

Chapter Four

Theories, Causes and Risk Factors of Criminal Behaviour

4.1 Introduction

The terms of reference of this inquiry require the committee to examine the relationship between crime and the types and levels of social support afforded to families and communities. As the first step in analysing this issue, it is necessary to look at why people actually commit crime. For instance, are there particular influences that can impact on an individual's decision to engage in offending behaviour? And if so, are these influences related to the social milieu in which an individual lives? Only by looking at these issues can a proper understanding of criminal behaviour be gained and can effective crime prevention strategies be developed.

4.2 Theories of crime

According to Pease:

all theories of crime are also theories of crime prevention. They differ only in the scale of change necessary to achieve that end.”¹

Criminological theories have ranged from viewing the issue as a social, economic and cultural phenomenon to seeing it largely as resulting from individual pathology and personality. Egger explains that the interpretation of crime that is followed will determine the degree and type of intervention employed as crime prevention. She writes:²

At one end of the scale are theories which emphasise structural causes such as socio-economic deprivation... race and racism... and gender. At the other end of the scale are individual theories which focus on the individual and psychological motivations to commit crime... The theory will determine the level of intervention (primary, secondary or tertiary crime prevention) and the stress placed on situational factors, social factors and individual offender factors.

¹ Ken Pease, “Crime Prevention” in Maguire, Rod, Reiner (eds) *The Oxford Handbook of Criminology*, Clarendon Press, 1994, p 660.

² Sandra Egger, “Women and Crime Prevention” in O’Malley and Sutton eds, *Crime Prevention in Australia*, the Federation Press, 1999, p 84.

Behind the theories of crime lie interpretations of the **causes** of crime. Defining the actual causes of criminal behaviour, however, has been a complex and, at times, controversial issue for criminologists, sociologists, lawmakers and law-enforcers.

According to Hughes,³ whose research is based on young male offenders, understanding the causal factors of crime is only half the solution:

the other half is to understand what makes young men forgo crime.

As most commentators would argue, there is no one single cause, or simple explanation for offending behaviour. Crime, as Braithwaite argues “is not a unidimensional construct”.⁴ It is:

...a complex social and economic phenomenon. No single cause can explain it.⁵

Pathways to Prevention,⁶ the report of the National Anti-Crime Strategy, adopted the following approach to offending behaviour:

The roots of criminal offending are complex and cumulative ... and... are embedded in social as well as personal histories. To uncover significant risk factors that are the facilitating conditions for entry into a criminal career requires a life course perspective that views each potential young offender as someone who is developing over the life course and in specific social settings.

The complexity of criminal behaviour means that there are few, if any, effective “quick-fix” solutions.⁷

4.3 Risk factors

In the last few decades researchers have come to identify a range of **risk factors** which can lead an individual to later criminal behaviour. Farrington⁸ defines risk factors to be:

...prior factors that increase the risk of occurrence of events such as the onset, frequency, persistence, or duration of anti-social behaviour.

In her address to the committee’s 1998 conference on Crime Prevention through Social Support, Susan Everingham, Policy Analyst with RAND

³ 1998 p 143 – quoted in *Submission*, 21/09/99, Bowie and Vaughan, p 3.

⁴ *Crime, Shame and Reintegration*, Cambridge University Press, Cambridge, 1989 p 1.

⁵ Youth Justice Coalition, *Kids in Justice: A Blueprint for the Nineties*, Sydney, 1990.

⁶ *National Crime Prevention*, Attorney General’s Department, Canberra, 1999 p 4.

⁷ Standing Committee on Social Issues, *Juvenile Justice in NSW*, 1993, p 25.

⁸ “Human Development and Criminal Careers”, in Maguire, Rod, Reiner (eds) *op cit* p 538.

(US), identified the risks that may lead a child to later offending behaviour. She argued that many of these factors occur in the early stages of a child's life. Everingham explained:

childhood development can be compromised by biological and environmental stressors, such as insufficient cognitive stimulation, impaired emotional relationships in the family, and deficiency in nutrition or health care.⁹

Among the range of risk factors identified during this inquiry are:

Family Risk Factors

- parenting skills;
- childhood neglect;
- physical/sexual abuse;
- substitute care and state wardship;
- marital conflict;
- teenage mothers;
- lack of supports; and
- intergenerational offending

Socio-economic Risk Factors

- economic stress;
- social isolation;
- geographic disadvantage; and
- poor/overcrowded housing;

Education

- literacy skills;
- achievement and failure; and
- truancy;

Other Risk Factors

- disability;
- negative peer influence;
- substance abuse;
- problem gambling;
- gender;
- race and racism;
- age;
- individual pathology;
- health-related factors; and
- traumatic life events.

⁹ Standing Committee on Law and Justice, *Crime Prevention Through Social Support*, NSW Legislative Council 1998, p 136.

The committee recognises that *no one single factor* can be the reason for criminal behaviour. It endorses the view of the Western Australian Select Committee on Crime Prevention which stated in its Discussion Paper:¹⁰

...each factor alone will not guarantee a criminal career. Exposure to multiple risk factors will increase a person's risk of becoming involved in crime.

The committee also recognises that certain risk factors can be the result of other risk factors. For instance, substance abuse can be the result of a number of the factors identified above. Furthermore, childhood neglect appears to be more frequent among families that experience economic stress, social isolation, locational disadvantage and a lack of supports.

4.4 Family

Considerable evidence has shown that the family is one of the most significant factors which can influence an individual's offending behaviour. The nurturing and support afforded a child in infancy may later determine whether that child will engage in delinquent behaviour.

In the last few decades Australia has experienced major changes to the structure and concept of the family and to the roles of men and women. Such changes have largely been brought about by the enormous economic, social and cultural changes that have occurred since the post-war period. Acknowledging the importance of these events the Discussion Paper prepared by the Western Australian Select Committee on Crime Prevention states:¹¹

Significant changes to government welfare, the labour market, the status of women, and family mobility have influenced and altered the task of parenting and increased the demands of parents.

These trends, coupled with the decline of traditional extended family and community support networks, has also seen the growing isolation of the family and the expectations that families must cope alone with the stresses and demands of contemporary parenting.

The influence of family factors on delinquent and criminal behaviour is central to a number of major criminological studies.

¹⁰ *Making Western Australia Safer: Have Your Say*, Legislative Assembly Western Australia, 1999, p 3.

¹¹ *Ibid* p 4.

Loeber and Stouthamer-Loeber¹² for instance, found that significant predictors of delinquency included poor parental supervision, erratic or harsh parental discipline, parental disharmony, parental rejection of the child, low parental involvement with the child and large family size. Similarly, a number of Farrington's studies¹³ concluded that:

Poor parental child rearing behaviour (a combination of discipline, attitude and conflict), poor parental supervision, and low parental interest in education all predicted both convictions and self-reported delinquency ... Children who are exposed to poor child rearing behaviour, disharmony, or separation on the part of their parents are likely to offend because they do not build up internal controls over socially disapproved behaviour.

A more contentious issue is whether children in single parent households are more prone to engage in offending behaviour than those from families with two parents. Wadsworth's longitudinal study¹⁴ of 5,000 children showed that boys from homes broken by divorce or separation had an increased likelihood of being convicted or officially cautioned up to age 21 in comparison with those broken by death or from unbroken homes.

Farrington's research¹⁵ revealed that both permanent and temporary separations before age 10 predicted convictions and self-reported delinquency, providing they were not caused by death or hospitalisation. Further, separation from a parent before age 10 predicted both juvenile and adult convictions.

Other studies conclude that if, after a separation or divorce, the family remains stable, supportive and well-managed, the children do not appear at any greater risk of delinquent behaviour¹⁶. Rather, the level of conflict that preceded the separation, including verbal and physical abuse, are more likely to result in the children within that family later becoming delinquent. Based on the evidence it received the Western Australian Select Committee¹⁷ concluded:

¹² "Family Factors as Correlates and Predictors of Juvenile Conduct Predictors of Juvenile Conduct Problems and Delinquency", in M. Tonry and N. Morris (eds) *Crime and Justice*, Chicago:University of Chicago Press, 1986 vol 7, 29-149,

¹³ see, "Human Development and Criminal Careers" in M.Maguire, R. Morgan, and R. Reiner (eds) *op cit* pp 543,558.

¹⁴ Wadsworth, 1979 cited in Farrington, *ibid*, 1994, p 544.

¹⁵ *Ibid*, p 545.

¹⁶ Mednick, Baker and Carothers, "Patterns of Family Instability and Crime: The Association of Timing of the Family's Disruption with Subsequent Adolescent and Young Criminality" in *Journal of Youth and Adolescence* 1990, Vol.19, No.3, pp 201-220.

¹⁷ Western Australian Select Committee on Crime Prevention, 1998 *Making Western Australia Safer: Have Your Say, A Discussion Paper*, Western Australian Legislative Assembly, p 7.

abusive or conflict-ridden two parent homes are considered more harmful to children than non-stressed, non-traditional family homes.

Weatherburn and Lind's study, *Social and Economic Stress, Child Neglect and Juvenile Delinquency*¹⁸ (discussed in detail below) found that childhood neglect is the strongest predictor of delinquent behaviour. Measures of economic and social stress such as poverty, unemployment, single parent families, and crowded dwellings, increase the risk of child neglect and abuse within a family and can, in turn, lead to delinquent behaviour.

The NSW Department of Community Services receives approximately 20,000 notifications for child neglect each year. Weatherburn has written:¹⁹

At least a quarter of these children will end up involved in crime. That means we get new offenders at the rate of about 100 a week.

4.5 Social and economic stress

In terms of its influence on criminal behaviour, the structure and dynamic of the family cannot be looked at in isolation. Other factors, particularly, economic and social stress, and how they impact on the family, must be considered. It is no coincidence that official statistics consistently show that most offenders are drawn from society's most disadvantaged communities.

Most researchers agree that families which experience economic deprivation and social disadvantage are subject to stresses which can cause disruptions to the parenting process, thereby placing the children at risk of juvenile offending. However, some differ in the degree of significance they give to socio-economic factors over other risk factors.

Disadvantage, class and marginalisation are at the core of criminologist, John Braithwaite's explanation for crime. He argues:²⁰

For both women and men, being at the bottom of the class structure, whether measured by socio-economic status, socio-economic structure of the area in which the person lives, being unemployed, being a member of a racial minority... increases rates of offending for all types of crime apart from those for which opportunities are systematically less available to the poor (ie white collar crime).

Long-term unemployment, a major feature of socio-economic disadvantage is also identified as a primary feature of criminal behaviour by some researchers. Wilson and Lincoln,²¹ for example, observe that:

¹⁸ NSW Bureau of Crime Statistics and Research, Sydney, 1997.

¹⁹ Sydney Morning Herald, 3/7/98.

²⁰ *Crime, Shame and Reintegration*, Cambridge University Press, Cambridge, 1989 p 48.

unemployment and poverty clearly influence homicide rates in North America... they have done so with murder rates generally in Australia... and with rates of serious assault and murder in Aboriginal communities...

In his research on young people and offending behaviour White²² places socio-economic factors among the leading risk factors to offending activity. He argues that in the last two decades many thousands of young people have been excluded from the labour market and there has been a widening of the income gap between low and high socio-economic groups. Those who do work generally receive very low wages and the welfare payments offered to those who do not work are below the poverty line. He writes:²³

One consequence of the low incomes, and general conditions of poverty, for many young people is that they are forced into alternative income-generating arrangements. Research ... being undertaken in six local areas in Melbourne has shown that young people are forced to supplement their income in a variety of ways. These include working on a cash-in-hand basis in the informal economy, and engaging in theft and low-level drug-dealing as part of the criminal economy. For many disenfranchised and marginalised young people, it seems, illegal activity of various kinds is increasingly being seen as simply part and parcel of economic survival – a routine way of managing one's day-to-day living expenses.

Many of the submissions to the inquiry echo the findings of researchers and identify socio-economic disadvantage as a major risk factor to offending behaviour. For example, writing from the perspective of rural New South Wales the submission from the Tamworth City Council²⁴ states that:

A stagnant economy and lack of job growth in regional cities have left many young people with little hope of being absorbed into the workforce. This hopelessness is evidenced by increasing numbers of youth suicides, drug abuse and criminal activity.

Similarly, the submission from the Come In Youth Resource Centre²⁵ observes:

The fear of unemployment, the inability to live on a youth allowance, brings about a sense of helplessness. (Young people) feel pressured to continue in the education system, with a sense of aimlessness, as some ponder a future without any meaningful and life-giving work. Those young people already on the margins are

²¹ "Young People, Economic Crisis, Social Control and Crime", paper presented at the Institute of Criminology Seminar, *Crime and the Recession: Economic Hardship, Patterns of Delinquency and Social Justice*, 1992.

²² "The Business of Youth Crime Prevention" in P O'Malley and A Sutton (eds) *Crime Prevention in Australia*, The Federation Press, Sydney 1997.

²³ *Ibid* p 166.

²⁴ *Submission*, 15/12/98, Tamworth City Council.

²⁵ *Submission*, 20/9/99, Come In Youth Resource Centre.

becoming an entrenched underclass of poor, who will find it difficult to break the chronically dysfunctional cycles in their lives.

A submission to this inquiry from the NSW Police Service draws evidence from the *Report of the Disadvantaged Patrols Working Party*.²⁶ That report confirms that:

patrols appearing in the lower quartile of the Socio-economic Index for Areas have a higher incidence of crime and also therefore have higher policing demands.

Recent research by Weatherburn and Lind, who also appeared before the committee, re-examines the issue of the impact of socio-economic disadvantage on criminal activity. Their study found that parents who are under economic and social stress and who do not have the support of a partner, relatives or friends are more inclined to react by either neglecting or abusing their children. The study concluded that neglect, in particular, and abuse were the strongest predictors of delinquency.²⁷

The submission from the New South Wales Council of Social Service (NCOSS)²⁸, notes that the findings in Weatherburn and Lind's research is borne out in the feedback from their clients:

(Weatherburn and Lind's) work raises the hypothesis that social and economic stress exerts an indirect effect on juvenile participation in crime by disrupting the parenting process. This is consistent with the views frequently put by workers in family support services agencies and substitute care services which assert that increased socio-economic pressures directly effects the quality parenting and the level of juvenile delinquency.

Dr Weatherburn explained the study's findings in his oral testimony:

parents exposed to poverty but who also lack social support tend to be less effective in their parenting and, as a result, their children are more susceptible to delinquent peer influence.²⁹

Weatherburn and Lind argued in their study that economic and social disadvantage alone were not the major predictor of criminal behaviour. In support of this finding the authors provided the following evidence:

- there was very little evidence to support the theory that otherwise law-abiding citizens turn to crime when they become unemployed or when there is a drop in their income;

²⁶ see *Submission*, 11/11/99, NSW Police Service.

²⁷ *Evidence*, 26/7/99, Dr D Weatherburn.

²⁸ *Submission*, 21/9/99, NCOSS.

²⁹ *Evidence*, 26/7/99, Dr D Weatherburn.

- the most persistent offenders become involved in crime prior to their entry into the labour market;
- in areas of economic stress there is not only evidence of higher rates of property crimes (something that might be expected to be found if crimes were committed as a means of overcoming poverty) – but also, evidence of non-utilitarian crime such as assault and malicious damage to property, crime which produces no material reward for the offender; and
- there are inconsistent results in time series studies examining unemployment and crime.

Dr Weatherburn told the committee:³⁰

Sometimes it appears that higher unemployment rates are associated with higher crime rates and sometimes it does not appear that way. Not long ago we did a study which looked at the effects of the 1982-83 recession and there was no relationship whatsoever between the colossal growth in unemployment that occurred at that time and changes in crime.

It is generally the case that poor people from poor neighbourhoods are more likely to engage in offending behaviour than poor people in more middle class neighbourhoods. However there is a stronger relationship with income inequality than with poverty as such:

In other words it is not the absolute level of income that seems to be the predictor (of crime), it is the relative level of income.³¹

In his evidence to the committee Professor Tony Vinson³² argued that Weatherburn and Lind's analysis of the relevant statistics of neglect need to be looked at from the perspective of those welfare officers who originally made the finding of neglect. In other words, he considered, that what those officers would have recorded as neglect was most probably a typical scene of poverty and disadvantage. Professor Vinson's view is that poverty is the overriding feature of offending behaviour and that neglect is only one symptom of poverty.

A recent study, *A Portrait of Child Poverty in Australia in 1995-96*³³ has found that at least one in eight Australian children live in poverty. The study, compiled by the National Centre for Social and Economic Modelling

³⁰ Evidence, 26/7/99, Dr D Weatherburn.

³¹ Ibid.

³² Evidence, 25/10/99, Professor T Vinson.

³³ A Harding and A Szykalska, National Centre for Social and Economic Modelling, University of Canberra 1998.

at the University of Canberra, reported that although most children in poverty lived with both parents, the risk of a child being in poverty increased greatly if they with a sole parent. Further, the risk of poverty was greater in families where there were more than three children.

4.6 Geographic disadvantage

Geographic disadvantage has recently become recognised as a risk factor to offending behaviour. Geographic disadvantage is characterised by a poverty, economic hardship, unemployment, poor housing, over-crowded households, high levels of geographical mobility and few and inadequate community supports.³⁴

The National Association for the Care and Resettlement of Offenders, in a 1995 United Kingdom study,³⁵ found that high levels of crime and disorder are major features of such communities. These features are closely linked with unstable, demoralised and isolated communities with weak neighbourhood ties, few supports for families and social isolation of parents (mainly mothers). Other features which characterise these communities include high concentration of public housing; high residential mobility; lack of community support services and facilities, particularly for families with children; lack of organised recreational and social activities/facilities for young people; high concentration of youth unemployment, particularly young males; a number of the poorest performing schools; and possible problems arising from teenage gangs.

In 1975 Professors Tony Vinson and Ross Homel released their findings in relation to a study on geographical disadvantage in the suburbs of Newcastle.³⁶ They found that a disproportionate share of Newcastle's health and social problems were concentrated within seven of the 72 minor suburbs, representing 5.5% of the population. Infant mortality, low birth weight, dependence on relief, notifiable diseases, unemployment, mental illness, and truancy were found to be two to three times more prevalent than might have been expected on a population basis, within the seven suburbs with the highest risk scores. The same suburbs had two to three times their share of adult crime and six times their share of drug offences.

A more recent study conducted by Professor Vinson and The Ignatius Centre,³⁷ reveals that for New South Wales and Victoria disadvantage has

³⁴ Weatherburn and Lind *op cit* 1997.

³⁵ NACRO *Crime and Social Policy*, London, 1995 pp 51-58; Western Australian Select Committee on Crime Prevention 1998 p 23.

³⁶ Discussed in *Evidence*, 25/10/99, Professor T Vinson.

³⁷ *Unequal in Life: The Distribution of Social Disadvantage in Victoria and New South Wales* Jesuit Social Services, Melbourne.

become entrenched in particular neighbourhoods. For New South Wales the research revealed that on a per capita basis the “top 30” disadvantaged areas accounted for:

- four and a quarter times their share of child abuse;
- three and a quarter times their share of emergency assistance;
- three times their share of court convictions and long term unemployment;
- twice their share of low income households; and
- a little under one and a half times their share of school-leavers before 15 years.

In his evidence to the committee, Professor Tony Vinson explained that disadvantaged communities demonstrate a lack of attachment to their community. He argued that there was also a very close connection between this lack of attachment and fear of crime. Further, he told the committee:³⁸

crime will go down as people begin to have more attachment to one another and to the area in which they live.

Weatherburn and Lind’s study³⁹ similarly identified location disadvantage or poor neighbourhoods as making an “independent contribution to the delinquency generation process”. Geographic areas where there is a concentration of poverty and disadvantage appear to compound the risk of delinquency for young people living in those areas. For example, Weatherburn and Lind found that poor parental supervision in crime-prone neighbourhoods in Western Australia is more likely to lead to juvenile involvement in crime than poor parental supervision in non crime-prone neighbourhoods.

The committee understands that not all disadvantaged communities necessarily have a serious crime problem. Citing recent American research Professor Ross Homel told the committee in evidence that part of the reason why some neighbourhoods, although very poor, are not violent compared with other neighbourhoods in close proximity that are equally as poor but are far more violent, is what is referred to as “collective efficacy” of the community:⁴⁰

³⁸ Evidence, 25/10/99, Professor T Vinson.

³⁹ *Ibid.*

⁴⁰ Evidence, 26/7/99, Professor R Homel.

that is, the capacity of local adults to intervene positively in the lives of children; to step in when the family breaks down, to exercise a watchful eye, supervise in public places. through a whole variety of mechanisms, to compensate for the stresses that are imposed by a poverty-stricken environment.

4.7 Education and schooling

The background of most offenders reveals a common picture of school failings, truancy, suspensions, expulsions and leaving at an early age. Evidence shows that difficulties within the school system, particularly learning difficulties can contribute to later offending behaviour. As the Western Australian Select Committee on Crime Prevention reports:⁴¹

Academic performance; weak attachment to school; low attendance; and behaviour problems such as bullying, an inability to relate to peers and teachers and disobeying school rules are all factors associated with later delinquency.

The committee has received extensive testimony and written submissions regarding the significance of school and offending behaviour. For example, paediatrician, Professor Graham Vimpani told the committee:⁴²

poor academic achievement and school drop-out is...related to the emergence of behaviour problems and criminality.

Professor Tony Vinson addressed this issue in his evidence by way of an anecdote:⁴³

I am so conscious of the remark made by a staff member of the community health service when she said, "Tony, give me a piece of paper and I will write down the names of a dozen future clients of Long Bay for you. You won't have to wait long". "On what basis would you do that?" I asked. She replied, "On the basis that they have already fallen well behind at school. They are a constant source of irritation to the other students and the teachers and they are beginning to engage now in delinquent acts which will surely grow into major offences"...She said that the first thing that has to be done is that these kids have to perform at the maximum level of their ability and feel accepted and confident within the school environment. If that does not happen we may as well book them a cell at Long Bay now.

In his testimony Professor Ross Homel stressed the need for early intervention when a child begins to display acting out behaviour at school and even pre-school. He explained:⁴⁴

⁴¹ *Final Report 1999*, Western Australian Legislative Assembly p 8.

⁴² *Evidence 25/10/99*, Professor T Vinson.

⁴³ *Evidence 25/10/99*, Professor T Vinson.

⁴⁴ *Evidence 26/7/99*, Professor R Homel.

according to the Mater Hospital study in Brisbane, which is a sample of about 11,000 children followed up to the age of 13, 50% of the boys who are aggressive at age five are rated violent at age 13. So, doing something about the disruptive behaviour, the oppositional behaviour of boys in that preschool, early primary period is probably one of the most effective ways of heading off those serious problems in adolescence.

Professor Homel's evidence further highlighted the significance of the transition period between primary and high school. This period is important because at least 50% of the juvenile crime problems involve children who were not problems as young children but in the late primary school and early high school years started to "go off the rails".

A number of studies have highlighted the strong correlation between truancy and offending behaviour. Recently, the Bureau of Crime Statistics and Research self-report study, *Juveniles in Crime – Part 1: Participation Rates and Risk Factors*⁴⁵ found that truancy is a **particularly** strong predictor of crime. Three hypotheses were advanced for this correlation:

- factors such as supervision, school performance and family structure are not as important predictors of crime as truancy; or
- developmental factors such as weak supervision and poor school performance may increase the likelihood of truancy as well as increasing the likelihood of criminal involvement; or
- the study had a better measure of truancy than of the other factors.

The NSW Standing Committee on Social Issues' *Report into Youth Violence*⁴⁶ comprehensively examined the ways in which schools can assist students at risk of being involved in offending behaviour and made recommendations in this regard. Many of the recommendations have since been taken up by the Department of Education.

4.8 Peer influence

The influence of peers is a common and usually transient period in a young person's life. However, for young people, already experiencing family difficulties, including inconsistent or poor parental supervision and living in a geographically disadvantaged area, negative peer influence can be a major risk factor to offending behaviour.

⁴⁵ J Baker NSW Bureau of Crime Statistics and Research, Sydney 1997.

⁴⁶ NSW Legislative Council 1995.

Farrington⁴⁷ observes that:

there is clearly a close relationship between the delinquent activities of a young person and those of his friends...Having delinquent peers increased a person's own offending and that person's own offending also increased his likelihood of having delinquent peers.

A number of theories have been advanced as to why young people group together to engage in offending behaviour. Poor parental supervision, a lack of appropriate recreational activities, failings at school, unemployment and limited job opportunities are all considered to be relevant to groups of pre-delinquents forming.

The Discussion Paper of the Western Australian Select Committee on Crime Prevention,⁴⁸ for instance observes:

association with delinquent peers and inappropriate use of leisure time are strongly linked with an absence or poor performance of parental supervision and can influence whether a young person starts to offend. Those who spend their leisure time in unstructured and unsupervised activity, primarily on the streets and at other public venues, are at increased risk of offending.

Moreover, Farrington⁴⁹ suggests that:

it may be that offenders are popular in anti-social groups and unpopular in pro-social groups, or that rejected children band together to form adolescent delinquent groups.

As the gap between the wealthy and the poor widens, the stresses on families increase and the high rate of youth unemployment shows little sign of declining, many young people feel marginalised and hopeless. It is therefore, no accident that many young people band together and act out against a society in which they feel they have no stake.

The committee recognises that groups of young people, particularly those from disadvantaged areas, are often subjected to police surveillance and intervention because there is a suspicion that they may engage in delinquent behaviour. White⁵⁰ argues that young people, particularly those in groups, are the most frequent targets in law and order policy. This is particularly the case for young people in disadvantaged areas where there are few appropriate leisure options and facilities. He writes:⁵¹

⁴⁷ *op cit* p 550.

⁴⁸ *op cit* p18.

⁴⁹ *op cit* p 550 citing Hartup1993.

⁵⁰ *op cit*.

⁵¹ *ibid* p 67.

Part of the reason why young people have been subjected to this kind of attention is that they are especially visible in our urban landscapes... Young people are treated as potential threats and troublemakers simply for using public spaces such as shopping centres, malls and the street as places to socialise in, rather than to “consume”... For many young people, the only “free”, common, public space or community space available to them is the shopping centre or mall. Yet, when they and other marginalised groups wish to use such spaces for their own non-commercial purposes they are systematically subjected to harassment by private security guards and State police... The visibility and conflicts accompanying the congregations of youth ... add fodder to the dramatic scenarios and sensationalised reporting of the mass media, which seize upon any specific incident or offence as yet another reason why fear of crime should focus on young people.

4.9 Substitute care and wardship

Children are placed in substitute care and/or are made wards of the state for a number of reasons that renders them in need of care and protection. They are children whose parents or next of kin are unable to care for them and may have experienced neglect, physical and/or sexual abuse. Wards are children who are permanently removed from their families because of their particular backgrounds and experiences.⁵²

The considerable risk of state wards entering the juvenile system was graphically illustrated in the 1999 report of the Community Services Commission, *Just Solutions – Wards and Juvenile Justice*. Analysis of data by the Community Services Commission and the Department of Community Services revealed the following:

- wards are over-represented in the juvenile justice system;
- there are a number of common factors and characteristics associated with those who end up in the juvenile justice system; and
- more needs to be done by a whole range of agencies to understand the problem and more effectively meet the needs of wards.

The report found that:⁵³

...the risk factors which precipitate their entry into care are similar to those which predict later contact with the juvenile justice system. There are also increasing concerns that experiences within the care system exacerbate, or at least fail to reduce, these risk factors.

⁵² Community Services Commission, *Just Solutions: Wards and Juvenile Justice* 1999 p 14.
⁵³ *ibid* p14.

In their Issues Paper, (provided as a submission to the inquiry) *Addressing Offending Behaviour*,⁵⁴ Kath McFarlane and John Murray of the Positive Justice Centre's Mulawa Project, made the following observations of the women at Mulawa Correctional Centre:

Many women in prison have a history of childhood institutionalisation as wards of the State or through other vehicles under the State's direction...Many women are now watching their children or even their grandchildren enter the system in the same way.

The Issues Paper reports that no statistics are kept on the number of state wards in the adult correctional system but notes that state wards are approximately 17% of the juvenile justice population, yet only make up 0.2% of the New South Wales child population.⁵⁵ They are also a minority of children in care.

Like juvenile offenders, wards and those who have contact with the Department of Community Services, are likely to come from economically and socially disadvantaged families and communities. They are children who have experienced family breakdown, neglect and abuse. Highlighting these factors the Community Services Commission's report,⁵⁶ provides the following evidence:

Of the 2,691 wards who were in the substitute care program at June 1998:

- 20% (523 children and young people) had entered care because of actual harm or injury they suffered;
- 37% (989 children and young people) had been placed in care because they were at significant risk of abuse or neglect; and
- 8% (220 children) had entered care because of significant family breakdown.

Both wards and juvenile offenders often display a high level of substance abuse, are from single parent families, live in crowded dwellings or are homeless, experience educational difficulties. A significant proportion of wards are Aboriginal children.

Nigel Spence of the Association of Child Welfare Agencies explained some of the reasons for over-representation of wards and children in care in the juvenile justice system:⁵⁷

⁵⁴ *Submission*, 1998, Positive Justice Centre.

⁵⁵ *Ibid* p13.

⁵⁶ *op cit* p 26.

⁵⁷ *Evidence* 26/7/99, Mr N Spence.

one reason is simply the increased visibility of young people in care. We know that their behaviour is more likely to come to the notice of police, often directly as a result of conflict within the place where they are living, and if they go to court the chances of receiving a detention or supervision order are found to be much higher than those for other young people.. They are more likely to be refused bail because of a lack of suitable accommodation...and because of a lack of family and community relationships. (Further reasons include) homelessness, the need to commit crime, such as fare evasion, theft, break and enter; exposure to... deviant peer groups in refuges.

During the inquiry evidence was heard regarding the detrimental effect that multiple substitute care placements can have on a child. To quote further from Spence's testimony:⁵⁸

...the single, most significant factor that appears to link being in care with development of criminal behaviour is the degree of stability or instability that children and young people experience while in care, specifically the number of moves and the number of different placements during the child's time in care... Frequent moves in placement have lots of effects in preventing a child from forming significant relationships with caring adults. These frequent moves disrupt the child's schooling and further increase the likelihood of educational delay; prevent emotional peer relationships and thereby increase social isolation; tend to disrupt the child's relationships with the birth family; fracture their identity formation; and make it extremely difficult for the child or young person to have some cohesive sense in their life story.

Further, Louise Voigt, Chief Executive Officer and Director of Welfare of Barnardo's Australia told the committee:⁵⁹

One of my ex-clients, a ward, had gone through 40 to 50 placements before he came to us and he was destroyed. He recently cut somebody 25 times and almost severed the arm.

The committee understands that the Department of Community Services and the Department of Juvenile Justice are working together to develop a strategy to reduce the number of wards entering the Juvenile Justice system. Known as the Wards Project it:

calls for an expansion of early intervention and prevention measures to prevent children and young people coming into care and to reduce the incidence of young people in care entering the juvenile justice system.⁶⁰

⁵⁸ Evidence 26/7/99, Mr N Spence.

⁵⁹ Evidence 17/6/99, Ms L Voigt.

⁶⁰ Submission September 1999, Department of Juvenile Justice.

The Wards Project identifies specific targeted interventions to be used:

- improvements to the out-of-home care agencies, policies and practices which can contribute to juvenile justice involvement;
- utilising cautions and conferences as a key intervention point at initial onset of juvenile justice involvement;
- developing a network of adolescent support positions within the Department of Community Services; and
- providing coordinated training for teachers, police, youth workers and carers.

4.10 Disability

Disabilities such as hearing or speech difficulties can lead to behaviour problems in young children. If these disabilities are not identified they can contribute to a cycle of disruptive behaviour at home then at school which carries the seeds of future patterns of offending.

The forms of disability which have received most attention in recent years have been those of intellectual disability. Studies have indicated almost one in five prisoners in New South Wales may have an intellectual disability or a borderline disability. The reasons for this and the specific risk factors applying to the intellectually disabled are discussed in depth in Chapter Eight of this report.

4.11 Substance abuse

Drug and alcohol misuse and addiction play a major role in offending behaviour. Statistics presented at the New South Wales Drug Summit reveal that about 70% of inmates in New South Wales prisons were under the influence of alcohol or other drugs at the time of their most serious offence.⁶¹

The Summit also heard that there are clear risk factors that show correlations with a person's likelihood to misuse drugs. Significantly, they are similar to the risk factors of offending behaviour. Swain summarises these factors as follows:⁶²

⁶¹ M Swain *The New South Wales Drug Summit: Issues and Outcomes* NSW Parliament. Library Research Service 1999 p 45.

⁶² *Ibid* p 46.

- poor parenting or abuse;
- a family's lack of social or local attachment;
- family illness especially psychiatric illness;
- substance abuse by parents;
- long-term unemployment;
- poverty;
- poor or crowded housing;
- poor support services;
- peer pressure.

It was also emphasised at the Drug Summit that there is a relationship between poor school performance, low self-esteem and failure to complete secondary school and being at risk of abusing drugs.

Speakers at the Summit acknowledged it is not inevitable that all people who experience these factors will misuse drugs, nor is it the case that all people whose lives are free from these factors will be drug free.⁶³

The acquisition of drugs and/or the effects of drugs on a person's perception are frequently the motivation or reason for criminal activity, particularly, property-related crime. Alcohol-related crime tends to be violence-oriented.

A 1996 Bureau of Crime Statistics and Research report⁶⁴ found total alcohol sales, particularly of beer, in an area was significantly correlated with the rates of malicious damage to property, assault and offensive behaviour.

The Standing Committee on Social Issues report, *Children of Imprisoned Parents*⁶⁵ found that most of the women in prison had a drug and alcohol problem, which accounted for their offending behaviour and their time in prison. Kevin's study for the Department of Corrective Services⁶⁶ found that 67% of prisoners were drug or alcohol affected at the time of their offence:

- 34% were affected by alcohol;
- 23% were affected by other drugs and;
- 10% were affected by both.

⁶³ *Ibid* p 46.

⁶⁴ R. Stevenson, *The Impact of Alcohol Sales on Violent Crime, Property Destruction and Public Disorder*, NSW Bureau of Crime Statistics, Sydney, 1996.

⁶⁵ Standing Committee on Social Issues, NSW Legislative Council, 1997.

⁶⁶ *Women in Prison with Drug-Related Problems* NSW Department of Corrective Services, Sydney, 1995.

The most common illegal drug used was heroin.

Other research undertaken by Kevin for the Department of Corrective Services revealed a profile of female inmates who reported their crime was drug-related.

Alcohol-related violence tends to be a largely male phenomenon. However, other variables are also at play, especially in relation to the violence which commonly occurs in public places, such as licensed premises. According to Homel:⁶⁷

Violent occasions are characterised by subtle **interactions** of several variables. Chief among these are groups of male strangers, low comfort, high boredom, high drunkenness, as well as aggressive and unreasonable bouncers and floor staff [emphasis his].

Baker's self-report study for the NSW Bureau of Crime Statistics and Research⁶⁸ found that, consistent with earlier research, substance abuse is an important risk factor for participation in different types of offences amongst New South Wales secondary school students. Baker reports:⁶⁹

alcohol, cannabis and opiate use all had a general amplifying effect on participation in violent crime, destructive property crime and acquisitive property crime. Cannabis use, however, was a particularly strong predictor of acquisitive property crime.

In its submission to the inquiry, the Australian Medical Association (AMA) argued that problem **gambling** can lead to anti-social and criminal behaviour. Drawing on extensive research the submission listed a number of points highlighting the adverse economic and social effects associated with problem gambling. Among them were that problem gambling:⁷⁰

- often co-exists with substance abuse and dependence;
- often leads to financial burdens, domestic violence, criminal activity, employment disruptions, family breakdown and social isolation; and
- is associated with moderate to high levels of depression and/or anxiety, often resulting in ill-health.

⁶⁷ 1997 p 225.

⁶⁸ Baker, *op cit*.

⁶⁹ *Ibid* p 54.

⁷⁰ *Submission*, 28/09/99, Australian Medical Association (NSW)

The AMA submission notes:⁷¹

An Australian Institute for Gambling Research (AIGR) (1996a) survey found that:

- 31.1% of adults in a correctional centre had gambling-related personal or financial difficulties;
- 23% had spend more than they could afford on gambling machines;
- 5.4% had stolen money for machine playing;
- 5.4% had been in trouble with the police due to machine playing; and
- 6.8% had declared that playing poker machines had caused them to be in jail.

4.12 Gender

Overwhelmingly, crime, and violent crime in particular, is committed by males. The “gendered nature of crime” is at the heart of explanations for crimes of numerous researchers and of feminist theorists especially. In her analysis of violent crime, Egger⁷² summarises the feminist theory, in the following way:

Feminist explanations of violence draw on the social construction of masculinity in patriarchal societies. The preservation of male power, authority and status over women is achieved through a socially constructed masculinity in which violence is an instrumental and expressive tool of oppression.

Exponents of this theory also question traditional interventions in the criminal behaviour of men against women. This is because, Eggar explains:⁷³

Gender inequalities and male power are further maintained and legitimated by masculinist social, political and legal institutions.

In his evidence to the committee, Professor Graham Vimpani referred to research regarding the correlations between rises in the male population and rises in crime. He told the committee:⁷⁴

One writer actually points out that criminality and maleness and adolescence actually go together, so that if you actually have a rise in the proportion of adolescent males in your total population in absolute numbers, you are going to get... an increased rate of adolescent anti-social behaviour.

⁷¹ *Ibid* p 2.

⁷² “Women and Crime Prevention” in P O’Malley and A Sutton (eds) *op cit*, p 85.

⁷³ Egger *Ibid* p 85.

⁷⁴ *Evidence* 25/10/99, Professor G Vimpani.

Traditional theories of female offending based their studies on a women's "individual pathology, deviance, social and moral position in society".⁷⁵ Women who engaged in anti-social or criminal behaviour were judged not merely on the commission of the offence but on the extent to which they offended against notions and expectations of femininity and motherhood. Benjamin⁷⁶ writes:

Women, were/are judged more harshly than men and a great social stigma was/is attached to their criminal activity. There is absolutely no research material to support a label of bad women, bad mother. It is the labelling of a vengeful society.

Alder,⁷⁷ Hampton,⁷⁸ Easteal⁷⁹ and the Standing Committee on Social Issues in its report, *Children of Imprisoned Parents*,⁸⁰ provide a picture of the "typical" female offender. She:

- is young (normally under 25 years of age);
- is economically and socially disadvantaged (usually unemployed);
- is undereducated;
- is drug affected;
- has had some contact with the Department of Community Services;
- has experienced sexual or physical violence at some time in her life;
- is often Indigenous;
- in a de facto relationship; and
- has dependent children.

Most women prisoners usually serve sentences of less than six months.

Evidence supplied by Baldry for the *Children of Imprisoned Parents Inquiry*⁸¹ observes that:

The increases in terms of crimes committed by women lie in minor crime for many of which prison should not be an option. In 1994, 61% committed to prison that year had sentences of less than six months.

⁷⁵ Western Australian Select Committee on Crime Prevention, 1999 p 14.

⁷⁶ C. Benjamin "Prisons, Parents and Problems" in *Keeping People out of Prison* Proceedings of Conference, 27-29 March 1990, Australian Institute of Criminology, Canberra p. 170.

⁷⁷ C Alder "Women and the Criminal Justice System" in D. Chappell and P. Wilson (eds) *The Australian Criminal Justice System: the Mid 1990s*, Butterworths, Sydney.

⁷⁸ B Hampton *Prisons and Women* New South Wales University Press, Kensington, 1993

⁷⁹ P Easteal "Women and Crime: Imprisonment Issues" in *Trends and Issues in Criminal Justice*, Australian Institute of Criminal Justice, Canberra, 1992.

⁸⁰ Standing Committee on Social Issues, 1997.

⁸¹ Standing Committee on Social Issues, *Ibid* p 34.

*Pathways to Prevention*⁸² notes that in recent times there has been an increased involvement of young females in juvenile crime. The study reports that official statistics show that:

in 1973-74, 23.5 boys were arrested for assault for every girl arrested. By 1993-94, this ratio had dropped to 4.4. This fall in the ratio of male to female offenders was mirrored in all the selected offence categories.

The issue of why males commit crimes, and violent ones in particular, at a far greater rate than females is inextricably linked to notions and constructions of masculinity. Aggressive actions by men are manifestations of a so-called masculine ideal of strength, toughness and bravery.⁸³ According to Braithwaite and Daly:⁸⁴

...men's violence towards men involves a masculinity of status competition and bravado among peers...men's rape and assault of women reflect a masculinity of dominations, control, humiliation and degradation of women. Other types of harms involve a shameless masculinity or a masculinity of unconnectedness and unconcern for others.

4.13 Age

Many studies have acknowledged that for most young offenders, crime is a passing phenomenon. The *Kids in Justice* report and the *Report into Juvenile Justice* by the Standing Committee on Social Issues⁸⁵ found that crime rates tend to peak in the late teenage years and then drop off dramatically. This is confirmed in the submission to that inquiry from the NSW Police Service which argued:⁸⁶

most (young offenders) offend only once and will disappear from the system...

The Social Issues Committee report also found that the vast majority of offences committed by young people relate to public order, street offences, minor dishonesty and summary offences.⁸⁷ For this reason, the committee considered that formal intervention by the criminal justice system for these offenders should be minimal so as to avoid net-widening.

⁸² National Crime Prevention *op cit* 1999, p 3.

⁸³ Standing Committee on Social Issues, *Violence in Society*, NSW Legislative Council, Sydney 1993 p 31.

⁸⁴ "Masculinities, Violence, and Communitarian Control", paper presented at the *Second National Conference on Violence*, Canberra, 15-18 June, 1993 p 1.

⁸⁵ Standing Committee on Social Issues, NSW Legislative Council, 1992 p 63.

⁸⁶ *Ibid* p 9.

⁸⁷ *Ibid* p 63.

A self-report study based on responses from secondary school students throughout New South Wales and conducted by Baker for the NSW Bureau of Crime Statistics and Research found that criminal participation for this group tends to peak around 14 to 16 years of age for each type of offence.⁸⁸

In her study for the NSW Bureau of Crime Statistics and Research Coumarelos⁸⁹ calculated that most young offenders engage in criminal behaviour for approximately eight months. The majority of juveniles (69.7%) desist offending in so far as they do re-appear in the Children's Court after their first proven appearance. However, a small group of juveniles persist offending and appear in the Children's Court numerous times.

Recent evidence indicates that there is a tendency for the peak age of offending behaviour to increase. *Pathways to Prevention*⁹⁰ observes that:

Farrington, for example, suggests that the usual desistance from offending in the late teenage years may be declining. That is, there are fewer signs of the usual drop off as people approach 20 years of age, with some forms of crime (such as domestic burglary) continuing with adults well into their twenties. This pattern may be consistent with the decreased labour market participation of adolescents and young adults, given the many prosocial associations of meaningful work... Uncertainty about employment and a generally insecure social environment may mean that there will be a continuing increase in the risk factors for problem behaviours and criminality among adolescents and young adults..

In his evidence to the committee, Weatherburn of the NSW Bureau of Crime Statistics and Research, agreed that young offenders eventually grow out of crime as they mature. According to Weatherburn:⁹¹

The big predictors of kids who stay as opposed to kids who become more fully involved over a longer period are such things as the level of drug use... and the level of parental supervision. Kids whose parents poorly supervise them are more likely to stay involved.

In a somewhat gloomy forecast *Pathways to Prevention* noted that young people are being arrested at a greater rate than adults. The report observes:⁹²

... Australian statistics show the ratio of juvenile to adult arrests is increasing – that is, juveniles are accounting for an increasing proportion of arrests... some analysts expect that the rates of problem behaviours will continue to increase given the

⁸⁸ J Baker, *op cit*, 1998, p 52.

⁸⁹ C Coumarelos *Juvenile Offending: Predicting Persistence and Determining the Cost-Effectiveness of Interventions*, NSW Bureau of Crime Statistics and Research, Sydney, 1994, p 33.

⁹⁰ National Crime Prevention, *op cit*, p 3.

⁹¹ *Evidence* 26/7/99.

⁹² National Crime Prevention *op cit*, p 29.

likelihood that society will continue to show rapid changes, generating less stable environments and more and more uncertainty about life's chances... The marked increase in the proportion of children living in poverty in Australia in the last 25 years is consistent with this scenario...

4.14 Race and racism

A wealth of studies show that Aboriginal people are over-represented at every stage in the juvenile and criminal justice systems. This fact was graphically illustrated in The Royal Commission into Aboriginal Deaths in Custody⁹³ and the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families.⁹⁴

These reports, like numerous investigations and reports before them, made extensive and far-reaching recommendations on how to keep Aboriginal people out of the juvenile and criminal justice systems, some of which have been implemented by governments. However, the rate of Aborigines in those systems has changed little over the last decade. In fact, incarceration rates and the level of over-representation have increased for Aboriginal people.⁹⁵ Indigenous young people represent about 25% of all young people in detention. At the same time, they remain under-represented in the less punitive interventions such as cautioning and Youth Conferencing.

The high rate of Aboriginal involvement in criminal justice statistics is inextricably linked to dispossession, the level of poverty and disadvantage experienced by Aboriginal communities and racism – both systemic and individual. High levels of unemployment, drug and alcohol dependence, and a lack of appropriate services are significant to understanding the reason for the over-representation of Indigenous people in the juvenile and criminal justice systems. Moreover, as the *Pathways to Prevention* report observed:⁹⁶

it seems likely that one of the factors contributing to the over-representation of Aboriginal people in the criminal justice system is the profound impact of the removal of children on family and community structures. The impact flows to later generations as a result of the continued breakdown of family structures due to incarceration.

⁹³ Royal Commission into Aboriginal Deaths in Custody, *National Report Overview and Recommendations*, AGPS, Canberra, 1991.

⁹⁴ Human Rights and Equal Opportunity Commission, *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children From Their Families*, AGPS, Canberra, 1997.

⁹⁵ C Cunneen and D McDonald, *Keeping Aboriginal and Torres Strait Islander People Out of Custody: An Evaluation of the Implementation of the Recommendations of the Royal Commission onto Aboriginal Deaths in Custody*, ATSIC, Canberra, 1996 p 30.

⁹⁶ National Crime Prevention, *op cit*, 1999, p185.

Equally significant to these factors is the over-representation of Aboriginal children in the welfare system. The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children found that today, Indigenous children are six times more likely to be removed from their families than non-Indigenous children. They are more likely than non-Indigenous children to be removed on the ground of 'neglect' rather than 'abuse'. Evidence to that Inquiry explains:⁹⁷

Aboriginal families continue to be seen as the 'problem', and Aboriginal children continue to be seen as potentially 'saveable' if they can be separated from the 'dysfunctional' or 'culturally' deprived environments of their families and communities. Non-Aboriginals continue to feel that Aboriginal adults are 'hopeless' and cannot be changed, but Aboriginal children 'have a chance'.

As the Inquiry found, Aboriginal young people who come into contact with the child welfare system are also more likely to come into contact with the juvenile justice system.

In his evidence to the committee, Professor Tony Vinson addressed the issue of Indigenous over-representation in the juvenile and criminal justice systems. Linking poverty and locational disadvantage to this over-representation, he told the committee:⁹⁸

Among the male Aboriginal prisoners in New South Wales today, of those who formally resided in Sydney, 34% will have come from the bottom 5% of Sydney's suburbs, and among the prisoners in general, the non-Indigenous prisoners, 20% will have come from the bottom 5% of Sydney suburbs.

In recent times there has been an over-representation of Indo-Chinese, Arabic and South Pacific Islander juvenile offenders. Many of these young people have come from backgrounds of war and/or unrest and have lost family members. Like most young offenders they tend to live in geographically disadvantaged areas, have experienced disruption to their schooling or are unemployed. These young people are also highly visible, tending to congregate together in public spaces which can cause suspicion among the police.

When many young people from non-English speaking backgrounds come to this country that can tend to feel alienated from mainstream Australian society and experience both individual and systemic discrimination. They can also feel alienated from their parents' culture. In short, they feel isolated

⁹⁷ Human Rights and Equal Opportunity Commission, *op cit*, p 31.
⁹⁸ Evidence 25/10/99, Professor T Vinson.

and marginalised and can, if there are no appropriate supports, engage in antisocial behaviour.⁹⁹

The NSW Bureau of Crime Statistics and Research self-report study however, found that on their analysis, in general, there was no relationship between parent's country of birth or language spoken at home and participation in crime.¹⁰⁰

4.15 Intergenerational offending

According to Farrington:¹⁰¹

Offending is part of a larger syndrome of anti-social behaviour that arises in childhood and tends to persist into adulthood. There seems to be continuity over time, since the anti-social child tends to become the anti-social teenager and then the anti-social adult, just as **the anti-social adult then tends to produce another anti-social child** [emphasis added].

Numerous studies have shown that there is a high incidence of repeat criminality through generations of families. As the Western Australian Discussion Paper found:¹⁰²

research confirms that if a child's parents were offenders there is a higher than average risk that they will also become an offender. It is not clear if the actual skills required for committing an offence are passed onto children but studies have demonstrated that other risk factors such as anti-social behaviour can be learned from parents as a child and will then manifest themselves when the child reaches adolescence.

In its report, *Children of Imprisoned Parents*, the Standing Committee on Social Issues found that children of prisoners are at great risk of later entering the juvenile and criminal justice system. This can result, not just because a parent has offended per se, but also because of the trauma associated with a parent being taken away and locked up. An adolescent and family counsellor and witness to that committee related the experience of a young client:¹⁰³

with the effect of imprisonment of the primary care giver, the lad said himself that when mum was locked up, all his boundaries and his right from wrong was all

⁹⁹ Standing Committee on Social Issues, *Juvenile Justice in NSW*, NSW Legislative Council, 1992.

¹⁰⁰ J Baker *op cit*, p 54.

¹⁰¹ Farrington *op cit*, p 511.

¹⁰² Western Australian Select Committee on Crime Prevention, *op cit*, p 7.

¹⁰³ Standing Committee on Social Issues, *Children of Imprisoned Parents*, NSW Legislative Council, 1997 p 61.

taken away from him, and also he was severely traumatised. He rated as more than 10 out of 10 the...sense of sadness he felt.. He was very attached to mum prior (to her incarceration) and (her imprisonment) had a significant effect on his rebelling.

This committee understands that the young person referred to above spent considerable periods in detention following his mother's imprisonment.

Police involvement and incarceration are commonplace for many Aboriginal families. It is not uncommon for generations of families to have experienced arrest, sentencing and incarceration and for parents and children to be incarcerated at the same time. Aboriginal children are much more likely to have a parent imprisoned sometime during their lives than non-Aboriginal children.¹⁰⁴

4.16 Prior juvenile offending

Most adult offenders start their "criminal careers" as juveniles. Although a majority of young offenders "grow out" of crime, others continue to offend, and ultimately end up in adult prisons. Research suggests that the earlier an individual starts to offend, and particularly, to seriously offend, the more likely he or she will become a serious and repeat offender.

In her study, Coumarelos confirmed the findings of other researchers that those with extensive criminal histories are more likely to commit offences in the future.¹⁰⁵

4.17 Policing practices

The police play an integral role in crime prevention. Effective policing can have a significant effect on reducing crime. According to Professor Larry Sherman, this is particularly the case where the police engage in another program that has been shown to work. He told the committee's Conference on Crime Prevention and Social Support:¹⁰⁶

if the police are doing the right thing, hiring more police can be a way of preventing crime in a community. It can be arguably an integral part of a multi-institutional program for working with families and schools to reduce crime.

¹⁰⁴ B Hounslow, A Stephenson, J Stewart and J Crancher, *Children of Imprisoned Parents*, NSW Department of Youth and Community Services, Sydney, 1982 p 111.

¹⁰⁵ C Coumarelos, *op cit*, p. 33 citing Blumstein, Farrington and Moitra 1985; Nagin and Paternoster 1991; Wolfgang, Figlio and Sellin 1972.

¹⁰⁶ Standing Committee on Law and Justice, *op cit*, p 31.

Professor Sherman also explained that lower repeat offending rates occur when an arresting officer treats an offender politely. Referred to as “procedural justice”, this theory means that offenders are more concerned about how they are treated in the process of justice than about the severity of the outcome that they actually get. Sherman explains:¹⁰⁷

(this process) builds support for the law and (encourages) compliance with the law (by making) people feel that the law is legitimate... That is something that is very hard to achieve, especially in high crime neighbourhoods where there is much more of a war mentality between the police and the offenders, but if we are able to achieve it, it might be a good way of reducing repeat offending.

Some research suggests that the high rates of crime in economically and socially disadvantaged areas is a reflection of social biases in the operation of law enforcement and criminal justice agencies.¹⁰⁸ Weatherburn and Lind explain that.¹⁰⁹

police arrests for certain categories of offences (such as drug offences and public order offences) are strongly affected by law enforcement policy.

In their extensive studies on Aboriginal people and the juvenile and criminal justice systems Cunneen and Luke have found that a large police presence in areas where there is high Aboriginal population contributes significantly to their over-representation in these systems. For instance, in one study their evidence suggested that:¹¹⁰

the over-representation of young Aboriginal people may be the result of the complex interaction of a range of factors such as higher levels of offending; high police staffing levels in areas in which larger Aboriginal populations reside; discrimination by the police and courts, and the use of minor good order and street offences to arrest Aboriginal young people.

4.18 Individual pathology

The impact of individual pathology on criminal behaviour is a controversial issue. *Pathways to Prevention* describes the reasoning given for the effect of individual pathology on crime in the following way:¹¹¹

All the critical factors are to be found within the person...What predisposes a person to breaking the law, and carries forward effects from earlier events, is then

¹⁰⁷ *Ibid* p 32.

¹⁰⁸ for a discussion on this see Weatherburn and Lind, 1997, piii.

¹⁰⁹ *ibid*, p iii.

¹¹⁰ Cunneen and Luke, *op cit*, p iv.

¹¹¹ National Crime Prevention, *op cit*, p 83.

some quality of personality, some aspect of style, some general disposition to 'criminality'.

White and Haines¹¹² observe that those who subscribe to the theory of individual pathology focus the analysis on the nature and characteristics of the offender rather than on the criminal act.

In relation to violent behaviour, the psychopathology theory argues that the violence comes from something intrinsic to the individual such as a psychiatric or emotional disorder. A small proportion of people with particular emotional disorders may act violently. However, the incidence of violence by psychologically disturbed people is below the incidence of the general public¹¹³.

Other "individual" factors referred to in *Pathways to Prevention*¹¹⁴ include:

- low intelligence;
- difficult temperament;
- insecure attachment;
- poor problem solving;
- beliefs about aggression;
- attribution's;
- poor social skills;
- low self esteem;
- lack of empathy;
- alienation; and
- impassivity.

4.19 Health-related factors

Pathways to Prevention notes that certain health-related factors in children (**when taken together with other risk factors such as those discussed above**) may also be risk factors to later criminal behaviour. These include:

- prematurity;
- low birth weight;
- disability;
- prenatal brain damage;
- birth injury;
- chronic illness; and

¹¹² *Crime and Criminology: An Introduction*, Oxford University Press, 1996 p 43.

¹¹³ Standing Committee on Social Issues, *A Report into Youth Violence in NSW*, NSW Legislative Council, 1995, p1.

¹¹⁴ National Crime Prevention, *op cit*, p 136.

- hyperactivity/disruptive behaviour.

In his evidence to the committee paediatrician, Professor Graham Vimpani explained that research is showing that brain development can be affected by certain external, risk factors. Professor Vimpani¹¹⁵ identified these major risk factors to be:

- poor attachment;
- a poor relationship between young children and their primary caregivers, particularly their mothers, leading to a pattern of coercive discipline;
- parenting which is inconsistent; and
- parenting which is insensitive to the needs and responses of young children.

He further explained:¹¹⁶

the...insecure relationship...between parents and their children is likely to affect both short and long-term cognitive and emotional wellbeing. Some of the work of Perry on early brain development highlights the fact that these traumatic experiences in infancy affect the way in which individuals respond in the rest of their life to stress and stressful or threatening situations. It is as if those traumatic experiences kind of alter the thermostat of, alter the template within the brain in the way in which individuals respond to stress..(T)he poor attachment and exposure to traumatic parenting affects infant brain development, and the way that caregivers relate and respond to young children and mediate their contact with the environment directly affects the formation of neural pathways... (A)ttachment...actually shapes the way on which the brain pathways are established and so a child's capacity to control emotion hinges to a significant extent on the biological systems that are shaped by early experience and attachment.

In relation to whether the developmental consequences of poor attachment can be reversed, Professor Vimpani emphasised that "risk is not a destiny". Citing Swedish research he told the committee that parents, and mothers in particular, can be helped to respond more sensitively to the cues of their young infants.

¹¹⁵ Evidence 25/10/99, Professor G Vimpani.

¹¹⁶ Evidence 25/10/99, Professor G Vimpani.

4.20 Protective factors

4.20.1 Strengthening individuals

Numerous studies have shown that the factors which can ultimately prevent a person from offending are “resilience” or “protective” factors. Such factors are generally developed during early childhood, so any disruption to that process can have adverse consequences for the child in later years, including involvement in criminal behaviour. Studies show that for those children who are at risk of being unable to develop their own protective factors, positive interventions should occur which enhance physical, intellectual and emotional development. This can in turn help to reduce child abuse and neglect and improve family functioning.¹¹⁷

In his evidence to the committee, Professor Ross Homel offered the following definition of protective factors:¹¹⁸

protective factors...promote resilience and can help to counteract the negative impact of adverse circumstances in life.

Considerable attention was given to resilience or protective factors at the NSW Drug Summit. The Summit was told that it is important to build protective factors into young people’s lives, so that they are less likely to develop life problems, including drug use. This is particularly so at transitional phases, such as pregnancy, birth, entry to preschool and high school and school leaving.¹¹⁹

More and more research is showing that protective factors should be built in during the early stages of a child’s development. According to Everingham from Rand (US):¹²⁰

there has been great attention to recent research in the neural sciences about brain development that indicates that so much is going on in the first three years of life.

*Pathways to Prevention*¹²¹ reported a range of factors that could “protect” a person from engaging in criminal behaviour. These included:

- attachment to family;
- ability to problem solve;
- achievement at school;
- having a set of values;

¹¹⁷ J Bright, *Turning the Tide: Crime Community and Prevention*, Demos, London, 1997 p 45.

¹¹⁸ *Evidence* 26/7/99, Professor R Homel.

¹¹⁹ M Swain *op cit*, p 46.

¹²⁰ Standing Committee on Law and Justice, *op cit*, p 142.

¹²¹ National Crime Prevention, *op cit*, p 141.

- living in a small, secure and harmonious family;
- building a relationship with another person;
- moving to another area;
- having a cultural identity and ethnic pride;
- having opportunities and recognition at school; and
- participating in community groups.

The report of the Western Australian Select Committee on Crime Prevention¹²² also listed a number of factors associated with resiliency. These were:

- above average intelligence;
- sociability and good temperament;
- skill based competence;
- high self esteem; and
- families with strong religious or moral beliefs.

In his evidence to the committee, Professor Graham Vimpani also addressed the issue of resilience factors. Citing Werner's study¹²³ he explained that the major factors which made the children in that study who were at risk of a range of poor developmental health outcomes were:

- the child's personal competence and determination;
- their ability to cope;
- their ability to elicit positive relationships with a variety of caring persons engendering warmth in their relationships; and
- having a supportive educational climate.

In their submission to the inquiry, Bowie and Kennedy of the University of Western Sydney cite a number of authorities in relation to factors associated with "growing out" of crime. Quoting from Shover and Thompson¹²⁴ the authors of the submission note that deviance may decline with age because of:

- loss of interest;
- ability to understand consequences of a criminal lifestyle;
- degree of payoff;
- disenchantment with a criminal lifestyle; and
- fear of consequences.¹²⁵

¹²² Western Australian Select Committee on Crime Prevention, Legislative Assembly, 1999 p 53.

¹²³ 1992, *Evidence* 25/10/99, Professor G Vimpani.

¹²⁴ Shover and Thompson, "Age Differential Expectations and Crime Desistance" in *Criminology* 30, 1992.

¹²⁵ *Submission*, Bowie and Kennedy, University of Western Sydney, p 4.

Further reasons for the tendency to withdraw from criminal activity with increased age is the influence of normal structured transitions (eg employment, marriage and child birth).¹²⁶ Finally, Bowie and Kennedy, citing Hughes' research, report four significant factors related to a study young men who ceased to offend. These were:

- respect and concern for children;
- fear of physical harm or incarceration;
- contemplation time; and
- support and modelling.

4.20.2 Strengthening families

Strengthening families so that risks and vulnerabilities are minimised is crucial to effective crime prevention. As the first report of the Western Australian Select Committee on Crime Prevention argued:¹²⁷

the existence of family cohesion and the correct exercise of appropriate parenting skills is important to secure the proper development of the child. The general consensus among research, however, is that the actual family structure is not as important as the relationships between parents and children.

Weatherburn argued before the committee that currently, the best evidence of how to prevent child neglect, (a major predictor of later offending behaviour), suggests supporting the parents and providing an enriched environment for the children.¹²⁸

The committee continually heard during the inquiry, negative family-related factors are a major risk to offending behaviour. As the submission from Anglicare NSW noted:¹²⁹

When (a) family is experiencing crisis the result is to compound the situation and to drive those involved into more reclusive behaviours.

Supporting and strengthening families that are potentially or actually at risk of stress and crisis is therefore crucial to any effective crime prevention strategy. This was a common and much emphasised theme of submissions received for the inquiry and in the oral testimony of witnesses.

¹²⁶ *Ibid* p 4 citing Gove 1995.

¹²⁷ Western Australian Select Committee on Crime Prevention *op cit*, 1999.

¹²⁸ *Evidence* 26/7/99, Dr D Weatherburn.

¹²⁹ *Submission*, 13/9/99, Anglicare NSW, p 12.

4.20.3 Strengthening communities

In his testimony Professor Vinson explained that a major factor in crime prevention is an individual's attachment to a community. A person who feels that he or she has a stake in the local area is less likely to offend than one who feels marginalised, disconnected from or indifferent to the community. Fostering community attachment was also emphasised by Professor Ross Homel in his evidence. He told the committee:¹³⁰

It is a matter of identifying the features of a healthy community, as well as healthy families and healthy individuals, and trying to promote them.

Government could play a significant role in fostering community attachment, and not merely by "the intensification of helping services" which, according to Professor Vinson:¹³¹

would be nothing more than cargo cult mentality, which would last for as long as people's interest and government's interest were sustained...and then it would cut out.

Instead, Professor Vinson stated:¹³²

what government has to do in these highly disadvantaged areas is ensure that certain key services are intensified and tailored to the needs of people and...to change the temper and environment of the community...I am meaning by the use of community developments...that the people must become engaged in the design of the response to their problems. They must be invited into administrative roles in relation to those problems, and ultimately they must own both the problems and the solutions that are being attempted.

In his testimony Professor Ross Homel stressed the importance of enriching communities, particularly in relation to the development of children. He stated:¹³³

we need to strengthen the existing institutions within each community that are relevant to child development. We need to strengthen the community capacities to provide that pro-social, friendly environment for children. I am thinking of child-care centres, preschools, schools, churches and also informal networks that either do or do not support families. Many of the women who are most at risk of child abuse are very socially isolated. It is not simply a matter of wheeling in a range of services because those women may never hear about them and may never come to the party. There also has to be a process of community development and

¹³⁰ Evidence 26/7/99, Professor R Homel.

¹³¹ Evidence 25/10/99, Professor T Vinson.

¹³² Evidence 25/10/99, Professor T Vinson.

¹³³ Evidence 26/7/99, Professor R Homel.

community strengthening so that the communities themselves have a greater capacity on an ongoing basis to target those risk factors.

4.21 Conclusion

Having identified a range of risk factors or predictors of offending behaviour and acknowledging how these factors can be prevented or minimised it is necessary to examine which programs are best designed to develop and enhance protective and positive factors. The committee recognises that no single program can alleviate a poverty-stricken environment, one of the most fundamental predictor's of offending behaviour. However, as Professor Homel told the committee in evidence, we must look to features which will compensate for such environments.¹³⁴

Part Two of the report will discuss, in detail, many of those programs that are designed to promote healthy communities, families and individuals.

¹³⁴

Evidence 26/7/99, Professor R Homel.