Or as Carcach and Leverett ask:

Do juvenile offenders tend to commit the same type of offence or consistently switch between offences over the course of their offending careers?

Do patterns of juvenile offending remain stable or change over a career? (1999a, p.1).

One could further ask whether the answers to such questions depend on how old the offender is, what type of crime is being committed (theft versus assault), why the crime is being committed (acquisitive need – for example to buy drugs versus opportunistic shoplifting) and at what stage the criminal career commenced, that is, the age of onset?

Carcach and Leverett believe that both types of offending are apparent amongst juveniles (and adults) depending on the circumstance of the offence:

If there are several underlying processes leading to delinquency, then offending should be versatile rather than specialised. Offenders would tend to commit many different types of offences during their careers, and knowledge of the type of offence committed on one occasion would not help to predict the type of offence committed on another.

Specialisation occurs when a single underlying process drives offending. Offenders would tend to continue committing the same type of offence during their careers, and knowledge of the type of offence committed on one occasion would help to predict the type committed on another²¹ (Carcach & Leverett 1999a, p.1).

Clearly there are a multitude of methodological, definitional and conceptual problems associated with (youth) offending and re-offending. No doubt the questions for discussion that follow will also raise a number of other equally vexing issues that pertain to addressing youth offending in Victoria.

Questions for further consideration

- What are the current challenges in undertaking research into recidivism?
- How useful are recidivist studies in developing policy and practice? To what extent does research into recidivism inform policy and practice in Victoria?
- How should the Committee proceed in attempting to gain an understanding of recidivism levels in this state?
- How useful is the concept of 'criminal careers' or 'offending pathways' in understanding youth offending and re-offending?
- Why does one group of early onset offenders desist in their offending during adolescence and another group persist into adulthood?
- What individual, family, peer and community characteristics are acting as risk or protective factors for the young people in these groups?
- How useful is the evidence on 'criminal careers' or 'offending pathways' in providing directions to the criminal justice system and the range of service agencies dealing with young people to provide more appropriate responses to juvenile offending?

21 In Carcach and Leverett's study, violent and property juvenile offenders tended to specialise, particularly with regard to burglary, motor vehicle theft and assaults whereas drug offenders tended to be more unpredictable in their offending; 'This suggests the possibility of accurately predicting the delinquent careers of a significant portion of juvenile offenders' (Carcach & Leverett 1999a, p.5).

4. Causes or Contributions – What Leads to Youth Offending?

One of the major issues, which has given rise to much controversy, is: What causes youth offending? This, it would seem, is a matter on which nearly everyone from academics and journalists, to the average person in the street, has an opinion. Certainly, an understanding of any form of criminal activity requires a brief examination of some of the major causal or contributory factors that can be attributed to such offending, including some of the theoretical explanations taken from various streams of criminology. This is important if only to ask how helpful such theories and explanations of (youth) offending are in addressing the problem. Such theories can also form the basis of policy and program development.

It should be noted, however, that in a paper of this scope a discussion of theoretical models and explanations must of necessity be brief. It is an understatement to remark that the research literature on both uni-linear and multi-factored causal and explanatory theories of offending is voluminous.

A related area that requires at least a cursory critique is a discussion of the risk and protective factors that are sometimes presented as explaining why a young person may either participate in, or abstain from, committing criminal activity or other antisocial behaviour. These concepts and the developmental/life course criminology/psychology models from which they stem, however, should not be uncritically accepted and require critique and scrutiny.

Theories and explanations for criminal behaviour

Causal theories of crime have often been uni-linear, that is they attribute a direct and often single cause to the crime.²² To use an overly simplistic example, bad parenting (or more often mothering) leads to juvenile alienation and ultimately delinquency. Many causal explanations have stemmed from overarching theories and meta-narratives promoted to explain crime generally – each containing the biases of their proponents. Some of the main criminological theories that have sought to explain crime, including juvenile crime, are:

- ◆ Classical²³
- ◆ Positivist/Scientific²⁴
- ◆ Ecological and/or Environmental theories
- ◆ Labelling theories

22 For an excellent critique of the concept of causality in criminology, see Bessant & Hil 1997. For a recent discussion of the place of theory in criminology and an appraisal of the various schools of criminological thought and their application, see Watts, Bessant and Hil 2008, pp.103–107.

23 Exemplified by a move from a primitive way of thinking about crime and criminals to a 'scientific' understanding of the subject based on *reason*, reflective of the 'Age of Enlightenment', and first formulated in the eighteenth century in the works of philosophers such as Jeremy Bentham.

24 The idea of positivism has a controversial and somewhat unclear meaning. It is generally agreed that the philosopher Auguste Comte, the 'father' of sociology, coined the term in the early eighteenth century. It reflected his distaste of approaches to phenomena on the basis of religion, emotion or what he called metaphysics. His approach was essentially empirical, if something had no physical qualities enabling it to be seen, touched or

- ♦ Marxist, New Left or the 'New Criminology'
- ♦ Feminist Criminology
- ♦ Post modern/post structuralist criminology.²⁵

Within these broad categories, variations, sub-schools and differing approaches may also be evident. Differences have also been apparent in approaches to explaining offending behaviours depending on whether the criminological approach stems from sociological, psychiatric, economic or behavioural disciplines and practices.

Some contemporary critical theorists argue that one of the main weaknesses of current approaches to youth crime is 'the failure of theories to transcend the dualism in the definition of crime' (Borowski & O'Connor 1997, p.35). This dualism is located in theories of crime that are termed either *objectivist* or *subjectivist*:

The objectivist model exemplified by various positivist theorists sees patterns and regularities of social existence as external to, and independent of, actions and representatives by individuals. This implies that delinquency can be objectively defined by certain observable *behaviours* and delinquents can be unambiguously identified as people who engage in these behaviours. The subjectivist position...on the other hand views social reality as an ongoing accomplishment of social actors who construct or reproduce the 'structures' of social existence. This implies that delinquency is to be understood as a *status* assigned to individuals as a result of a criminalisation process, not as a quality inherent in behaviour (Borowski & O'Connor 1997, p.35).²⁶ (Emphasis in original)

As interesting and important as such theoretical debates are, a Discussion Paper of this nature is not the place to discuss or critique them. There are many excellent texts that give comprehensive accounts and critical analyses of both historical and contemporary theoretical criminology, sociological and psychology, including discussions of causes of crime.²⁷

However, one important phenomenon in contemporary accounts of juvenile offending that does require attention is an explanation of risk and protective factors and the developmental approach from which they stem. This is a huge area of scholarship and again only a brief account of the main features of the analysis, and its critique, can be given in this Paper.

heard etc then ergo it did not exist. Comte and his adherents were reliant on the use of medical and biological metaphors and models to explain the development of this new 'science of society' (Watts, Bessant & Hil 2008, p.41). Notwithstanding, there is even today a lack of consensus as to positivism's meaning. However, the following definition generally sums up the main tenets of what is generally referred to as a positivist approach to criminology:

For contemporary criminologists 'positivism' involves a commitment to a 'common sense' reliance on scientific method. The practice of this kind of positivism is based on 'operationalising' a concept so as to render it amenable to measurement, carrying out some data collection and then doing statistical analysis...on the that data. This apparently 'common-sense' approach is often taught in university 'empirical research methods' or 'quantitative research methods' courses and incorrectly assumes or asserts that because it is based on common sense it has nothing to do with theories or philosophy (Watts, Bessant & Hil 2008, p.41).

- 25 One of the general tenets of the post-modern school being that it looks away from the positivist search for a general theory of crime or deviance. See Borowski and O'Connor 1997.
- 26 Subjectivist approaches are more typical of, but not exclusive to, interpretive and left schools of criminological thought.
- 27 See in particular Hazelhurst 1996; Borowski and O'Connor 1997; Maguire, Morgan and Reiner 2002; Walklate 2006; White and Haines 1996; Watts, Bessant and Hil 2008.

A general account of a developmental pathways approach to offending

Increasingly public policy in Australia centring on health promotion and crime prevention is taking a 'developmental pathways approach' (see Hemphill, Toumbourou & Catalano 2005; Homel et al. 2006), a model which draws on 'life course development research, community epidemiology and preventive intervention trials' (Hemphill, Toumbourou & Catalano 2005, p.11).

Developmental approaches to crime prevention and youth offending are based on the idea that:

[t]he way human beings develop, especially in the first five years of life [have a major effect on later life course development]...There has been a rediscovery in the policy world, of the role of early childhood as a lifelong determinant of health, well being and competence...Recent insights from neurobiology, developmental psychology and longitudinal studies of children give credibility to notions held long as common sense (Hertzman 2000 in Becroft 2003, p.47).

Early interventions based on developmental theories are based on the belief that early interventions can address the risk and protective factors that may lead to youth involvement in crime and antisocial behaviours, including future youth offending:

The growing interest in developmental and early intervention for the prevention and reduction of crime is mainly driven by two closely related factors:

- Frustration at the apparent failure of conventional strategies to prevent the long term growth and recurrence of crime in the community; and
- Evidence from a small number of well researched and evaluated initiatives which strongly suggest that significant long term benefits (particularly financial) will accrue from effective developmental and early intervention programs (Australian Institute of Criminology (AIC) 2003a, p.1).

The approach is summed up in the *Pathways to Prevention* Report (hereinafter cited as *Pathways*), one of the major social policy projects aimed at addressing child, youth and family disadvantage in Australia from a developmental pathways approach.²⁸

It is based on the assumption that mobilising social resources to support children, families and their communities before problems emerge is more effective and cheaper than intervening when problems have become entrenched. The key is to work early in the developmental pathway, which does not necessarily mean early in life (Homel et al. 2006, p.vii).

The key underlying concept of such an approach is that well designed programs aimed at *developmental* rather than *remedial* interventions 'can alter the pathways available to [disadvantaged] children and their families and in so doing can reduce the likelihood of participants achieving negative outcomes' (Manning, Homel & Smith 2006, p.99).

Whilst the *Pathways* project was focused more generally on child, youth and family disadvantage rather than crime specifically, it certainly viewed youth offending as one indicator of the physical, social participation and mental health deterioration of young people since the Second World War. Drawing from the work of developmental theorists such as Farrington, the *Pathways* Report states:

28 The program commenced in 1999 was initially located in lower socio-economic and disadvantaged suburbs and schools of Brisbane, although the model has been adopted and implemented in other areas of the country since then. It is delivered through an ongoing partnership between Mission Australia and Griffith University. Only early stages of the Project have been formally evaluated. For a full account of the Project and an analysis of its achievements, see Homel et al. 2006.

Studies of the pathways to antisocial behaviour have identified persistent conduct problems, oppositional behaviour and physical aggression in the preschool and early primary school years as one of the strongest predictors of adolescent aggression, delinquent behaviour and a range of negative long-term outcomes (Farrington, 1991). A significant proportion of adult offenders are reported to have a history of childhood conduct problems that precipitated the gradual development of more serious antisocial behaviour (Stevenson & Goodman, 2001).

Many risk factors for antisocial behaviour are malleable because they are really statistical markers for the effects of systemic barriers that disadvantaged families face in accessing the resources they need to care adequately for their children. On the basis of many years of analysis of the Cambridge Longitudinal Study, Farrington (2003) identified impulsivity, low school achievement, poor parental child-rearing practices, and poverty as critical but potentially modifiable factors in the pathways to juvenile crime.

The starting point for our work in the *Pathways to Prevention Project* was our belief that the systemic barriers to which risk factor analyses point can, to some extent, be breached through planned interventions that provide opportunities for disadvantaged young people to participate more fully in mainstream institutions such as school. In this way positive developmental pathways can be fostered (Homel et al 2006, p.1).

This preventive approach could be seen in one of the programs overseen by Pathways – the Family Independence Program. In this case parents, caregivers and families in the targeted lower socio-economic schools/areas were assisted through funded projects to: '[c]reate a stimulating home environment that is harmonious and conducive to learning, through the provision of an integrated suite of culturally sensitive programs and services'. (Homel et al. 2006, p.24).²⁹

Risk and protective factors

One correlate of a developmental pathways approach is examining the factors that can be used predictively to assess whether a young person might engage in antisocial or criminal behaviour.³⁰ Risk factors have been defined as 'prospective predictors that increase the likelihood that an individual or group will engage in adverse outcomes' (Hawkins, Catalano & Miller in Hemphill, Toumbourou & Catalano 2005, p.11). The converse concept is that of protective factors which 'both directly decrease the likelihood of antisocial behaviour and mediate or moderate the influence of risk factors' (Hemphill, Toumbourou & Catalano 2005, p.11). Protective factors could include pro-social involvement in sports, church attendance or being part of a 'traditional' two-parent family unit. A related concept, which has received much prominence in child psychology and developmental studies in recent years, is that of resilience. In other words, resilience may explain why some young people, including those coming from relatively disadvantaged or troubled backgrounds, may abstain from antisocial behaviours (including substance abuse) or criminal offending. Resilience can be viewed as a key protective factor.³¹ A summary of commonly recognised risk factors for youth offending and antisocial behaviour is presented in Table 8.

29 The key approach of the Pathways project is to 'educate' both the child and the family in order to self-address some of the risk factors that may act as obstacles to ongoing healthy development. However, as the Report indicates, it is difficult for a carer to place priority on their child's education 'if the family is homeless or unable to afford food for a fortnight' (Homel et al. 2006, p.26). Therefore material aid and support/advocacy such as food or furniture provision was one element of a raft of approaches to stabilising the family environment.

30 Risk and Protective Factors have been particularly used in assessing propensity to alcohol or substance abuse among young people. For an analytical and critical account of such an approach, see Drugs and Crime Prevention Committee 2006.

31 For a general discussion of the concept of resilience in children and its relationship to other protective factors, see Howard and Johnson 2000.

Table 8: Risk and protective factors associated with youth offending and antisocial behaviour

Levels	Risk factors	Protective factors
Community	Poverty Transitions in schooling and into the community Low neighbourhood attachment and community disorganisation Availability of drugs	Cultures of cooperation Stability and connectedness Good relationships with an adult outside the family Opportunities for meaningful contribution
School	Poor relationships in school Academic failure, especially in middle years Early and persistent antisocial behaviour and bullying Low parental interest in children	A sense of belonging and fitting in Positive achievements and evaluations in school Having someone outside your family that believes in you Attendance at preschool
Family	History of problematic alcohol and drug use Inappropriate family management Family conflict Alcohol/drugs interfering with family rituals Harsh/coercive or inconsistent parenting Marital instability or conflict Favourable parental attitudes towards risk taking behaviour	A sense of connectedness to family Feeling loved and respected Proactive problem solving and minimal conflict during infancy Maintenance of family rituals Warm relationship with at least one parent Absence of divorce during adolescence A 'good fit' between parents and a child
Individual/Peer	Constitutional factors, alienation, rebelliousness, hyperactivity, aggression, novelty seeking Seeing peers taking drugs Friends engaging in problem behaviour Favourable attitude toward problem behaviour Early initiation of the problem behaviour.	Temperament/activity level, social responsivity, autonomy Development of special talents/hobbies and zest for life Work success during adolescence High intelligence (not paired with sensitive temperament)

Source: Department of Human Services (Vic) 2000 in Alcohol and other Drugs Council of Australia (ADCA) 2003, p.4.

Increasing risk factors

Supporters of developmental approaches argue that the more risk factors that accumulate in a person's life over a long period of time the greater will be the developmental impact. Conversely, it is rare that any single risk factor 'lies at the heart of developmental problems' (Loxley et al. 2004, p.72). The cumulative effect of multiple risk factors can be likened to a snowball effect, with subsequent risk factors building upon any earlier problems. The higher number of risk factors the greater the chance that children may subsequently progress to harmful alcohol or other drug use or involvement in crime or other antisocial behaviour (Toumbourou & Catalano 2005).

Conversely, however, if interventions are implemented to reduce or eradicate one risk factor this may prevent the acceleration or accumulation of consequent problems:

For example, the reduction of a risk factor such as academic failure is likely to lead to greater completion of high school, increased attendance at college and greater job opportunities, all of which can be costed as benefits of early school-based prevention efforts. Likewise, pre and postnatal home visits by public/community health nurses not only reduce material substance use and arrest rates, of the mother and eventually the child, but also reduce rates of substantiated child abuse and neglect that represent additional cost savings of this approach (Loxley et al. 2004, p.243).

Moreover, a protection and risk reduction approach which acknowledges the cumulative impact of multiple risk and protective factors has the potential to:

Provide important insights for intervention research. The cumulative effect of risk factors suggests that there are important advantages for early intervention strategies to be creatively integrated and co-ordinated across time. Programmes that target more than one risk factor (eg parental bonding and peer interaction) and co-ordinate intervention activities across different developmental periods and settings increase the likelihood of an effect and hence result in more consistent impacts (Arthur and Blitz 2000). These considerations suggest that investment in prevention activities should aim to maintain a coordinated set of activities through childhood and adolescence tied to community priorities indicated by developmental levels of risk and protective factors (Toumbourou & Catalano 2005, pp. 63–64).

In addition, an important finding coming from developmental prevention studies is that by improving key developmental environments such as prenatal services, preschools and parenting programs there can be benefits for all children, even if the greatest benefits may be for those most vulnerable and disadvantaged (Stockwell 2005).

Criticisms of risk factors and the developmental approach

However, a growing body of research and literature across the social and natural sciences raises a number of serious questions about the credibility of developmental explanatory theories (eg. Beck 1992, 1998; Bessant, Hil & Watts 2003; Kelly 1998, 1999, 2000; Dwyer & Wyn 2001). As indicated above, some researchers have gone beyond using risk and protective factors descriptively to utilising them as predictive indicators of future offending (or indeed abstinence) by young people. This has attracted trenchant criticism from some quarters.

For example, Watts, Bessant and Hil (2008) argue that the listing of a variety of risk indicators such as single parent environments, truancy, dysfunctional families, long-term unemployment, rejection of child or conversely protective factors such as pro-social development, family harmony, strong family norms and morality etc are:

[p]romoted as if this policy framework rests on solid empirical and scientific evidence, the use of indices of 'risk' and 'protection' points to a level of fantasy and plain silliness that is deeply worrying. Any reader can ask her or himself if [these] characteristics as indicators of antisocial behaviour are anything more than a bundle of prejudices about the world of the 'typical' young...juvenile delinquent (Watts, Bessant & Hil 2008, p.158).

In an earlier article Bessant (2001) argues that the discovery of the 'youth at risk' category has supplanted older categories such as delinquency and maladjustment that were foundational to the sociology of deviance. Yet to her the methodologies, epistemological assumptions and politics of governance inherent in the older projects remain the same.

One assumption inherent in the developmental pathways approach which Bessant believes warrants caution is that causal connections are identifiable and can be tracked and documented. This assumption she states is not only false but also encourages a neglect of other possible explanations for phenomena such as criminal behaviour or drug abuse. Bessant also argues that the proposition that a researcher can use aggregate data about large numbers of young people and then apply that data or any findings to a particular person and go on to argue that the individual is 'at risk' is itself flawed:

Risk based research often involves pointing to certain average values or deviations from the norm (based on investigations of large numbers of individual cases) and then turning to an actual single individual and saying to that person 'Because you exhibit factors a, b and c you are at risk of substance abuse'. Such an assessment means moving from measures of central tendency like averages to particular cases. As the statistician Gould explains this is problematic because moving from a claim that X is true of the whole group to the claim that X is also true for each single member of the group cannot be done (Bessant 2001 in Drugs and Crime Prevention Committee 2006, p.672).

Not the least of the criticisms made of a rigid risk factors approach then is the way in which an almost actuarial table of risk factors can be used to determine various types of offending.³²

Critics of risk based research argue that it authorises researchers as expert speakers about substance use or juvenile crime at the same time as it de-legitimises young people as speakers and active subjects capable of interpreting their actions, and of framing the problems in different ways. In effect it denies young people agency. This has implications for good policy making because it means that very rarely do researchers/experts/policy makers gain insights into why young people commit crime or misuse drugs from the perspective of those who do it (Bessant, Hil & Watts 2003).³³

Whilst it would appear that there are many attractive features of taking a developmental approach to reducing youth involvement in criminal offending, the issues raised by critics of prevention based approaches that incorporate risk and protective theories whilst controversial are also of considerable interest. The Committee welcomes further input by way of submission as to views on developmental and risk factor approaches to youth offending.

Specific factors contributing to offending

A number of factors have been raised as contributing to or explaining criminal behaviour. Whilst many of these are certainly considered to be risk factors, they have also been, and still are, commonly seen as being independent causes of offending. Such factors include:

- ◆ Economic disadvantage, including unemployment.
- ◆ Family background, including domestic violence and sexual abuse
- ◆ Schooling and education factors
- ◆ Mental health issues
- ◆ Substance abuse issues.

Clearly many of these issues are inter-connected. For example, economic disadvantage may cause tensions in family life, which may affect a young person's emotional state, their educational performance and lead to offending. Similarly, as numerous research studies have indicated, there is a clear nexus between mental health issues, substance abuse and offending.

32 See for example Baker's analysis of the relationship between developmental and demographic factors and juvenile participation in crime (Baker 1998, pp.31ff). Whilst it may be useful to know for instance that truancy is a high predictor of involvement in malicious damage and acquisitive property crime, one needs to be careful that such models do not become used in almost self-fulfilling ways. Although not directly associated with youth offending, American theorists Sampson and Laub are also critical of using developmental criminology in this predictive way:

...we question the *prospective* or predictive power of offender groups and whether they are causally distinct with respect to later trajectories...Developmental criminology...tends to emphasise the notion that people get 'locked' into certain trajectories. One of the lessons of prospective longitudinal research is that there is considerable heterogeneity in adult outcomes that cannot be predicted in advance...we highlight a life course view that emphasises human agency and choice over the life span, underscoring how people construct their lives within the context of ongoing constraints. From this view trajectories are interpreted not from a lens of unfolding inevitability but rather continuous social reproduction (2005, pp.13, 14). (Emphasis in original)

For a similar analysis in the Australian context, see Goodnow 2006.

33 For example, Cappo in his review of repeat juvenile offending in South Australia testified to the importance of including young people's own experiences as to what triggered a possible resort to criminal or antisocial activity. Generally a sense of hopelessness, lack of self-worth and alienation led to a 'proliferation and acceleration of their offending behaviour'. For Indigenous offenders 'the constant experience of racism in their contact with non-Aboriginal society and the omnipresence of death and the funerals of kin compounded this situation' (Cappo 2007, p.12).

Economic disadvantage and unemployment

As with any discussion of the variables that may impact upon youth involvement in crime, factors such as economic disadvantage and youth unemployment are contentious.

On the one hand there is a body of research that does suggest strong links between material deprivation, economic disadvantage (including unemployment) and crime and antisocial behaviour, although even proponents of such a nexus would be reluctant to claim economic disadvantage or unemployment as sole determinants of such behaviour. Certainly programs such as the Pathways Project discussed earlier are at least partly underpinned by the idea that:

Evidence exists that children raised in socio-economically disadvantaged regions have an increased probability of negative outcomes such as school failure, delinquency, drug use, juvenile crime, youth unemployment and teenage pregnancies (Manning, Homel & Smith 2006, p.99).³⁴

On the other hand critics such as Bessant & Hil argue that:

At best...even in terms of the most cursory review of the empirical evidence, no definitive and clear conclusions can be drawn about the connection between unemployment and crime...The claim that delinquency and other antisocial behaviours occur because young people are unemployed is problematic when the research is underpinned by categories that are either over-generalised or under specified or both...Questions need to be asked about the ways in which categories like 'youth unemployment' and 'juvenile crime' are conceptualised and how those conceptualisations then determine the shape, character and size of the youth unemployment or crime problem (Bessant & Hil 1997, p.70).

Bearing such concerns in mind, it is nonetheless true that there is a large body of research knowledge that makes at least tentative associations between economic disadvantage and in particular property crime. For example, good economic periods or a fall in long-term unemployment may at least in part be responsible for a fall in the rates of burglary or property crime. Conversely, crime can provide 'a useful source of supplementary income' during economic downturns (see Moffatt, Weatherburn & Donnelly 2005, p.9).³⁵

The AIC Report *What Works?*, whilst not proposing a direct link between unemployment and crime, does discuss academic research that suggests the converse. In other words, providing young people with paid employment opportunities or vocational training may reduce recidivism amongst offenders who are not incarcerated (Lipsey & Wilson in AIC 2002, p.28). Similarly there is 'evidence that ex prisoners and probationers are more likely to re-offend if they are unemployed' (AIC 2002, p.28 and the references cited therein). Certainly there is evidence that young people would prefer to be in legitimate paid employment³⁶ and that '[o]ffenders are more likely to terminate their criminal careers when their current legal earnings are higher than their illegal earnings' (Pezzin in Cameron 2000, p.4).

34 Similarly, some critics argue that children raised in comfortable middle-class homes with good schooling and leisure opportunities have less need to commit crime to obtain material acquisitions or engage meaningfully with society (see Watts, Bessant & Hil 2008).

35 Certainly interlinked factors such as unemployment, homelessness and lack of post prison release support may be strong contributing factors to recidivism or re-offending. A released offender without a job, home or visible means of support may indeed find it difficult to keep on the 'straight and narrow'. See Baldry 2007 for a discussion of this issue.

36 American research examining the differences between young people in 'illegitimate' employment such as drug dealing and regular labour market employment found that youth who sell drugs either individually or in gangs would prefer to receive a regular income through legitimate employment even if this meant receiving a lower level of income. One of the reasons being: 'they were tired with living with the fear that accompanies drug sales' (Huff 1998 in Cameron 2000, p.4).

Chapman et al. (2002) noted that unemployment, like crime, is a 'heterogeneous' construct varying in terms of age, gender, the duration of the unemployment and the educational standards of those unemployed. They nonetheless found, on the basis of their research in NSW, a strong positive relationship between criminal activity and long-term youth male unemployment (Chapman et al. 2002).³⁷ The authors added a caveat, however, stressing that in discussing links between unemployment and youth crime, particularly property crime, attention needs to be paid to the interrelationships between the crime, economic policy, unemployment duration and education. The authors argue that increased high school participation/completion or encouraging young people to attain higher levels of vocational training or education may have positive results in reducing youth participation in (property) crime:

The analysis suggests that labour market and education policies have the potential to significantly reduce property crime. However, increased high school participation of the long term unemployed only seems to decrease crime if it results in graduation...We argue that the longer the person is unemployed the higher the relative attractiveness of crime.³⁸ Further we suggest that higher levels of education diminish the relative attractiveness of criminal activity through their effect on the returns to employment (Chapman et al. 2002, pp.1, 9).

Finally, Weatherburn, Lind & Ku (2001) also suggest a link between economic distress/unemployment and its effect on parenting which may in turn have implications for youth offending:

That economic stress increases the likelihood of parental behaviours which are known to be criminogenic (eg weak parental supervision, inconsistent, erratic, harsh discipline)...the effects of economic stress on crime are mediated both through parenting and delinquent peer influence...According to [this] model, chronic economic (or social) stress erodes the quality of parenting in a neighbourhood and over time increases the supply of juveniles susceptible to delinquent peer influence. Interaction between these juveniles and those already involved in crime increases the rate of entry into crime (Weatherburn, Lind & Ku 2001, p.146).³⁹

These claims support the point made earlier that by discussing matters such as economic disadvantage and family circumstances as separate contributing variables is in one sense artificial given the interconnectedness of these issues.

In short, a discussion of the effect of economic disadvantage, unemployment and financial hardship as contributors to (youth) offending are complex and cannot be viewed in isolation from other variables such as family background. Yet as Moffatt, Weatherburn and Donnelly noted, recent studies into possible associations between economic disadvantage, unemployment and crime:

[p]rovide a timely reminder that not all crime is drug related, and that economic policy has an important role to play in crime prevention and control (2005, p.9).

37 See also Polk and White 1999. The authors suggest that young people may 'move into' crime in circumstances where they have few family resources to cushion the effect of long-term unemployment and/or they belong to a group or neighbourhood that is already crime prone, low income or economically deprived.

38 Conversely, Sampson and Laub note that factors such as job stability particularly when combined with marriage or steady relationships may act as brakes on offending or re-offending in later life (2005, p.15).

39 Carcach and Leverett in their study of youth recidivism, also found that there is:

A growing body of research evidence [that] suggests that economic and social stress affect crime by disrupting the parenting process (Carcach & Leverett 1999b, p.23 and the references listed therein).

Family background

Interest in researching the links between family background, particularly disrupted single parent families, crime and delinquency has grown exponentially since the 1960s. This, according to some criminologists, is largely because of the rise in disrupted families⁴⁰ in Western industrialised societies:

Many family factors have been shown to predict offending, including factors relating to child-rearing practices (e.g. harsh discipline, poor supervision and low parental involvement with the child) ...[and] family disruption which "seems to be as strong a predictor of self reported and official delinquency..." (Juby and Farrington 2001, p.23) (Haas et al. 2004, p.520).⁴¹

However, even the authors of the above quote acknowledge that the relationship between family disruption and delinquency is a complex one (Haas et al. 2004, p.520).

Dysfunctional parenting and criminogenic family environments

Despite such complexities, there is a plethora of criminological and psychological research that suggest that criminogenic family environments, particularly during the earlier years of child and adolescent development, are strong predictors of adolescent antisocial behaviour. Many of the more recent studies draw from some classic pioneering criminological research done as early as the 1950s.⁴²

A long history of research...has shown that family structural conditions (eg poverty, large family size and residential mobility) and family social processes (poor supervision, erratic/threatening discipline and weak parental attachment) are strong predictors of adolescent delinquency...Moffitt [has] argued that when a child's vulnerability is compounded with such negative family conditions, life course persistent offending is most likely (Sampson & Laub 2005, p.24).

Other studies have examined what are considered to be dysfunctional parenting practices, which it is claimed contribute to the development of conduct problems amongst young people. These in turn 'are among the strongest predictors of later delinquent behaviour' (Ralph & Sanders 2004, p.1). Similarly a large body of literature has noted strong links between children from divorced or single parent families and subsequent antisocial or criminal behaviour by young people. According to such theories 'broken homes' are 'less likely to provide adequate supervision and effective socialisation than intact homes' (Rankin & Wells quoted in Jobes 2004, p.6).⁴³

Just as family disruption, negative family influences and child maltreatment have been suggested as contributing factors in youth offending, research suggests that positive, stable and strong family relationships act as protective factors mitigating against youth involvement in criminal or antisocial activity. Whilst contemporary studies may not be as blatant or unsubtle in making links between 'good' mothers and 'stable' children (or indeed criminogenic 'bad' mothers and 'unstable' children),⁴⁴ there are sufficient indicators in the literature to indicate that for a child to grow up as a mentally healthy 'law abiding' adult, an upbringing in a traditional

40 In the literature the term 'disrupted' usually connotes a one-parent family due to divorce, separation, widowhood or where for other reasons a single parent has sole responsibility for child rearing.

41 For general accounts of the links between family disruption, family and parental influence and youth offending, see Loeber and Stouthamer-Loeber 1986; Baker 1998; Rodgers and Pryor 1998; Juby and Farrington 2001; Farrington 2002; Sampson and Laub 2005; Larsen and Dehle 2007; Wileman, Gullone and Moss 2007.

42 Including the seminal studies conducted by criminologists Sheldon and Eleanor Glueck of Harvard Law School, a three wave prospective study of juvenile male offenders done over a thirty-year plus period. For an account of this landmark (if now in some respects criticised) research, see Glueck and Glueck 1968 and Sampson and Laub 2005. The Glueck research, methodology and data has been used by many subsequent researchers in replicating similar studies (see Sampson & Laub 2005).

43 One particular risk factor that has been identified as contributing to criminogenic behaviour by juveniles is substance abuse by parents and family members. Positive attitudes toward substance abuse by parents also act as a risk factor for young people. See Prichard and Payne 2005 and the discussion later in this chapter.

44 See for example the classic mother child attachment studies of Bowlby discussed in Haas et al. 2004.

two-parent (or at least stable) family is if not necessary at least desirable (see Haas et al. 2004). Indeed as Watts, Bessant and Hil remark: 'Criminologists' efforts to identify the role of the domestic rumblings of family life in the creation of crime and delinquency have never been less than exhaustive' (2008, p.135). Take, for example, the following statement from a very recent American study:

Several notable findings that emerge from our empirical analyses warrant discussion. First, youths in two biological parent (intact) families commit the fewest kinds of antisocial behaviours...This finding is consistent with the voluminous literature that finds the prevalence of overall delinquency seems to be about 10-15 percent higher in non intact households as compared with traditional two parent homes (Apel & Kaukinen 2008, p.55).⁴⁵

Such portrayals of criminogenic, separated or disrupted families and homes and the linkages made to later youth offending have not been without their critics. For example, feminist writers have been critical that arguments about the influence of single parents (mothers) and disrupted homes ignore the socially constructed nature of motherhood and the supposed natural role of women in the process of child rearing (see Naffine 1997). Other more general critiques of parental deficiency models have noted the apparent weaknesses in the human development approach of academics such as Farrington:

[Such writers] argue that...[p]arental inability to exercise 'consistent and firm discipline', maintain 'effective communications' and practise 'conflict resolution' are key factors in 'criminogenesis', or the manufacture of criminality. These writers argue that deficiencies in these skills produce families that are discordant, argumentative and lacking in parental support and supervision.

There are some complex issues here. Firstly, the sample base of Farrington's 1994 study was working-class families. Like every other criminologist who has done research on this question, he has not researched other kinds of families, like the families of elite or middle-class professionals to establish the extent to which the so-called 'pro-social parenting skills' are actually practised in them.

The fact that Farrington and his colleagues have chosen to focus on low-status, working-class families is a key problem. Are any of the observable differences between the poor, ethnic-minority and working-class families and elite families to be properly understood as deficiencies or simply as differences, and whose judgement about this is to prevail? The preoccupation with researching low-status, working-class, coloured and immigrant families is a traditional bias among conventional criminologists. Why are the alcoholism, sexual promiscuity, emotional abuse or drug-taking of elite families or middle-class families not researched to the same extent as these activities on the part of the lower classes? Is it not possible that too many class and ethnic biases have been allowed to silently inform this research? Have not all manner of assumptions and prejudices about the obvious deficiencies of 'the poor' and working-class families, many of them especially in the UK and the USA, found among minority or immigrant communities, shaped the kinds of research done and the conclusions drawn? (Watts, Bessant & Hil 2008, p.143).

Factors such as family disruption, whilst arguably (if contentiously) injurious to child development, could loosely be classified as indirect behaviours/factors. What effect does actual child maltreatment (including physical and sexual abuse and neglect) have on life course development?

45 If according to such writers the problem is located in the family it follows that suggested policies and programs to address the problems will also use the family as the site of intervention. For a discussion of family centred interventions, see Baker 1998 pp.56–57 and the discussion in Chapter 5.

Child maltreatment and its possible relationship to youth offending

A wide range of longitudinal and cross-sectional studies link the experience of maltreatment of children with the greater likelihood of youth offending (see the studies cited in Stewart, Dennison & Waterson 2002).⁴⁶ This is an area that has been researched in recent years by academics from Griffith University in Queensland. For example, in a study by Stewart, Dennison and Waterson it was found that whilst generally children who suffer child maltreatment are more likely to offend and that physical abuse and neglect were significant predictive factors for offending, curiously sexual and emotional abuse were not (2002, p.1). The authors' research indicates that maltreated Indigenous children were more at risk of offending later in life than non-Indigenous children (2002, p.4). Indeed in Stewart's sample Indigenous children were four times more likely to offend than non-Indigenous children, a finding generally consistent with the research that minority groups are over-represented in both child protection and criminal cases (2002, p.5):

Whether such findings mean Indigenous children are at greater risk of maltreatment or simply that they are more likely to come to the attention of [state authorities] is not known. Brown (1984) suggested that official data over-represent those with low socio-economic status because of bias in agency activity. Given the social inequalities that exist for many Indigenous families, the higher number of maltreatment notifications may be more a function of increased attention by protective services than higher maltreatment levels. This finding requires further investigation (Stewart, Dennison & Waterson 2002, p.5).

The authors sum up their findings and the implications for policy interventions as follows:

Maltreated children are more likely to offend in adolescence than children who are not maltreated. Physical abuse and neglect are more predictive of offending than sexual or emotional abuse, consistent with the limited previous research. Young people whose final maltreatment occurs in adolescence are at greater risk for offending than children whose maltreatment does not extend beyond childhood – a finding which has implications for current theories of offending. Children with out-of-home placements, likely to be indicative of severity of maltreatment, are more likely to offend than children who do not receive an out-of-home placement...

Preventing child maltreatment in the first place is likely to produce a larger reduction in offending. By directing attention to those children who are maltreated and ensuring that the maltreatment is not repeated, significant benefits in crime reduction and outcomes for children can also be obtained. Understanding more about what maltreatment experiences lead to offending would help direct crime prevention approaches to transition points in the child's life or to risk factors so that greater success might be achieved (Stewart, Dennison & Waterson 2002, pp.5–6).

Similar findings have been made in Britain. A review of the research by Swanston et al. (2003) found that a significant proportion of juvenile offenders have a substantiated history of child abuse and there is also an apparent link between adolescent maltreatment and juvenile offending: 'The relationship between child maltreatment and juvenile offending has been demonstrated for all forms of abuse and neglect, although there is evidence that the link between neglect and criminal offending is particularly strong' (2003, p.729).⁴⁷ Swanston's study

46 Such claims are certainly supported at least in part by data from the most recent Annual Report of the Victorian Youth Parole Board. In 2006 for example, 29 per cent of the juvenile detention clients of the Department of Human Services had previous involvement with Child Protection agencies (Department of Human Services Victoria 2007b, p.14).

47 Swanston et al. state however that whilst it is fairly clear that all forms of abuse and neglect have criminogenic effects, it does not necessarily mean that different forms of abuse will have the same *kinds* of criminogenic effects. The authors found for example that the criminogenic effects of sexual abuse may be differently manifested from those of physical abuse or parental rejection/neglect. For example, victims of sexual abuse were more likely to engage in drug abuse and prostitution than violent crime compared to victims of other forms of abuse, although variations with regard to gender, age and socio-economic status need also to be accounted for (2003, pp.731ff.). For example, one study indicated that male victims of sexual abuse were at higher risk of delinquent behaviour than girls who were more likely to demonstrate internalising behaviours such as depression, attempted suicide, mutilation etc (Chandy et al. 1996 in Swanston et al. 2003).

also counted exposure to domestic violence as a particular form of child maltreatment that increased risk of anxiety and conduct disorders and, curiously, property crime (2003, p.730).⁴⁸

Influences outside the family

Influences outside the family, such as mentors, peer groups, clubs and leisure pursuits or even school may also act as protective factors against involvement in crime even for young people who have come from fairly chaotic backgrounds. As Haas et al. state additional information is required on why some children thrive even when raised in the most difficult circumstances:

[I]t is important to focus research on the potential for resilience among these children. Some research [for example] on the repercussions of conflict and family disruption suggests that academic and social competence and structured environments can be protective factors promoting resilience in adolescents who experience [negative] family transitions (Hetherington in Haas et al. 2004, p.530).

As indicated, one of the most important extracurricular or outside influences that may impact on child development and possibly future youth offending is the school environment.

Schools and schooling: The influence of education on youth offending

One of the key factors consistently shown to be a strong influence on youth offending is schooling and particularly retention (or non-retention) in schools.⁴⁹ As Prichard and Payne state:

Experiences at school can have lasting effects on life trajectories. Adolescents who are attached to school and perform well in academic and/or sporting endeavours are less likely to be attracted to antisocial behaviour...Conversely, risk factors associated with school include:

- Academic failure and lower levels of education
- Truancy and lower commitment to schooling
- Leaving school early; and
- Changing schools frequently.⁵⁰

Truancy and leaving school early increases the amount of time juveniles spend unsupervised. During this time, boredom, peers or a variety of other factors may lead them into criminogenic behaviour and substance abuse (Prichard & Payne 2005, pp.75–76).⁵¹

48 Overwhelmingly this was exposure to violence perpetrated by a father towards a mother. The above findings were still the case even after adjusting for a range of other adverse variables such as social and economic disadvantage, divorce or separation and child abuse (Swanston et al. 2003, p.730).

49 Prichard and Payne's study of drug use amongst young people in juvenile detention found for example that 76 per cent of the juveniles sampled had left school before they entered detention and that the mean age of leaving school was 14, lower than the minimum school leaving age in most jurisdictions (2005, p.20). Moreover, 60 per cent of the sample whilst at school had been expelled and the majority had actively truanted and been suspended at least once (2005, p.76).

50 One could add to this list, a lack of appreciation for or encouragement of education and schooling by parents and other significant others (Tatem-Kelley et al. 1997).

51 There is an enormous research literature on the links between school performance, the influence of schools and youth offending. For a literature review of the area, see Baker (1998). Her Review of juvenile offending in New South Wales remarked that schooling is widely thought to have a causal influence on juvenile involvement in crime. In particular:

Poor academic performance has been shown to be related to both the onset and frequency of offending (see, for example, the meta-analysis by Maguin and Loeber 1996; Farrington 1987). School conduct problems, including truancy, are also important predictors of offending (Loeber & Dishion 1983; Thornberry, Moore & Christenson 1985; Tremblay et al. 1992) (Baker 1998, p.4).

Poor academic performance, truancy, harsh discipline and a range of other factors relating to both the pupil and the school may lead to early leaving. Early leaving in turn may contribute to problems associated with finding employment and in some cases a lack of legitimate employment may be a contributing factor to youth offending (Moffat, Weatherburn & Donnelly 2005) For example, Chapman et al. in their study of long-term youth unemployment and its relationship to offending argue that '[e]ven *some* successful education...is better than none at all' in preventing or reducing youth crime (2002, p.9).

The influence of schools, both positive and negative, on children and youths and the levels of education attained by a young person are therefore key factors that may contribute as either protective factors or risk factors with regard to involvement in youth offending (Morris, Sallybanks & Willis 2003).

It is important to note, however, that problems associated with learning, schooling and truancy are not necessarily, or at least not only, problems attributable to the individual child. Structural and other factors peculiar to individual schools and/or the organisation and administration of schools generally (both state and private) may also contribute to the problem. Weak supervision, unimaginative teaching and a lack of alternatives to punitive policies such as suspension or expulsion to deal with difficult students may also be to blame. Indeed as one British study has stated, schools in certain circumstances may even be criminogenic (Hayden, Williamson & Webber 2007, p.295).

School suspension in particular may be a counterproductive method of dealing with 'recalcitrant' students. It has been argued that it is essential to find creative ways of addressing [and retaining] school 'troublemakers' that do not compound the problem or disrupt the rest of the class or school community other than always through expulsion or suspension (White 2002).

A cross-cultural study comparing schools in Victoria (Australia) and Washington State (USA) found that:

[the] experience of school suspension increased the risk of subsequent antisocial behaviour in both states, even after controlling for demographic characteristics and individual and family risk factors. These findings suggest that, rather than deterring antisocial behaviour, school suspension may exacerbate antisocial behaviour. The reasons for this are unclear. Perhaps students who experience suspension rebel by engaging in more antisocial behaviour or it is possible that suspending students from school may disconnect them from a positive social environment and increase their exposure to other risk factors (eg failure to complete schooling) for antisocial behaviour...If the latter is the case, the implication is that schools need to consider alternative ways of dealing with misbehaviour (eg time out within school) when it occurs, and to adopt proactive approaches for dealing with these students (Hemphill, Toumbourou & Catalano 2005, p.25).

Some research studies have argued that it is therefore essential for schools to have re-entry policies for excluded and disaffected students:

British research has demonstrated that by excluding children from school, education departments actually shunt costs across to other agencies, such as the police and social services, while potentially causing immense harmful effects on family relationships...One solution to this is to ensure that expelled students have somewhere else to go to school. The use of alternative schools [or schooling structures] can be a viable option that either prepares students for regular schooling at some point in the future or provides ongoing alternatives for young people who cannot cope (for whatever reason) with mainstream offerings (White 2002, p.3).

A review in 2007 into repeat juvenile offending in South Australia conducted by that state's Commissioner for Social Inclusion found that poor school engagement was a chief reason and significant risk factor for involvement in serious criminal offending by young people. In the Final Report of the Inquiry, Commissioner Cappo stated:

The need to better engage these young people is critical. Through my discussions with young people it has become clear that the mainstream approach to schooling is not the most effective way to encourage young offenders to participate in learning. There is now a growing body of evidence that indicates through the use of more flexible learning approaches we can engage these young people in learning and have an effect on their involvement in offending (Cappo 2007, p.16).

Unlike White, however, Cappo did not always believe the establishment of alternative schools was necessary or even desirable:

Through implementation of the Social Inclusion Board's School Retention Action Plan we have been able to demonstrate that by adopting a more flexible approach to learning we can successfully engage and, in some cases, re-engage young people in learning. However, a flexible approach does not mean the creation of alternative schools. What it means is that mainstream schools have to change the way they are doing things. Since the implementation of the School Retention Action Plan, many schools have been able to trial innovative approaches to learning, and I am most encouraged by the large number of young people who have benefited as a result of these innovations. Nevertheless, the School Retention Action Plan has also confirmed that there is still much to be done to close the gap in learning outcomes particularly between Aboriginal young people and non-Aboriginal young people (Cappo 2007, pp.16–17).

Retaining students in school of itself, however, is a necessary but not sufficient measure to prevent antisocial behaviour. Programs may need to be developed that reward pro-social behaviour rather than just punishing antisocial behaviour.⁵²

This brief discussion indicates that the experience a child has at school can have a profound influence on its ongoing development. The Committee welcomes further information from relevant parties as to best practice strategies aimed at reducing the links between school leaving, negative school experiences and possible or potential youth offending and antisocial behaviour.

Health issues and substance abuse

Research suggests that young offenders suffer from poorer physical and mental health compared to their non-offending peers (Kenny et al. 2006; Allerton et al. 2006). A recent report conducted in New South Wales of young offenders found far higher rates of illnesses such as asthma, Hepatitis C, sexually transmitted diseases, smoking related illnesses and mental health disorders⁵³ such as depression than young people in the general population (Kenny et al. 2006). Again one needs to be careful about making simplistic causal analyses, for example that poor health or mental illness causes young people to commit crime or that being in youth detention exacerbates any pre-existing health conditions. Nonetheless, these links are of concern.⁵⁴

52 The AIC found that rewarding pro-social behaviour in school 'has been found to be particularly effective in reducing truancy and discipline problems' (AIC 2002, p.17.)

53 In the United States research has shown a very high level of psychiatric disorders among inmates in juvenile detention. In Abrams study of juvenile detainees in facilities in Minnesota, she found that the majority of young people were on prescribed anti-psychotic medications and/or were suffering from mental disorders listed in the Diagnostic and Statistical Manual of Psychiatric Disorders (DSM IV). See Abrams 2005.

54 For example, in the most recent Annual Report of the Victorian Parole Board it was stated that of the 137 male and 12 female young people in youth custody in Victoria for 2006–2007:

- 52 per cent presented with mental health issues
- 27 per cent presented with issues concerning intellectual functioning
- 90 per cent were alcohol users
- 76 per cent were [other] drug users (Department of Human Services 2007b, p.14).

Of even greater concern is the fact that an enormous body of literature testifies to the fact that substance abuse may exacerbate youth offending or at least that 'many of the factors that influence drug use also have been identified to influence criminal activity' (Cappo 2007, p.21).

The question as to what, if any, causal influence substance abuse has on crime is complex, unclear and controversial. Often the research evidence is itself contradictory and confusing, as noted by Baker in her study of juvenile recidivism in New South Wales:

Some evidence suggests that substance use may precipitate involvement in crime...while other evidence suggests that substance abuse may magnify the level of involvement in crime...Others however, argue that substance use and crime coexist but exert no causal influence on each other...

If substance use does have a causal influence on involvement in crime there are two main ways in which it could do so. The first way in which substance use could influence crime is directly. This kind of relationship would occur, for example, where the use of a particular substance leads an individual to commit crime because the psychopharmacological effect of the substance is to increase aggression or reduce inhibitions. The second way in which substance use could influence crime is indirectly. An example of this kind of relationship is when an individual commits crime to raise money to buy a particular substance (Baker 1998, p.6).⁵⁵

It is not intended in this Paper to canvass the voluminous literature covering the links between substance abuse and youth offending.⁵⁶ Nonetheless, it is useful to raise a few salient points based on some of the more recent research in the area.

Certainly the literature suggests that many if not a majority of young offenders in detention or on community service orders will have used drugs or alcohol at some point prior to their detention.⁵⁷ A study of alcohol and drug use by juvenile detainees conducted by Prichard and Payne for the AIC found that:

[d]etainees consistently engage in a wide variety of illegal behaviours and for most substance abuse is a prominent feature of their lives [Our] research provide[s] clear evidence that juvenile crime is *closely related* to substance abuse (Prichard & Payne 2005, p.55). (Committee's emphasis)

Many of these offenders will have committed the crimes that led to their convictions and/or detention whilst intoxicated or under the influence of drugs and/or alcohol (Cappo 2007, p.21).

This was one of the findings of Prichard and Payne in their study of drug use by juvenile detainees. Seventy per cent of the youths surveyed in their study were intoxicated at the time of their last offence. Other disturbing findings with regard to this review included:

- 72 per cent of detainees, reflecting on their whole criminal career, reported that substance abuse had a negative impact;
- regular offenders were twice as likely as non-regular offenders to have been intoxicated at the time of their last offence, and considered substance abuse to have had an impact on their general criminal behaviour;
- 75 per cent of regular offenders reported regularly using substances, compared with 31 per cent of non-regular offenders;
- about one third of youths who had committed burglary, assault or who had sold drugs provided psychopharmacological explanations for their offending;
- 44 per cent of burglars and 38 per cent of drug sellers reported that they had committed offences to fund their drug habits;

55 Certainly there is reasonably strong evidence to suggest that heroin use is associated with acquisitive property crime (burglary, theft) and alcohol use is related to crimes of violence (assaults etc), public disorder and property damage. See Baker 1998, pp.6ff and the references listed therein.

56 For comprehensive summaries of this issue see Drugs and Crime Prevention Committee 2001, 2002, 2004, 2006.

57 See for example *Annual Report of the Victoria Youth Parole Board 2006-2007* (Department of Human Services 2007b).

- 67 per cent of all juveniles reported using one or more substances on a daily basis in the six months prior to being arrested for their last offence; and
- daily users were significantly more likely to offend several times a week and to sell drugs regularly.

It is difficult to establish causality between substance use and crime. However, conservative estimates suggest that 33 per cent of juveniles were detained for offences caused by their substance abuse (Prichard & Payne 2005, p.55).

The findings in Prichard and Payne's study are of great concern as it suggests in some instances a possible ongoing pattern of both increased substance abuse and re-offending, both of which may reinforce the other.

Conclusion

As this chapter has shown, canvassing the reasons or causes as to why young people may offend is extraordinarily complex. Indeed it is arguable that a search for 'causes' or at least one defining cause is inappropriate and counterproductive. Rather, there are numerous factors that either singly, or more often than not in combination, may act as contributory factors.

This chapter has not been able to review *all* possible explanatory theories or approaches as to why some young people may engage in criminal or antisocial behaviour. To do so would require a voluminous report in itself. For example, this paper has not as yet covered to any extent the myriad explanatory theories of offending and antisocial behaviour that arise from biological, biochemical, psychological and personality theories.⁵⁸ Some theories such as the linking of intelligence or its lack (as measured by intelligence quotient or IQ) with criminal behaviour are highly questionable and contentious.⁵⁹ There are also explanations that link criminal offending, antisocial behaviour and/or poor mental health amongst (young) people to nutritional or dietary deficits.⁶⁰

Moreover, this Paper has not to any great extent examined the argument that juvenile justice agencies and the criminal justice system generally may themselves be criminogenic. In other words young people, particularly from disadvantaged backgrounds or from minority ethnic groups or cultures, may be more likely to be gathered into the net of the criminal justice system through greater scrutiny by police or other agents of social control.⁶¹ Certainly the Committee welcomes input from the community as to the importance (or otherwise) of such factors and linkages.

Finally, whilst this chapter has reviewed some of the problems associated with assigning risk factors as predictors of future criminal offending, this does not mean that some of those risk factors are unimportant or irrelevant. It would indeed seem relevant, for example, that unemployment or negative schooling experiences are linked to varying degrees with antisocial behaviour. It is the way in which such factors are used as a predictive template of offending that is perhaps more open to question.

58 For a summary of such theories see Wileman, Gullone and Moss 2007.

59 See Jobes 2004 for a critical discussion of such linkages.

60 See for example, the 2008 Report of the Inquiry into *The links between diet and behaviour* by the Parliamentary Food and Health Forum (UK). Accessed at <http://www.fhf.org.uk/inquiry>.

61 For an excellent critique of the concept of causality in criminology, see Bessant & Hil 1997. For a recent discussion of the place of theory in criminology and an appraisal of the various schools of criminological thought and their application, see Watts, Bessant and Hil 2008, pp.103–107.

Questions for further consideration

Theoretical understandings

- To what extent do policy makers and practitioners take into consideration theories on the causes of youth crime?
- To what extent can/do theoretical understandings of criminal and antisocial behaviour inform policy development and practice?
- Which theories are most useful in explaining youth crime and recidivism?
- In your opinion are any of the explanations that are offered for youth offending unhelpful or counterproductive? If so, why is this the case?
- From your experience as a practitioner why is that young people are offending/repeat offending? In your view is such behaviour attributable to single or multiple contributory factors?
- What links can be usefully made between youth offending and the following factors:
 - Economic disadvantage
 - Unemployment
 - Family background
 - Child maltreatment, including physical and sexual violence
 - Schooling and education
 - General and mental health issues
 - Alcohol and other drug abuse
 - Other factors?

Policy and practice implications

- In your view is there credence to the idea that in some circumstances the best approach is to do nothing?
- If criminal behaviour is multiply determined, what 'spheres of influence' (eg. family, school, and community) should be the focus of interventions to address it? How can a coordinated approach best link up these 'spheres of influence'?

Developmental approaches

- How useful are developmental theories in explaining youth offending?
- Do early interventions based on developmental theories address the risk factors that are arguably associated with or lead to youth involvement in crime?
- How helpful are the concepts of risk and protective factors to an understanding of youth offending?
- How valid is the critique made of a risk factor/developmental approach as outlined in this chapter?
- What factors may explain 'resilience' in children or otherwise explain why some children do not take part in or abstain from antisocial behaviour or criminal activity? How can such resilience be reinforced?

5. Strategies to Address High Volume Offending: A Preliminary Exploration

Various types of innovative strategies and programs have been developed and implemented in recent years to address youth offending. These have included preventive approaches such as early intervention and developmental strategies; diversionary strategies to keep young offenders or suspects out of the criminal justice system; secondary strategies to address the needs of young people who have already been sentenced for offences committed or are already in juvenile detention and may be at risk of re-offending; and crime prevention strategies such as the sometimes contentious issue of situational crime prevention. As many of these strategies have now been in place for some time it is important to assess how effective they are in reducing youth offending and re-offending.

What works?

A useful starting point for a discussion of strategies to address youth offending in the modern era is to revisit the controversial body of work of the criminologist Robert Martinson. Martinson reviewed and analysed 231 evaluative studies of offender rehabilitation and other programs conducted over a 20-year period (1945–1967). Martinson's pessimistic conclusions were, that with regard to strategies and programs designed to reduce recidivism, 'nothing worked' (Martinson 1974).

Martinson's original study or at least the conclusions that have been drawn from it have since been questioned. A re-analysis by Thornton of the original data used, for example, reached a different conclusion, namely that programs aimed at rehabilitation or reducing recidivism did in fact have a positive effect on re-offending or at least were neutral as to the effects (Thornton 1987). In a Review of Juvenile Justice programs for the Victorian Department of Human Services, Day, Howells and Rickwood commented further on the 'nothing works' theory:

A number of meta-analytic reviews from around the world have been published in the last ten years consistently reaching the same two broad conclusions. First, that there is substantial evidence suggesting that interventions to reduce re-offending lead to an overall positive net gain when treated groups are compared to non treated groups...The second conclusion is that some interventions have significantly higher impacts than others. Recent studies have focused on identifying the characteristics of those programs that produce the best outcomes (Day, Howells & Rickwood 2003, p.2).

Similarly, *What works?*, the major review on juvenile justice strategies conducted by the Australian Institute of Criminology (AIC) in 2002, concluded that programs that addressed numerous risk factors of young people; worked across a variety of social settings; targeted a young person's individual needs particularly through case management approaches; through a variety of therapies altered the way a young person thinks and acts; and were culturally specific had the best chance of producing effective outcomes to prevent offending or reduce re-offending (AIC 2002).

Which programs then do 'produce the best outcomes'?

Preventive programs to address possible future offending

There are two basic types of preventive program that can address criminal offending by young people. The first is the type of program that is aimed at a general population and has only an indirect relationship to youth offending. In other words, programs that are not designed necessarily to specifically address youth offending but which may have positive spin-off effects in reducing a young person's involvement in criminal offending and/or antisocial conduct. Examples of this type include sports programs, recreational and wilderness camps, outbound and adventure programs and other arts and leisure pursuits.⁶² Similarly there have also been programs designed to assist young people with living skills, welfare and material assistance and/or vocational learning programs.

Such programs are generally viewed as having positive benefits for all young people whether at risk of criminal offending or not. As a major report on sport, physical and leisure activities and antisocial behaviour noted:

[e]vidence suggests that while it is unlikely that sport and physical activity programs have a major and direct impact on reducing anti-social behaviour, they form an important mechanism through which positive personal and social development may occur (Morris, Sallybanks & Willis 2003, p.2).

It is interesting that one of the main findings coming out of this study was that '*providing an activity for youth is more important than the type of activity provided in diverting youth from anti-social behaviour*' (2003, p.1, emphasis in original). The authors also stressed that to maximise the benefits of any primary prevention programs aimed at reducing antisocial behaviour they needed to be integrated with health, welfare and other support services.

A different form of primary prevention of this type are situational approaches to primary prevention which '*reduc[e] the incentives and opportunities for involvement in crime*' (Baker 1998, p.57). Situational crime prevention is briefly discussed separately later in this chapter.

Strategies to address risk factors

A second type of primary preventive approach is programs and policies that are more specifically directed towards risk factors and possible future offending or antisocial behaviours. These early intervention programs, such as school retention or better parenting programs,⁶³ are key examples of preventive crime prevention programs.

School programs

Creative school retention and school development programs are a nice microcosm of these types of primary prevention interventions. These are implemented to address negative experiences in school and in some cases replace policies such as suspension or expulsion that can increase the likelihood of antisocial and criminal behaviour in later years (Hemphill et al. 2007, p.310). A number of features of classroom learning have been found to be positive in increasing academic achievement and consequently acting as protective factors against future juvenile offending. These include:

- Small classes
- Grouping students by academic performance not age;

62 For detailed accounts of these types of programs, see Cameron and MacDougall 2000; Morris, Sallybanks and Willis 2003; Morris et al. 2003 (Sport and Physical Activity); Wilson and Lipsey 2000; Wilson and MacKenzie 2006; Australian Institute of Criminology 2006 (Wilderness programs and 'Boot camps').

63 For a discussion of positive parenting programs in the context of primary prevention for later antisocial conduct of children, see Ralph and Sanders 2004. Preliminary evaluations of the major project under review – the 'Teen Triple P' Positive Parenting Program – have been promising: 'Preliminary results suggest positive outcomes for most participating parents [with] significant reductions in a variety of risk factors, with some evidence of improvements still being maintained after six months' (2004, p.1).

- Continuous progress programs testing skills at each level;
- Co-operative learning;
- Computer assisted instruction;
- One to one tutoring of primary school students in reading and maths by older students [and peer group mentoring] (Slavin et al. in AIC 2002, p.22).

Vocational programs in schools in addition to, or in substitution of, purely academic instruction also appear to be a valuable measure for non-academically inclined students (Baker 1998). Moreover, in addition to classroom teaching, a key aspect of quality education is the availability of constructive sporting, recreational and other extracurricular leisure pursuits. Yet even where schools do provide these activities not all students, and particularly not those from disadvantaged backgrounds, may be able to access them or afford them due to the fees charged, equipment or uniforms required etc (see Cappo 2007). In recent years the necessity to provide anti-bullying programs in schools has also been recognised. Whilst there may not necessarily be a causal link between bullying and later offending per se, 'it no doubt contributes to risk factors such as academic failure that are thought to impact on delinquency' (AIC 2002, p.25).

Parenting programs

In some cases the idea of promoting or even enforcing responsible parenting may become part of approaches to address the needs of young people who are already part of the criminal justice system. For example, in New South Wales the *Children (Protection and Parental Responsibility) Act 1997* allows the court if a young person is found guilty of a criminal offence to make a variety of orders including setting out what is required of parents in terms of level and type of care etc:

This includes either giving a required undertaking, or security in the form of a deposit of money or otherwise, to refrain from certain acts, to undertake specified action to ensure their child's development, to ensure their child's compliance with specified conditions, or to ensure their child's good behaviour. The Court is not able to take action against a young person as a result of the failure of his or her parent(s) to comply with these undertakings.

Section 10 of the *Children (Protection and Parental Responsibility) Act* allows the Court, if it finds a young person guilty of an offence, to exercise the option of sending a young person and his or her parent(s) to counselling if the Court thinks it would assist the rehabilitation of the young person. Such a provision recognises the culpability of the parent, as does s11 of the Act, which stipulates that if the wilful default of the parent(s) contributes – either directly or in a material respect – to the offending of the young person in their care, this will incur punishment for the parent(s).

Clearly, therefore, in some instances parents are seen to play an integral part in their child's offending and/or their rehabilitation, and the young person's developmental maturity (or lack thereof) is deemed to require adult guidance. The points to be taken from the provisions of the *Children (Protection and Parental Responsibility) Act* are that the state is not in a position to take sole or full responsibility for this guidance. Therefore, facilitating the young person's rehabilitation in some cases requires ensuring, in the case of young people who have parents, that these parents take responsibility for their child's upbringing (Vignaendra & Hazlitt 2005, p.59).

This type of approach reflects the ambivalence with which parents are viewed by the criminal justice system. On the one hand parents can be seen as contributing to the situation in which their children find themselves through irresponsible parenting, abuse or neglect. On the other hand they may be viewed as a part of the solution through the increasing use of court orders aimed at rehabilitating their children (see Varma 2007). An increasing number of jurisdictions are legislating policies that increase parental responsibility for the crimes of their children including in Canada, the United States and Britain (see for example 'parental training orders' under the *Crime and Disorder Act 1998* (UK)). In the latter case, parents may be required to fulfil a variety of conditions:

[r]elated to the supervision and 'appropriate' rearing of their offspring, such as attending counselling sessions, being required to attend their child's school, ensuring that their child does not visit certain places or people and monitoring curfews (Varma 2007, p.234).

In some cases a failure to fulfil such conditions may result in the parent being charged with a criminal offence. Yet as Varma comments:

Critics are deeply concerned with the way in which these programs regulate and punish parents and their children within the rhetoric of family and community involvement and with little regard for the structural barriers facing parents and the inadequacy of resources provided to families (2007, pp.234–235).

Addressing needs

The Auditor-General of New South Wales has recently commented that ideally programs and interventions that address youth needs and risk factors should be put in place long before the child commits an offence. An essential part of developing primary prevention programs addressed at preventing future youth offending or re-offending is in fact identifying the specific needs of youth (Auditor-General NSW 2007). Such needs assessments are also important for those youth involved in the very early stages of offending or the criminal justice process and particularly those diverted from police or a children's court. Whilst diversionary strategies are discussed separately below, the comments of the Auditor-General in regard to young people at the early stages of a 'criminal career' are appropriate here:

It follows where [an] agency does not identify a young offender's needs, it cannot address those needs by referring the young offender to appropriate support services or rehabilitation programs.

Currently agencies may be missing the opportunity to help a young person who is at the first point of contact with the youth justice system. Early [and primary] intervention could prevent both an escalation of the seriousness and frequency of offending by a young person in need of help. It should be pursued wherever possible (Auditor-General of NSW 2007, p.3).⁶⁴

These types of programs are viewed by many criminologists as crucial in preventing or at least arresting ongoing antisocial behaviour in young people prior to it becoming a regular aspect of their lives. Intervening before such behaviour becomes entrenched is critical (Hemphill, Toumbourou & Catalano 2005, p.27).

What this fact points to is the crucial importance of targeted early interventions that address the precursors to juvenile offending before they give rise to attitudes and behaviours that will ultimately bring individuals into conflict with the criminal justice system (Lynch, Buckman & Krenske 2003, p.5)

However, such interventions will not always look to the layperson like traditional crime prevention strategies 'because they address the precursors to offending rather than offending itself' (Lynch, Buckman & Krenske 2003, p.5).⁶⁵

64 The Auditor-General's comments were made in the context of a major review of the needs of young offenders in NSW conducted in 2007. See: *Auditor-General's Performance Audit – Addressing the needs of young offenders*, Department of Juvenile Justice and NSW Police Force.

65 One type of intervention that does not fall into either of the preceding categories is the use of legislative or court instruments/orders to prevent certain types of antisocial behaviour from escalating into more serious criminal offending. Curfews or behavioural orders are a common disposition of this type, particularly in the United States and Britain. For a discussion of the use of curfews to pre-emptively stop antisocial behaviours and possible future offending, see Harvard Law Review 2005.

Situational crime prevention

One aspect of early intervention and other preventive programs frequently remarked upon in the literature is situational crime prevention, a primary crime prevention measure that, as the AIC remarks, 'focuses on reducing crime opportunities rather than on the characteristics of criminals or potential criminals' (AIC 2003d, p.1).

The theoretical basis for situational crime prevention is sometimes argued to be premised on 'rational choice theory', an economic based theory that portrays criminals including young offenders as: 'rational decision makers who base their decision to commit crimes on an analysis of the risks compared to the expected profits. That is the criminal does a rudimentary cost-benefit analysis' (Geason & Wilson 1992, p.7).

Rational choice theory assumes the following propositions:

- Offenders freely and actively choose to commit crimes;
- The decision to commit the crime is made in response to the immediate circumstances and the immediate situation in which an offence is considered;
- The motivation to offend is not constant or beyond control; that is, it is dependent on a calculation of costs and rewards rather than being the result of an inherited or acquired disposition to offend.

To put it concisely, one school of thought maintains that criminals analyse a given situation and will not proceed if the going looks tough (Geason & Wilson 1992, p.7).

Situational crime prevention endeavours to reduce the opportunities for particular categories of crime by increasing the risks and difficulties associated with committing the crime and consequently reducing the rewards (Clarke 1995; Ekblom & Tilley 2000; Painter & Farrington 2001; Smith & Cornish 2003; Sutton & White 1995; Gottfredson & Soule 2005). Thus with regard to house burglary, systematic programs and guides for householders aimed at making breaking and entering more difficult (stronger house locks, marking of valuables with ultra violet pens, cutting down or removing shrubbery around houses that may conceal intruders etc) may be of assistance.⁶⁶ In the case of youth offending a common preventive measure may be to keep products such as cigarettes, alcohol or aerosol paint cans, particularly in smaller shops, in locked storage units. Crime prevention through environmental design (CPTED) emerged in the 1960s and 1970s based on the idea that urban design such as the design of public buildings, streets, shopping centres or parks and the installation of measures such as improved street lighting could prevent crime by reducing opportunities (Painter & Farrington 2001; AIC 2005b).⁶⁷ Supporters of such strategies argue the cost of installation of improved street lighting for example is outweighed by the monetary benefits resulting from crime reduction (Painter & Farrington 2001).

It has been suggested that these measures may simply displace the problem. In other words, by thwarting an offender's ability to commit a crime in a particular locality at a particular time, he or she may simply bide their time and go to another less secure environment to offend. However, given that much juvenile offending is opportunistic, research suggests that displacement is unlikely to occur, at least in the context of youth (Geason & Wilson 1992). This

66 For a comprehensive example of a policy based on situational crime prevention principles, see the Report of the ACT Burglary Victims Response Project – *Crime Victims and the Prevention of Residential Burglary* (Department of Justice & Community Safety (ACT) 2004).

67 A related crime prevention approach when it comes to property crime such as theft and burglary is the *Market Reduction Approach* (MRA). This approach aims to reduce property crime by focusing on '[s]hrinking the stolen goods market, by preventing supply and reducing demand for stolen goods' (AIC 2005b, p.1). Without such an active market, disposal may become risky and unrewarding for the potential offender. MRA strategies include identifying the 'hot' products most attractive to thieves thus giving the public the opportunity to make choices about the types of product they will purchase; marking of products by owners or manufacturers; designing products with inbuilt security features; regulating second-hand goods shops who may act as deliberate or inadvertent 'handlers' of stolen goods; and launching awareness campaigns by police and the private sector aimed at the public, and particularly victims, of their unwitting role in possibly aiding property crime (see AIC 2005b).

is particularly the case if the costs, effort and risks of committing the crime are high (Bennett 1986; Clarke, Field & McGrath 1991). However, criminologists have made other criticisms of situational crime prevention:

It is argued that opportunity-reducing measures...neglect the fundamental causes of crime. Moreover, they allegedly are associated with the creeping privatisation of public space, social exclusion, and the move towards a fortress society. Arguably situational crime prevention can be afforded more easily by the wealthy than by the poor [including by corporations who control shopping centres], leading to fortified safe areas for the rich, social divisions and social injustice (Painter & Farrington 2001, p.281).

The argument that these techniques may act in social exclusionary ways is perhaps most appropriate in relation to young people who may be regarded or even labelled as potential offenders. For example, the use of CCTV cameras in public thoroughfares, streets and squares or tight security in shopping malls can act in detrimental ways against young people. Often such young people may be, and in fact most usually are, using those spaces legitimately (see Watts, Bessant & Hil 2008). However, according to some critics environmental approaches *are* valuable although not sufficient to address either youth or adult offending – actual or potential. They do, however, form part of an integrated approach to crime prevention that includes both situational and offender-oriented methods (Ekblom & Tilley 2000, p.378). In some instances environmental approaches, for example the provision of better lighting in shopping areas and on housing estates, can also benefit the whole of the community rather than just individuals or households that are victims of crime (Painter & Farrington 2001, p.281).

Secondary crime prevention programs and strategies

Secondary interventions in the context of youth offending can be generally classified as those strategies or programs designed for people who may have already entered the criminal justice at whatever level. They could include programs targeting first time or repeat offenders. In the latter case, they may involve post-release programs for detainees aimed at preventing future re-offending or recidivism.

Diversionsary programs

What is diversion?

In the context of youth offending, diversion is one of many processes designed to reduce the number of young people entering the formal criminal justice system or becoming more involved in the process than otherwise would be the case. The term 'diversion' entered common usage as a result of the work of the President's Crime Commission (USA) in the mid 1960s (Commonwealth of Australia 2003). However, diversionsary processes for children have existed in Australia since the late 19th century when separate Children's Courts were established in the various Australian colonies (Vignaendra & Hazlitt 2005).⁶⁸

A major national report written for the National Crime Prevention branch of the federal Attorney General's Department reviewed the nature of diversion processes and programs in the juvenile justice system across the country.⁶⁹ This study defined juvenile diversion as:

Programs and practices which are employed for young people who have initial contact with police, but are diverted from the traditional juvenile justice processes before children's court adjudication (Commonwealth of Australia 2003, p.vii).

68 For an excellent account of the history of rehabilitation and diversionsary practices and the creation of a separate justice system for children, see Vignaendra and Hazlitt 2005 and the references listed therein.

69 *Early Intervention: Diversion and Youth Conferencing: A national profile and review of current approaches to diverting juveniles from the criminal justice system* (Commonwealth of Australia 2003).

One of the crucial questions for many researchers and policymakers is whether and to what extent diversionary programs act to reduce recidivism. Usually the study is designed to compare a group of young people who have entered a diversionary program such as a family youth conference with a group who have gone through the ordinary court processes. Whilst some studies have shown inconclusive results, on the whole however '[r]esearch indicates that...for the vast majority of young offenders, diversion from the formal court processes will reduce the likelihood of re-offending' (Auditor-General NSW 2007, p.8).⁷⁰

One criticism levelled at some diversionary programs is that they offer insufficient intensive support, and follow-up, for young people who may have complex needs. In other words, whilst they may represent diversion away from the official control system they do not represent diversion into treatment or support services (Day, Howells & Rickwood 2003). For example, the Auditor-General of New South Wales noted in a Report of Juvenile Justice Services in 2007 that support services were very rarely included in outcome plans of youth conferences and that police youth liaison officers rarely ever gave information with regard to available services to meet youth needs when giving a caution (Auditor General NSW 2007). This is despite the fact that research has shown that young offenders who have their criminogenic needs met are less likely to re-offend than those whose needs are not met (Auditor General NSW 2007).⁷¹

Another criticism has been that diversion programs may operate in a *net-widening* capacity. In this context it simply means that diversionary programs such as youth conferencing may 'expand the very justice system they were intended to reduce and contain' (Day, Howells & Rickwood 2003, p.4). In effect, the juvenile justice system has drawn new clients into its ambit.

Diversionary programs and processes are widely used throughout Australia in one form or another, most usually through police cautioning, youth conferencing and bail programs. Diversion in general and these specific practices and programs in particular will be addressed comprehensively in the ongoing deliberations of this Inquiry. The following sections very briefly set the stage by giving an overview of the main forms of diversionary practice – cautioning and conferencing.

Cautioning

Police cautioning is one of the major ways through which young people are diverted from deeper involvement with the criminal justice system. It exists in all states of Australia although the mechanisms and operations through which cautions are administered differ widely.⁷² There are two basic types of caution:

- ◆ Informal – the young person is warned and released without further formal involvement
- ◆ Formal – the young person is given a formal written or oral warning and the admonition is recorded.

Cautioning may also be done with or without further action such as a referral on a voluntary basis to a program such as anger management or substance abuse treatment.⁷³ In some very formal models an undertaking may accompany the caution; that is, the person may be required to pay a fine, apologise to somebody, make financial restitution or perform community service, and if the stipulation is not met there may be the possibility that further action is taken on the original offence (Day, Howells & Rickwood 2003, p.viii; Waite 2002, p.7).

70 See also Luke and Lind 2002; Australian Institute of Criminology 2002; Waite 2002; Commonwealth of Australia 2003; Day, Howells and Rickwood 2003; Hua and Fitzgerald 2006; Vignaendra and Fitzgerald 2006; People and Trimboli 2007; Cunningham 2007.

71 As such the Auditor-General recommended that when a member of the NSW Police Service gives a young offender a caution he or she 'implement a checklist to identify the needs of each young offender and rate their risk of re-offending as either low, moderate or high' (Auditor-General 2007, p.22).

72 For an overview of cautioning models, see Day, Howells and Rickwood 2003: Holland 2008 (forthcoming).

73 One example of this is the KnoxLink program in Victoria whereby young people can be referred to local government services after a formal caution.

In Victoria formal cautioning is done subsequent to Police Operating Procedures. It is the only state where cautioning and its administration are not governed by legislation and legislative guidelines. According to some critics this can make the administration of a caution – when, how and why it should be given – ad hoc and capricious (Holland 2008, forthcoming).

Unfortunately there have been very few evaluations done of cautioning programs, which makes it almost impossible to state how effective this diversionary measure is in reducing juvenile offending and re-offending. The fact, however, that in most cases a young person will not get a criminal record as a result of a caution acts as an incentive to remain out of the criminal justice system (AIC 2002).

Juvenile conferencing

Juvenile conferencing has been known by various terms across Australia, many of them used interchangeably. Some examples include youth conferencing, family conferencing, mediation, circle sentencing and group conferencing. Conferences have implemented various forms of alternative mediation to settle, in most cases relatively minor,⁷⁴ issues pertaining to youth offending.

The rapidity with which juvenile conferencing has been implemented as a diversionary strategy to keep young people from deeper involvement in the criminal justice system over the past 20 years has been staggering. From few if any conferences prior to the 1990s, numerous programs have been developed in each state and territory of Australia.

Youth conferencing originated in New Zealand and is grounded in the ideas of *therapeutic jurisprudence*.⁷⁵ As People and Trimboli note, there is no single definition of this term but a commonly used one is that of Marshall which states:

Restorative justice is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future (Marshall 1999, p.5).

Related to some restorative justice schemes such as conferencing is the theory of reintegrative shaming, which argues that formal justice processes such as court appearances can stigmatise offenders thereby making it almost impossible for them to lead lives as rehabilitated and responsible members of the community. This is particularly the case for juvenile offenders. Disintegrative or stigmatising shaming censures and separates the offender from lawful communities whilst reintegrative shaming ‘uncouples the offender from the offence’ and ‘opens a door through which offenders are invited back into communities of care’ (Hayes 2006, p.372). Theoretically at least the reintegrative ritual such as a conference induces remorse rather than reinforcing anger or negative self-image:

Stigmatising shaming occurs when an offender is treated disrespectfully and as a bad person. Braithwaite argues that this type of shaming is likely to aggravate offenders and *increase* crime. On the other hand, Braithwaite argues that reintegrative shaming *reduces* crime because it involves disapproval of a person’s actions; this disapproval is respectful rather than disrespectful. During reintegrative shaming the person is treated as a good person and the reintegration rituals are used to encourage forgiveness (People & Trimboli 2007, p.2). (Committee’s emphasis)

74 Although this varies between states. One particularly contentious example has been the inclusion of sexual offences in the list of offences that can be referred to conferencing in South Australia. Some feminist critics would no doubt be concerned about the power dynamics of a conferencing process in which, for example, a survivor of a sexual offence (including incest) faced her (or indeed his) rapist or molester (Alder 2003; Wundersitz 1997; Naffine 1997). See Harding and Potter 2003 for a discussion of conferencing in South Australia, including the referral of sexual offences.

75 Many books have been written as to what is meant by therapeutic jurisprudence and the related concept of reintegrative shaming. It is not the intention of this Paper to revisit this ground in any detail. However, a useful starting point for an overview of the concepts is Braithwaite’s seminal text on this approach to criminal justice, *Crime, shame and integration* (Braithwaite 1989).

One of the main reintegration rituals, at least as they are practised in some jurisdictions, is the youth conference.

As with cautioning there are a number of different models to conferencing, although almost invariably conferencing takes place at the pre adjudication stage, that is, prior to any court sentence or disposition (Wundersitz 1997). Some conferences may be organised and facilitated by police members⁷⁶ such as the Wagga Wagga model, now used primarily in the two Territories. Alternatively, conferences may be facilitated by a government juvenile justice department or outsourced to a private sector agency.⁷⁷ There are also great differences between the states on how a conference should be run and the outcomes of the conference. For example, does merely taking part in the conference end any responsibility on the offender's part or can he or she be compelled to make some form of undertaking or restitution? Despite all these differences the basic structure and content of a youth conference is fairly typically described by Daly in the following quote:

A young offender (who has admitted to the offence), his or her supporters (often, a parent or guardian), the victim, his or her supporters, a police officer, and the conference convenor or coordinator come together to discuss the offence and its impact. Ideally, the discussion takes place in a context of compassion and understanding as opposed to the more adversarial and stigmatising environment associated with Youth Court. Young people are given the opportunity to talk about the circumstances associated with the offence and why they became involved in it. The young person's parents or supporters discuss how the offence has affected them, as does the victim, who may want to ask the offender why me? and who may seek reassurances that the behaviour will not happen again. The police officer may provide details of the offence and discuss the consequences of future offending.

After a discussion of the offence and its impact, the conference moves to a discussion of the outcome (or agreement or undertaking) that the young offender will complete...The sanctions or reparations that are part of the agreements include verbal and written apologies, paying some form of monetary compensation, working for the victim or doing other community work or attending counselling sessions (Daly 2001, pp.66–67).

Various criticisms have been made with regard to conferencing including that it can act in discriminatory ways towards people from non-English-speaking backgrounds and minority races. For example, it has been argued that there is a disproportionately low rate of referral to conferences of Indigenous youth in Australia and that when such youth are referred the conference process is not always culturally appropriate (Blagg 1997; Daly 2001; Polk 2003; Baffour 2006).

In particular, it is thought by some that it might be intimidating for a victim to sit in a conference opposite the offender, particularly if the victim is a woman (Alder 2003; Fields 2003). As Alder states 'we cannot simply assume that boys and girls will experience conferencing in the same way or that the outcomes will be the same for boys and girls' (2003, p.2).⁷⁸ Another criticism that has been expressed is that if a precondition of taking part in a conference and

76 For a discussion of the problems inherent in using police convened and conducted models including issues of power balance and trust, see Sivasubramaniam and Goodman-Delahunty 2003. The main objection seems to be based on asking the police to act 'as the main agency for keeping young people out of court [which] creates a conflict in the various roles to be played by an individual police officer' (Social Welfare Department [NZ] spokesperson quoted in Becroft 2003, p.32).

77 In Victoria conferencing is now governed by legislative provision. See *Children, Youth and Families Act 2005*. Section 480 of that Act allows for conferences to be convened by outside agencies. In Victoria, Anglicare and Jesuit Social Services are two of the designated agencies, under the direction of the Department of Human Services, responsible for conducting youth justice group conferencing. For a comprehensive account of the rules, procedures and policies underpinning youth conferencing in Victoria, see Department of Human Services 2007a, *Youth Justice Group Conferencing Program Guidelines*.

78 Conversely conferencing may work against the interests of female offenders, particularly in cases where as is relatively common the offender may also be a victim (Fields 2006). Take for example the situation where a young woman may have allegedly stolen from a male family member who had been sexually abusing her. As Alder notes, restorative justice practices such as conferencing are framed in terms of reintegrating the offender back into a community 'that is not always the most welcoming of offending young women' (Alder 2003, p.3).

thereby possibly avoiding the imposition of a custodial sentence or criminal record is to admit to your part in any offence, this could possibly persuade some young people to confess to crimes of which they are not guilty (Hayes 2005).

Finally, reservations have been expressed about the costs of conferencing. Polk, for example, cites research undertaken in Ireland with regard to the conferencing experience there. It was suggested 'such an approach ought to be reserved and targeted on those cases where the problems are serious enough to warrant the expense of the intervention' (Polk 2003, p.5).

The literature on conferencing is huge and it is not the intention of this Discussion Paper to canvass it at this stage. The question as to what extent conferencing may act to reduce re-offending by juveniles has also been debated at length.⁷⁹ As with all the strategies discussed thus far, further evaluation of conferencing models is required before it can be stated with any certainty that conferencing will reduce future offending, arrest rates or court reappearances. This is despite the fact that the available evidence suggests that generally, although with significant qualifications, the signs appear promising that this may be the case (Daly 2001; Maxwell & Morris 2001; Luke & Lind 2002; Baffour 2006; Vignaendra & Fitzgerald 2006; Hayes, 2005, 2006).⁸⁰ It is also incumbent to heed Polk's reminder that reducing recidivism is not necessarily the only positive result that can come from conferencing. It would seem on the basis of the available evidence and notwithstanding any of the criticism expressed above, that offenders, victims and supporters are generally satisfied with conferences and how they are run, seeing them as procedurally fair and restorative in both aim and practice (Maxwell & Morris 2001; Hayes 2005, 2006).

Remand and bail programs

A final type of diversionary program that is worth mentioning briefly consists of alternative responses to young people who may otherwise be subject to pre-trial detention. Some states have created supervised bail programs to divert young people from incarceration whilst awaiting trial. These programs may take the forms of relatively simple accommodation facilities such as bail hostels or more sophisticated programs that aim to offer the young person a suite of options to address their criminogenic and other needs.

In Victoria a range of options have been put in place to reduce pre-trial detention rates. Indeed as Day, Howells and Rickwood state, 'The result is that on any given day, only a handful of young people are now held in detention on remand in Victoria, a situation strikingly different from some other jurisdictions' (2003, p.xii).⁸¹

Day, Howells and Rickwood have argued that bail programs are particularly important for young people given that their research indicated many young people were coming out of court with a non-custodial disposition of their case even though in many cases they had spent considerable time in pre-trial detention:

This raises the real possibility that expensive resources of the state are being wasted through the unnecessary pre-trial detention of young offenders where that detention is demonstrably inappropriate (2003, p.59).

A major problem with some of the diversionary interventions under review is that insufficient research, particularly evaluative research, has been undertaken to demonstrate the effectiveness of alternative and diversionary approaches to juvenile justice. A paucity of evaluation is not restricted to diversionary programs: it applies to all the types of strategies and interventions profiled in this chapter.

79 See Sherman, Strang & Woods 2000; Luke and Lind 2002; Baffour 2006; Polk 2003; Vignaendra and Fitzgerald 2006.

80 Part of the problem of course is that insufficient data is collected that can make the appropriate linkages between the use of conferences and future offending.

81 For a discussion of various diversionary remand and bail programs in Victoria and across the country, see Day, Howells and Rickwood 2003.

Other secondary crime prevention strategies

A variety of strategies have been developed, particularly by juvenile justice agencies, to minimise re-offending by juvenile justice clients already within the system. Many of these measures are rehabilitative in focus.⁸² They may be program based such as learning and vocational programs whilst in detention or on community based orders, and various forms of skills training. They include counselling and psychological interventions such as anger management,⁸³ cognitive based therapies, multi-systemic therapy,⁸⁴ programs and treatment to address alcohol and drug abuse/dependence⁸⁵ or mental health issues⁸⁶ and other forms of therapeutic intervention. Alternatively they may be purely legal/administrative such as expunging the young person's police or court records after a certain period or restricting the publication of material that would identify a young person on the public record, such measures 'remov[ing] obstacles to the young offender's rehabilitation' (Vignaendra & Hazlitt 2005, p.41).

When it comes to assessing secondary programs and interventions to reduce both initial involvement with the criminal justice system and re-offending, there is evidence from both local and international practice and research that 'certain types of programs are more effective than others' (Day, Howells & Rickwood 2003, p.5). For example:

Cognitive and behavioural methods are more successful than other types of treatment approach. Cognitive and behavioural methods are structured, goal oriented and focus on the links between beliefs, attitudes and behaviour. Programs based on confrontation or direct deterrence have been consistently found to be less successful, with evaluations of other approaches, such as social casework, physical challenge, restitution group counselling, family intervention and vocational training, producing mixed findings (McGuire, 1995).

Recent studies have focused [also] on identifying the characteristics of those programs that produce the best outcomes. Lipsey and Wilson (1998) found that interventions focusing on the family functioning, behavioural treatment programs, interpersonal skills, and community integration were the most effective in reducing recidivism. There is also evidence that intervention programs delivered in the community are more effective, and that focusing on systemic risk and protective factors (within families, peers, and schools) increases the chances of positive outcomes (Day, Howells & Rickwood 2003, pp.2, 5).

82 For a discussion of these types of programs in detail see, Department of Human Services 2001; Australian Institute of Criminology 2002; Vignaendra and Hazlitt (2005); the *Victorian Juvenile Justice Review* (Day, Howells & Rickwood 2003); and Auditor-General NSW 2007.

83 For a discussion of anger management strategies for offenders and post offenders, see Cameron 2000.

84 Multi systemic therapy or MST has been heralded as one of the more effective interventions to emerge in recent years aimed at reducing (juvenile) recidivism particularly amongst those people aged 12–17. It is a highly intensive and individualised form of therapy for troubled individuals and their families that aims to address 'systems and processes known to be related to antisocial behaviour in adolescents, for example, parental discipline, family affective relations, peer associations, school performance' (Day, Howells & Rickwood 2003, p.49). For more detailed accounts of MST and its usefulness as a strategy to reduce offending, see Australian Institute of Criminology 2002; Worrall 2002; Day, Howells and Rickwood 2003; Weatherburn, Cush and Saunders 2007 (particularly with regard to the cost savings attributable to MST compared to other criminal justice outlays).

85 As indicated in Chapter 4, there is a huge literature on addressing the needs of young offenders with alcohol and drug dependencies or other drug related problems, which this Paper cannot address at this stage. For a discussion of drug use amongst (young) offenders and particularly detainees, and the need for strategies and programs to address this, see Wei, Makkai and McGregor 2003; Prichard and Payne 2005.

86 Sometimes such programs or interventions may be offered by or through a clinic attached to a court or juvenile justice agency. For example, the Children's Court Clinic attached to the Children's Court of Victoria offers a number of assistance approaches to clients in its jurisdiction, including drug abuse interventions. See Scuderi 2003 for a discussion of the type of interventions on offer.

Finally, a particular form of secondary intervention aimed at reducing recidivism is comprised of post-release programs. These may include employment and employment placement programs, mentoring, buddy or peer support programs,⁸⁷ material welfare, programs to address homelessness and accommodation needs⁸⁸ and other general assistance packages.

The AIC Review *What Works?* acknowledged that whilst it was important for young people to obtain employment (or engage in study) post-release, the evidence showed limited effectiveness in the ability of employment programs to reduce offending (AIC 2002, p.7). It was thought, however, that this may be because employment programs are too often offered *in isolation* of any other intervention. Similarly, a review of juvenile justice programs by the Auditor-General of NSW in 2007 found that young offenders were leaving detention without having a variety of material and other needs met and were therefore at great risk of re-offending:

The community expects the youth justice system to reduce re-offending. Not every young offender will re-offend. But if a young offender leaves the youth justice system without having factors or needs such as homelessness, drug or alcohol abuse, or family dysfunction addressed, the risk of re-offending is high.

Some young offenders will be at a moderate to high risk of re-offending at their first offence. If those who need help can get help at this early stage, fewer may re-offend. The agencies that come into contact with these young offenders are best placed to address their needs to reduce re-offending.

Addressing needs means that a young offender gets help to overcome a problem or address a need that may have led them to committing an offence. Help may be in the form of support services or rehabilitation programs offered by the agency or by another government or non-government agency.

Research indicates that interventions need to be weighed up against the risk of drawing a low risk young offender deeper into the youth justice system, which tends to increase the risk of re-offending.

Rather, effective youth justice systems identify the needs of a young offender and intervene where the risk of re-offending is moderate to high. They also define what interventions are appropriate to address criminogenic needs, such as anti-social attitudes or drug and alcohol abuse (Auditor-General of NSW pp.24–25).

One problem that has been observed is that where a range of counselling and other programs are offered during a stay in juvenile detention, sometimes insufficient support is given once the person is released to use or hone those skills on 'the outside'. Abrams' study of young people in juvenile detention centres in Minnesota for example found:

The most significant barrier to lasting behaviour change at both facilities appeared to be the disconnect between lessons learned "inside" the institution and the realities of life "on the outs." Offenders articulated a need to practice their new skills in the "real world" or to have the opportunity to resist crime temptations. Even the small proportion of offenders who genuinely wanted to change their behaviours and lifestyles left the facilities without concrete ways to translate what they had learned in treatment to their lives outside of the institutions. In other words, the offenders at both facilities lacked strategies to contend with the environments, peers, and family members that contributed to their criminal behaviours in the first place. The absence of opportunity

87 Mentoring programs such as Big Brother/Big Sister and peer support services have shown some promise as effective secondary strategies (see Cameron 2000; AIC 2002 and references listed therein). Programs such as the Whitleion project in Victoria, which combine mentoring with employment placement programs, have also been shown to be successful (Lemmon 2005, 2008). The Committee has already met with representatives of the Whitleion and will include further discussion of this project in the Final Report of this Inquiry.

88 Homelessness is a huge problem for released detainees according to Australian academic Eileen Baldry and a key contributor to recidivist offending, particularly among women and detainees who do not have family or friends on whom they can depend. In addition, factors such as transience and homelessness made addressing problems such as substance abuse so much more difficult. For a discussion of Baldry's recent findings with regard to the links between post-release services, homelessness and recidivism, see Baldry 2007.

to practice skills gained in residential care speaks to the importance of transition and aftercare services for released youth offenders (Catalano et al., 1989). The pressures that they face when returning to their communities can be overwhelming; as such, they need support and guidance to maintain their skills and goals for lasting behaviour change. This finding strongly supports further investigation into models of aftercare services for juvenile offenders (Abrams 2006, p.82).

In Australia similar comments have been made about the need to provide 'throughcare' for young offenders to prevent re-offending (see Curran & Stary 2003; Baldry 2007; Halsey 2006). Throughcare is a term that has been coined to describe the coordinated, continuous and integrated management of offenders prior to and once released from detention:

The post-release aspect of throughcare requires the co-operation and co-ordination of justice and social service agencies prior to release, during transition and for some period after release to assess and assist those with multiple needs. The first month or two is a crucial time during which releases – especially those with mental health, intellectual disability and drug problems – are often re-arrested or breached for parole infringements.

Throughcare is an excellent concept but it is poorly implemented. It requires high-level and consistent liaison between all agencies involved in working with offenders before, during and after a sentence, especially after time in prison. In most jurisdictions, community correctional officers (probation and parole), post-release non-government agencies and releases themselves have extreme difficulty in finding the resources they need post-release. Poor communication between prisons and community corrections often compounds the problem (Baldry 2007, p.6).

Halsey argues that the process of desisting from or moving out of crime, particularly for young people, is never easy, particularly when services are so often thin on the ground and when they do exist often not coordinated with or integrated in holistic ways with other support services:

Chronic offending has as much to do with risky and unpredictable systems of management as they do with the so called 'innate' risks and unpredictability attributed to particular clients/young persons.

The process of desisting from crime should be a shared responsibility involving the young person, government departments and the more informal networks of support such as schools, workplaces, family (or other capable guardians) and peers.

The notion of shared responsibility implies (or should imply) consequences not just for young people who offend but also for departments who do not follow through or 'make good' on agreements struck with young persons released from custody (Halsey 2006).

The importance of multi-agency approaches

As the comments in the last section attest, many commentators have stressed the need for multi-agency models where government and other agencies work together to address youth offending and re-offending (AIC 2002; Morris et al. 2003; Lynch, Buckman & Krenske 2003; Cherney & Sutton 2007; Mann et al. 2007; Auditor-General NSW 2007; Victorian Auditor-General 2008).⁸⁹ For example, a sports or leisure program aimed at preventing youth offending or antisocial behaviour may not be successful without links to health, welfare, education, or employment services (Morris et al. 2003, p.4). Similarly, programs to assist young people with alcohol and drug problems may be of little benefit if those young people are homeless (Baldry 2007). As Lynch, Buckman and Krenske succinctly remark:

89 With regard to non-government and community agencies it has been stated that one of the impediments to effective service delivery in the area of youth justice pertains to funding and funding arrangements. In particular many programs aimed at preventing offending or re-offending amongst young people have finite periods for which they receive assistance. This, it is argued, 'impact[s] on the ability of programs to affect changes successfully and maintain any positive outcomes' (Morris et al. 2003, p.6). Moreover, as the *Pathways to Prevention* Report has remarked, 'Agencies...work more collaboratively and respectfully when they are not competing for funds for their survival and for that of their workers' (Homel et al. 2006, p.23).

[B]y the time that young people come to the attention of the juvenile justice system, it is difficult to modify a trajectory whose 'direction' has already been substantially determined by a very wide range of precursor factors that can no longer be effectively addressed by any single government agency...(2003, p.5).

Too often, it is argued, relevant government departments such as Health or Justice work in silos without sufficient cross-agency linkages. A report by ARDT Management and Research Consultants in 2001 into programs to address juvenile offending across the country, *Evaluation of the Young Offenders Pilot Program* (2001), was scathing of the 'poor co-ordination between [a] plethora of service providers' (2001, p.6). This is particularly problematic in that many services to assist young offenders are shared between Commonwealth, state and even local government agencies. It was thought that a young offender newly released from detention would find tackling a range of government bureaucracies such as Centrelink in addition to state government departments and non-government agencies bewildering to say the least:

The services which young offenders need are provided by different agencies and jurisdictions with the Commonwealth responsible for income support and employment services, state/territory governments for juvenile justice, education, health and housing and the non government sector providing a range of youth and welfare services...Previous research has identified poor co-ordination between [these various] service providers which means that for many young offenders either their critical needs were not being addressed, their needs were addressed in isolation or they were *falling through the gaps*. The Prime Minister's Youth Pathways Action Plan Taskforce summarised the dilemma as "Unfortunately our inadequate responses are delivered by a fragmented service network which cannot organise effectively around young people's needs. The problems are joined up but our responses are not" (ARTD Management and Research Consultants 2001, p.6.)⁹⁰ (Emphasis in original)

Whilst the situation has improved since the publication of this Report in 2001, recent reviews of juvenile justice services from Auditor-General Offices in both NSW and Victoria have made similar observations, at least with regard to the capacity for coordination. Whilst generally appreciative of the work done by officers in these departments and the programs established by departments and their agencies, both Offices found that better integration and coordination in order to reduce re-offending in particular could take place. In New South Wales it was stated that:

Getting agencies with different roles and responsibilities to work together can be a difficult process. The typical problems in service delivery by a number of agencies include a lack of co-ordination, different eligibility criteria [to measure] success and different priority areas (Auditor-General NSW 2007, p.35).

In addition the NSW Auditor-General noted there were difficulties associated with departmental officers such as police accessing services and exchanging information with other agencies. There were also conflicting systems of data collection and record keeping. Moreover, it was found that most approaches to young offenders were designed to meet individual offender needs only rather than utilising a model 'that goes beyond the individual and intervenes at multiple levels to change patterns of behaviour within the family' (2007, p.34). A key observation made by the Auditor-General was that as justice agencies and personnel can usually only work with offenders for the period of the order, sentence or mandate, it is essential that agencies initially responsible for youth offenders work cooperatively and maintain good relationships with outside agencies:

90 To address these problems the Commonwealth Department of Education, Training and Youth Affairs implemented a pilot model whereby support worker(s) served as a single point of contact for young offenders 'who would: assess client needs; develop integrated case plans; make referrals to or purchase appropriate services for the client; and where appropriate directly provide services' (ARTD Management and Research Consultants 2001, p.6). Such contact officers were to act across government and non-government departments and agencies at all levels.

The ability of the department to impact on the re-offending of juveniles is highly dependent on other agencies' willingness to work with juvenile offenders and provide access to their services and programs, in particular those relating to accommodation, mental health and education (Auditor-General NSW 2007, p.8).

In Victoria, similar audit findings have recently been made. Whilst the Auditor-General was generally approving of the way in which criminal justice diversion services are being delivered and that there is a 'high level of commitment and effort toward achieving improved outcomes for young offenders' (Victorian Auditor-General 2008, p.5), there are some important areas that need attention particularly with regard to coordination:

Multiple government and non government agencies are involved in the delivery of youth justice services. Developing a more whole-of-government or 'joined up' approach to planning, co-ordination, data collection and performance measurement in Victoria's youth justice system needs to be a priority for all agencies in the system' (Victorian Auditor-General 2008, p.5).⁹¹

The need for evaluation

It is a constant lament of researchers and policymakers that very little formal evaluation has been undertaken of either broad strategy types (for example, diversionary measures)⁹² or specific programs (AIC 2002; Commonwealth 2003; Hayes 2005; Chen et al. 2005; Polk 2005). In addition, Day argues that of the program evaluations that *have* been undertaken very few have included re-offending/recidivism as an outcome measure (Day 2005). There have been simply insufficient evaluations of programs or strategies designed to counter recidivism amongst young people:

The paucity of rigorous evaluations of our current intervention strategies means that we are less informed than we should be about what interventions might be most effective in terms of reducing recidivism for particular subgroups (Lynch, Buckman & Krenske 2003, p.5).⁹³

One particular research question that an appropriately controlled evaluative study could answer is the extent to which certain strategies, particularly diversionary strategies, may contribute to net-widening:

As contentious as such questions can be, it would seem axiomatic that public policy makers would want to know the degree to which their efforts to divert young people from the juvenile justice system are achieving that effect, rather than creating the more common result of increasing the total volume of young people brought under the control of the juvenile justice system (Commonwealth of Australia 2003, p.91).

Another important question that needs to be answered is the extent to which programs are servicing those with the highest levels of need and the greatest risk of offending or re-offending. Scarce resources can then be used to allocate the most intensive programs to those for whom they are best suited through 'differentiated case management' (Day, Howells & Rickwood 2003; 2004).

91 A recent Report in South Australia by that state's Commissioner for Social Inclusion has also stressed the need for better co-ordination of juvenile justice services across government departments and non-government agencies in order to reduce juvenile offending and re-offending. The report was particularly impressed with the program implemented by the John Jay College of Criminal Justice in New York, USA. This approach 'focuses on bringing together government agencies, non government agencies, families, carers, young people and community members to develop and implement solutions to local youth offending issues' (Cappo 2007, p.43). For a discussion of this and other similar programs see Cappo 2007. Commissioner Cappo has also recommended the establishment of a Chief Executive's Co-ordinating Committee on Youth Justice which would comprise the Commissioner for Police, Chief Executives of Departments such as Health, Justice, Education and Premier and Cabinet and other relevant representatives. As the name suggests the main aims of the Committee would be to integrate and coordinate the timely delivery of youth justice and related services across the state.

92 For example, a major report reviewing diversionary strategies to address youth offending has noted that insufficient evaluative studies at either a local or international level have been conducted to firmly posit links between cautioning and conferencing and youth offending (Commonwealth of Australia 2003, pp. xiv, 25).

93 For example Polk argues that we simply do not have enough information on the effect forms of diversionary programs such as conferencing or cautioning have on police decision making (2005, p. 8).

Unfortunately few such studies have been undertaken.⁹⁴ One of the reasons for this may be that for smaller agencies in particular, running programs to address youth offending can be expensive. The cost of evaluations, particularly long-term outcome evaluations, may be too expensive for many agencies to commission. For example, a study of sport and recreational programs aimed at reducing antisocial behaviour in youth found that:

Programs generally received finite short-term funding that covered running costs, but rarely left extra for evaluations, or for setting up monitoring practices to record aims and gauge outcomes (Morris et al. 2003, p.3).

The Australian Institute of Criminology in conducting its review of 'What Works' in reducing young people's involvement in crime and antisocial behaviour has stated that evaluation of programs designed to reduce youth offending or re-offending are inherently difficult and there are a number of limitations that need to be borne in mind. For instance:

- Many of the evaluations do not state how youth were targeted and assessed for inclusion in the programs and, therefore, it is unclear whether the programs were specifically targeting the participants' needs.
- Some program types may be easier to evaluate than others in that there are more tangible measurable components and outcomes.
- Different methodologies are used to evaluate programs, often using different types of control or comparison group. This makes it very difficult to assess the relative benefits of programs. Due to the nature of the programs, it is rare to find completely randomised studies.
- Currently there is a lack of evaluations that provide long-term follow up of effectiveness. There is a need for evaluations that assess the impact of programs two or three years after completion in order to see whether any positive changes are sustained (AIC 2002, pp.42–43).

The AIC concluded that for any program to have a chance of being successful, it is essential that its design and implementation is rigorous: 'It is also important that it is evaluated fully with a follow-up period that is long enough to determine the outcome effectiveness' (2002, p.43). As indicated earlier in this discussion, for some agencies this may be easier said than done.

Conclusion

It is important when addressing offending amongst vulnerable young people with many risk factors that policymakers 'giv[e] effect to a broad rather than narrow understanding of what constitutes a crime prevention strategy' (Lynch, Buckman & Krenske 2003, p.5). In an economically disadvantaged area with many young people subject to multiple risk factors the provision of a skate park or a swimming pool which young people can regard as 'theirs' can constitute a cost-effective crime prevention strategy that reaps dividends relatively quickly (Lynch, Buckman & Krenske 2003; see also Lynch & Ogilvie 1999).

It should also be questioned as to whether strategies are always required. One issue that was raised with respect to the discussion on recidivism in Chapter 3 was whether it was appropriate in circumstances where a young person had only minor contact with the criminal justice system, or had been a one-off offender, to engage that person into formal processes of the justice system, even through strategies that are well intentioned (Baker 1998). As canvassed earlier, one school of thought argues that after a young person has come to the attention of the police, particularly for fairly minor offences, it may not be appropriate to compel that person into formal justice strategies for fear of net-widening. In other words, as stated by Vignaendra and Hazlitt,

94 One fairly comprehensive evaluation study that has been recently conducted is that of People and Trimboli 2007. This study of a pilot community conferencing program targeting young adults in NSW found for the most part the system of community conferencing was generally effective in providing satisfaction to those taking part.

'Excessive interventions into the lives of the young can be counter-productive' (2005, p.vii). The Committee is interested in the community's views about whether it is always appropriate to involve a young person further in the youth justice system and if so when it is appropriate.

This chapter has only scraped the surface of the types of strategies that have been put in place to counter youth (and adult) offending and re-offending. Nor has it examined specific programs or projects already implemented to address youth offending across Australia or locally in Victoria. This is not an oversight. Such programs will certainly be canvassed in the Final Report for this Inquiry once the deliberative and consultative stage of the Committee's work is undertaken and the information that it is hoped will result from this Discussion Paper is presented to the Committee.

Questions for further consideration

General

- To what extent, if at all, do you believe Martinson's theory (however misunderstood) that 'nothing works' is applicable to youth offending? In your view 'what works' in addressing youth offending?

Diversionsary strategies

- To what extent can it be said that some strategies, particularly diversionsary strategies, to address youth offending are potentially net-widening?
- How effective in Victoria are the following types of diversionsary strategy:
 - Cautioning
 - Youth conferences
 - Bail and pre-hearing programs?
- Should the rules, procedures, guidelines and administration of police cautioning in Victoria be incorporated into legislation as in other states?
- Are police officers sufficiently trained in when, how and why to use a caution as opposed to other forms of intervention?
- How are youth conferences run in Victoria? What differences are there in conferencing in Victoria compared to other states? Could they be improved?
- To what extent could it be said that diversionsary programs such as conferencing contribute to a reduction in recidivism and re-offending? How is this measured? Are there problems with the methodologies used to determine this?
- What evaluations have been conducted of diversionsary programs currently being offered in Victoria? Are these 'in house' or commissioned evaluations? Are they process or outcome focused (or both)?
- What have been the results of these evaluations?
- Have the results of these evaluations been utilised to improve programs?

Other primary and secondary prevention strategies

- Can 'responsible' parenting be promoted or enforced? Should it be?
- How desirable are parental responsibility policies that penalise caregivers for the offences committed by their children or dependents?
- How useful is the concept of Situational Crime Prevention in preventing or reducing youth offending and antisocial behaviour? Do some of these approaches, such as increased security in shopping malls or greater use of CCTV in places where youth congregate, run the risk of marginalising or excluding young people?

Questions for further consideration (continued)

- What balance should be struck at prevention approaches aimed at the whole community (such as youth leisure activities) and remedial approaches aimed specifically at youth offenders?

Repeat offending

- How effective are traditional services for reducing repeat offending?
- How do repeat offenders perceive their experiences with the social services including those associated with criminal justice?
- What new models of best practice exist for responding to young repeat offenders who are multiple users of social services?

Service delivery

- What services should be available for young people in juvenile detention or on community service orders?
- What post-detention release programs for young offenders are available in Victoria? How effective are they? How could they be improved? What more could or should be done to guarantee 'throughcare'?
- What more could be done to prevent young people from re-offending once released from custody?
- Have any evaluations been undertaken of programs or services provided for a young person on a community based order or in youth detention?
- How can 'joined-up' multi-agency cooperative approaches best be realised?
- How can new integrated models of service delivery be established and managed?
- To what extent are prevention programs currently coordinated (particularly at different levels of government and with the non-government sector)?

Specific programme provision

- For people who develop strategies and run programs to address youth offending
- What programmes do you offer?
- Who refers young people into the program?
- Who are referred?
- Who runs the program?
- What are the objectives of the program?
- Are there any conditions of referral?
- What are the consequences for failure of the diversion?
- What evidence is there about the program, including process evaluations and data, regarding the success or failure of the initiative?

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