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**Street Offences and Crime
Prevention**

by

Gareth Griffith and Rachel Simpson

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Gareth Griffith and Rachel Simpson

NSW PARLIAMENTARY LIBRARY RESEARCH SERVICE

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EXECUTIVE SUMMARY

Proposed reform package: Arising out of the recent law and order debate in NSW the Premier has foreshadowed a package of reforms, including the creation of a new offence involving a prohibition on the carrying of any knife in a public place or school. Also, the police are to be given a Statewide power to search for knives and other weapons where they have a reason to suspect that a person is carrying any deadly weapon. Another feature of the proposed package is that police powers will be codified and consolidated into a single Act.

Background issues: Among the key background issues to any debate about police powers in this State are the findings of the Royal Commission into the NSW Police Service and the statistical findings on crime rates and the fear of crime.

Viewpoints in the contemporary debate: As one would expect, comments on the recent developments in the law and order debate, as well as on the proposed reform package, show a varying degree of emphasis on the need for stricter policing and more police powers, on one side, against a concern for balancing effective law enforcement with the protection of civil liberties, on the other.

Present police powers in NSW relating to street offences: At present the relevant police powers are contained in a number of Acts, notably the *Summary Offences Act 1988* and the *Crimes Act 1900*.

Approaches to crime prevention: Broadly speaking, a distinction can be made between those approaches which emphasise individual responsibility and accountability, against those which stress social and cultural influences on human action and behaviour.

US National Institute of Justice report: By way of an overview of the available international research, this 1997 report presents an account of the effectiveness or ineffectiveness of a wide range of crime prevention programs in America, Europe and Australia. For example, it concludes that increased directed patrols in street-corner hot spots of crime *works*; that arrests of juveniles for minor offences *doesn't work*; and that zero tolerance policing is *promising*, provided legitimacy issues can be addressed.

Preventing drug related crime: Various approaches have been tried in the US, including the electronic tagging of drug offenders and the use of drug courts which attempt to combine increased surveillance with treatment.

Australian perspectives on crime prevention: Over the past two decades or so the various Australian jurisdictions have adopted a wide range of crime prevention programs and strategies. These include the introduction in NSW in 1982 of random breath testing of motorists. When overseas experience is relied upon, the question of its applicability to Australian conditions is an issue in itself. This is an important consideration in the current debate about zero tolerance policing.

1. INTRODUCTION

Matters relating to the police, police powers and the safety of people in their homes and on the streets are under more or less constant scrutiny from the media and other quarters. In this State, as in almost every other comparable jurisdiction, these are the key themes in the contemporary 'law and order' debate. Statements are made, here as elsewhere, asserting that street crimes are on the increase and that members of the community are more and more fearful about a whole range of offences, from stalking to robbery and assault through to road rage. Moreover, adding to the sense of unease, the argument is made that aggression and rudeness are becoming the accepted language of social interaction: it is felt that civil society is less civil than it was, that a social order based on manners is giving way to a society of disorder in which 'attitude' is the norm.

In NSW in recent weeks many of these issues have been discussed with renewed intensity, arising out of a series of incidents, including the fatal stabbing on an Ultimo street of an off-duty police officer, Peter Forsyth, and the wounding in the George Street precinct in the city of a teenager, Eron Broughton. Indeed, the attack on Eron Broughton was reported to be one of five serious assaults and robberies to occur over the weekend of 7-8 March in the City Central Patrol district: a young man was robbed and assaulted by three teenagers at the intersection of George and Bathurst streets; a 15-year old boy and a man were robbed in separate incidents, near Town Hall station and in Pymont respectively, by different men armed with blood-filled syringes; and five teenagers, one armed with a steak knife, surrounded and robbed a man as he was walking across Pymont Bridge.¹

Concerns about gangs, along with the proliferation of knives and their use in street offences have been the immediate focus of this debate. This was reflected in the statement made by the Premier, the Hon RJ Carr, in the Legislative Assembly on 31 March 1998, foreshadowing the following package of reforms:

- a new offence is to be created involving a prohibition on the carrying of any knife in a public place or school;
- the police are to be given a Statewide power to search for knives and other weapons where they have a reason to suspect that a person is carrying any deadly weapon. Being in a 'knife crime hot spot' may itself constitute reasonable suspicion;
- the carrying of a prohibited weapon, be it a knife or some other implement, in a public place or school will carry a two-year gaol term. The carrying of other knives, not designated prohibited weapons, will carry a fine of \$550;
- searches are to be carried out by way of frisking or metal detector;
- refusal to allow a search will also constitute an offence and will carry a fine of \$550;

¹ 'Youth who tried to kill Eron over a "bump"', *The Sydney Morning Herald*, 10 March 1998.

- the police will have the power to confiscate knives, which may be returned only on application to the local area commander. If the person is under 18 this application must be made by his or her parent or guardian;
- persons will be able to show good cause, perhaps in the form of a defence of reasonable purpose, in establishing why they are carrying a knife in a public place; for example, that they require knives as part of their profession;
- for the purpose of breaking up gangs in public places, the police will have the power to 'give a direction to any person who is obstructing, harassing, intimidating or causing fear to others. If this behaviour continues and the direction is ignored, this will constitute an offence punishable by a \$220 fine;
- to break the gang code of silence, police will be given the power to require a person to give his or her name and address if it is believed on reasonable grounds that that person may be able to assist in the investigation of a serious crime;²
- in turn, the person who is searched or who provides his or her name and address will have the right to demand the name and place of duty of the relevant police officer;
- these new powers will be monitored by the Ombudsman and reviewed after twelve months;
- police powers will be codified and consolidated into a single Act;
- the Police Service will establish a training program to educate officers in the powers they already have and will have;
- the *Prohibited Weapons Act 1989* is to be reviewed, after which, within a six-month deadline, a knives and weapons amnesty is to operate to encourage the surrender of weapons in the community. The Police Service is also to advise on the need for a knife buy-back; and
- the Police Service is to establish a working party to consider such issues as: the carrying of firearms; the use of capsicum spray and extendable batons off duty; the training for police, including defensive tactics; and travelling to and from work in uniform.³

Responses to this package, along with the competing viewpoints found in the contemporary debate, are canvassed next in this paper, after which it outlines the relevant police powers in this State as they exist at present. The paper also includes an overview of crime

² It is not known at this stage whether these names and addresses are to be recorded and held by the police and, if so, what safeguards are to be provided for the persons concerned and what implications this may have for those persons acquiring something like an informal police record.

³ NSWPD (Hansard Proof), 31 March 1998, pp 7-8.

prevention strategies, for the purpose of asking ‘what works, what doesn’t, and what’s promising?’

2. POLICE POWERS - BACKGROUND ISSUES AND VIEWPOINTS IN THE CONTEMPORARY DEBATE

(A) *Background issues*

Royal Commission into the NSW Police Service: No debate on police powers in this State can or should ignore the findings of the Police Royal Commission. It is enough to say in this context that the Royal Commission found extensive evidence of corruption in the NSW Police Service and made far-reaching recommendations for its reform, including the reform of the culture of policing in this State. A recurring theme in the report was the potential for the abuse of power where power itself is not subject to proper scrutiny, oversight and review.

Several of the viewpoints summarised here make reference, expressly or implicitly, to the Royal Commission’s findings, which form part of the backdrop for the discussion of police powers in NSW.

Crime rates and the fear of crime: Forming another part of the same backdrop are the statistics on crime rates and the reporting of these in the media. A further dimension to this is the fear of crime itself in the community at large. According to the NSW Bureau of Crime Statistics and Research, in the period from January 1995 to December 1996, there were statistically upward trends in the monthly numbers of recorded criminal incidents for the following offences:⁴

- assault (up by 22.5%)
- sexual assault (up by 23.3%)
- robbery without a weapon (up by 8.4%)
- breaking and entering - dwelling (up by 20.9%)
- breaking and entering - non-dwelling (up by 7%)
- motor vehicle theft (up by 4.1%)
- steal from motor vehicle (up by 13.6%)
- steal from dwelling (up by 11.3%)
- fraud (up by 17.2%)
- malicious damage to property (up by 9.0%)

More specifically, ‘a 23.6 per cent increase in assaults with a knife, and a 25.1 per cent

⁴ NSW Bureau of Crime Statistics and Research, *New South Wales Recorded Crime Statistics 1996*, p 4.

increase in robberies with a knife between 1995 and 1996' has been reported.⁵

On the other hand, in the same period there was no statistically significant upward or downward trend in the monthly numbers of recorded criminal incidents for the following offences: murder; indecent assault, act of indecency; robbery with a firearm; steal from a person; steal from retail store; offensive conduct; and offensive language.

Various qualifications and warnings as to the difficulties involved in interpreting trends in recorded crime are attached to the publication of these statistics. For example, it is said that public willingness to report crime is one of the extraneous factors affecting recorded crime numbers, another being the shifts in policing policy which can have a marked effect on the number of recorded drug offences, drink driving offences, cases of offensive behaviour or receiving stolen goods. The extent to which such qualifications and warnings are mentioned or debated by the media and other stakeholders in the law and order debate is a contentious issue in itself.

In May 1996 the NSW Bureau of Crime Statistics and Research also published research data on the fear of crime in Australia.⁶ It noted that most public opinion surveys confirm that fear of crime is an issue of general public concern, a finding backed up by the research which showed that 'a substantial proportion of the community regard themselves as significantly at risk of criminal victimisation'. It found, too, that in relation to certain offences Australians tend to greatly exaggerate this risk, this being the case in relation to property offences (break and enter, and motor vehicle theft) but less so where violent offences (robbery and assault) are concerned. Australian Bureau of Statistics figures were cited showing that the actual risk of becoming a victim of a personal crime declines sharply with age for both men and women but is consistently higher for men in most age groups than it is for women, with this gender differential being particularly notable between the ages of 15 and 34 years. Conversely, the research found that the fear of personal crime is generally higher among women than men and, paradoxically, that this differential is most pronounced in the lowest age groups.

However, in seeking to explain some of these anomalies the research warned that the tendency to exaggerate the fear of crime should not be lightly dismissed as 'irrational'. It looked to the influence of the media's portrayal and presentation of crime in this context, as well as to such environmental factors as neighbourhood change and urban decay, stating:

Women and the elderly, especially in large cities, are often subjected to sexual harassment or incivility in public places. In the poorer parts or entertainment areas of a large city this behaviour often occurs against a

⁵ M Burgess, 'The key to keeping streets safe', *The Sydney Morning Herald*, 23 March 1998. These figures were the result of a request for information to the NSW Bureau of Crime Statistics and Research from the NSW Police Association.

⁶ D Weatherburn, E Matka and B Lind, *Crime Perception and Reality: Public Perceptions of Risk of Criminal Victimisation in Australia*, Crime and Justice Bulletin No 28, NSW Bureau of Crime Statistics and Research, May 1996.

backdrop of litter, graffiti and vandalism or in a public space which is poorly lit, badly maintained or colonised by rowdy and inebriated young men. It would not be surprising if such conditions exaggerated public fear of serious crime victimisation.⁷

There may be no 'magic bullet' to reduce fear of crime, the research concluded, 'but reductions in the level of public disorder, incivility and harassment, improvements in police-community relations and in the design of public spaces can all be expected to be of assistance'.⁸

Youth crime and street gangs: Special prominence seems to be given in the law and order debate to the involvement of young people and, more particularly, street gangs in criminal activities. A general review of the relevant crime statistics, as well as of the vexed question of police/youth relations is found in the NSW Parliamentary Library Briefing Paper No 26/1996, *Dealing With Street Gangs: Proposed Legislative Changes*. That paper also considers the main arguments for and against increasing police powers in this area.

(B) Viewpoints in the contemporary debate

Mark Burgess, the NSW Police Association: In the wake of recent incidents, including the death of Constable Peter Forsyth and the death in April 1997 of Constable David Carty, the NSW Police Association has campaigned for the kinds of reforms foreshadowed in the Premier's statement of 31 March 1998. In particular, the Vice President of the Association, Mark Burgess, has articulated its demands as an assertion of the right of the community to be safe in public places. What the Association wanted, he said, was 'greater authority to act on behalf of the community in a small number of carefully defined situations. What we need is a restriction on the carrying and availability of knives, a greater authority to search, an authority to demand names and addresses and an authority to disperse or move people on'.⁹ On the other hand, it was argued that any legislation should not be so wide as to authorise the breaking up of demonstrations or industrial action. Drawing an analogy with traffic legislation, Mr Burgess went on to say that giving police the authority to search will have a 'similar impact on people who carry weapons' as the power to conduct random breath

⁷ Ibid, p 8.

⁸ Ibid. This conclusion was based on the work of PN Grabosky, *Fear of Crime and Fear Reduction Strategies*, Trends and Issues in Crime and Criminal Justice, No 44, Australian Institute of Criminology, 1995. To compare British research on this issue see - M Hough, *Anxiety About Crime: Findings From the 1994 British Crime Survey*, Home Office Research Study No 147, 1995. This recommended action on the following levels: policing strategies which maximise 'citizen contact' and target disorderly behaviour; situational strategies to remove the 'signs of crime' and design out high risk locations; and planning strategies to stimulate local investment and sustain diversity of land use (page 47).

⁹ M Burgess, 'The key to keeping streets safe', *The Sydney Morning Herald*, 23 March 1998.

testing has had on decreasing the scale of injuries and deaths on the roads.¹⁰ It was noted, too, that under the *Motor Traffic Act* a police officer could demand the particulars of a person driving a car, but could not demand those same particulars of a person at a murder scene. Against the argument that the power to stop and search people was an invasion of individual rights, Mr Burgess stressed the rights of the community and pointed out that 'people already allow themselves to be searched in a number of aspects of daily life', including security searches at airports, public institutions such as courts and parliaments, as well as sporting and other functions. He added, 'When you consider what people have accepted, what they allow themselves to undergo by way of searches, what we are proposing is not unique'.¹¹

The Police Association's key message was that 'we as a community must make a choice' to empower our police 'and we must make it now', or else risk of experiencing the problems that beset the streets of the large cities of the US. Supporting the case for urgent reform, Mr Burgess cited figures from the NSW Bureau of Crime Statistics indicating 'a 23.6 per cent increase in assaults with a knife, and a 25.1 per cent increase in robberies with a knife between 1995 and 1996'.¹²

After a meeting with the Police Minister, the Hon Paul Whelan MP, Mr Burgess is reported to have said on 12 March 1998 that the Police Association would seek support to 'carry batons or capsicum sprays while off duty, but not service revolvers'.¹³

Mr Burgess has also said that public opinion supports police calls for a prohibition on certain weapons, stating 'Most sports and disposal stores carry an extensive array of knives, many of them specifically designed for attack or secreting on the person...What justification is there for the sale of these weapons?'¹⁴

On the proposal to codify police powers under a single Act, Mr Burgess said this would be 'a real benefit because at the moment they're spread through numerous Acts, too many sometimes for police to know their full extent'.¹⁵ Of the reform package generally, he is

¹⁰ It is reported that when random breath testing was introduced in NSW in 1982, compared with the previous three years, it achieved an immediate 22 per cent reduction in total fatal crashes, and a decline of around 36 per cent in alcohol related fatal crashes. These results are said to have been sustained over time - P Grabosky and M James, *The Promise of Crime Prevention; Leading Crime Prevention Programs*, Australian Institute of Criminology, pp 20-21.

¹¹ L Kennedy, 'Police union urges wider search powers', *The Sydney Morning Herald*, 16 March 1998.

¹² M Burgess, 'The key to keeping streets safe', *The Sydney Morning Herald*, 23 March 1998.

¹³ M Riley and L Kennedy, 'Police may get more freedom to search', *The Sydney Morning Herald*, 12 March 1998.

¹⁴ S Snell, 'Crime victims want register of weapons', *The Sunday Telegraph*, 22 March 1998.

¹⁵ D Murphy, 'Carr boosts police powers on knives', *The Sydney Morning Herald*, 1 April 1998.

reported to have said, 'It looks reasonable but we are continuing to say that the proof of the pudding will be when we see the legislation'.¹⁶

Peter Ryan, NSW Police Commissioner: Speaking on Channel 9's Today program on 3 March 1998, in the immediate aftermath of the death of Constable Peter Forsyth, Mr Ryan said that, in a society increasingly prone to personal violence and incivility, as manifested in everything from road rage to rudeness, police lacked the legal power to enforce order in some situations. He commented, 'Some of the minor situations that officers have to deal with in terms of public order, where there are disorderly groups of people...the police have limited powers to deal with them'.¹⁷

On 12 March 1998 Mr Ryan confirmed that he was considering deploying extra officers to Sydney's city centre, stating that the number of assaults in the area and surrounding streets was 'very concerning'.¹⁸

On 16 March 1998 Mr Ryan backed the Police Association's call to apply increased powers against street offences across the State, rather than just in designated crime 'hot spots'. Commenting on the need for greater powers to stop and search, as well as to break up groups of youths, the Police Commissioner said 'I think the important thing is that people have to trust the Service to use these powers judiciously...We have a different police force now. I think we'll be able to make sure we use them widely and that no police officer abuses them'.¹⁹ On the same day it was revealed that police video phones linked directly to the 000 emergency control room is to be set up in 14 locations along George Street.²⁰

Sydney City Council: It was reported on 10 March 1998 that Sydney City Council had announced plans for a \$1 million, 32-camera closed circuit television network to operate in the city. A police operated camera surveillance system in George Street is reported to have ended due to lack of funding in 1995, although the Mayor, Councillor Sartor, reportedly claimed that the system had helped reduce the crime rate by 25 per cent.²¹

Further, to alleviate growing public concern over the recent incidents of violence in the Ultimo/Pymont and the George Street cinema strip area, the Council's Central Sydney Planning Committee has considered new rules in a planner's report which would require:

¹⁶ 'New laws planned to take knives off thugs', *The Newcastle Herald*, 1 April 1998.

¹⁷ R Morris, 'Laws must offer more support, says Ryan', *The Daily Telegraph*, 4 March 1998.

¹⁸ M Riley and L Kennedy, 'Police may get more freedom to search', *The Sydney Morning Herald*, 12 March 1998.

¹⁹ 'Crackdown on knives, unites Ryan and the force', *The Sydney Morning Herald*, 17 March 1998.

²⁰ R Morris and M Casey, '000 video phones to fight crime on street', *The Daily Telegraph*, 16 March 1998.

²¹ 'Gangs prey on city's mean streets', *The Sydney Morning Herald*, 10 March 1998.

- the use of security personnel become a standard feature of planning consent for amusement centres such as billiards halls, video arcades and late-opening pubs;
- time limits be placed on development consents for both pubs and amusement centres to allow the Council to check periodically that they should be permitted to continue to operate; and
- the concentration and impact on street safety and residents lives of pubs, brothels, amusement arcades and adult premises be considered as part of planning approvals.²²

Martha Jabour and Ken Marslew, victims of crime groups: Both Martha Jabour, the head of Victims of Crime Support Group, and Ken Marslew of the anti-violence group, Enough is Enough, have spoken in favour of a knives register, although at the same time both have also recognised the difficulties in enforcing a register of this kind. Ms Jabour stated, ‘Knives are far too accessible, particularly for young people, and there should be some sort of record at the point of sale’.²³ For Mr Marslew there is also a ‘cultural issue’ at play - ‘We have some cultures that use knives and machetes as weapons and they need to realise that is not acceptable here’.²⁴

Don Weatherburn, Director of the NSW Bureau of Crime Statistics: In the light of recent events, Dr Weatherburn has urged the Government to move towards ‘smarter’ policing, rather than tougher penalties and increased powers. He is reported to have said that the Police Service should make more ‘use of crime mapping techniques, which identified crime problems street by street, and hold its local area commanders responsible for policing the highlighted trends’.²⁵ He said it was the introduction of this intelligence-driven policing technique that delivered such a stunning drop in crime in New York in recent years as part of the so-called ‘zero-tolerance’ reforms (discussed later in this paper). For Dr Weatherburn it is more important to increase the risk of detection than it is to increase penalties and he, too, has drawn an analogy with random breath testing in this context. On the other hand he does not seem to reject the call for greater police powers altogether, saying ‘It may be that police have to be more active in searching people for weapons and enforcing the laws as they exist or that the laws have to be changed to give them better powers to search people’.²⁶ At the same time Dr Weatherburn acknowledged that knife attacks had increased, but pointed out that the risk of being attacked with a knife is still low.²⁷

²² P Totaro, ‘Security rule for pubs and video arcades’, *The Sydney Morning Herald*, 20 March 1998. The article noted that in at least two recent cases Council refusal of approval for new restricted premises had been overturned by the Land and Environment Court.

²³ S Snell, ‘Crime victims want register of weapons’, *The Sunday Telegraph*, 22 March 1998.

²⁴ Ibid.

²⁵ M Riley, ‘Broader police powers likely’, *The Sydney Morning Herald*, 13 March 1998.

²⁶ M Riley, ‘Blood on the beat’, *The Sydney Morning Herald*, 7 March 1998.

²⁷ Ibid.

Further, as part of this intelligence-driven policing technique a broader approach should be taken to crime control in which the relationships between such crimes as drug use and property theft are fully recognised. Broader still, he said that 'Crime should not be seen as the sole domain of police but as a problem that should be addressed through a range of government policies, such as planning, housing, community services and social programs'.²⁸

The Youth Justice Coalition: Responding to the NSW Police Association's submission on police powers, the Youth Justice Coalition urged the Government to reject the Association's demands and called for:

- a 'community policing' approach, a key element of which is that police should be adequately trained in the skills needed to deal with young people effectively, providing a service while protecting young people's rights;
- the codification of police powers and the development of clear and detailed Codes of Practice;
- the Attorney General to conduct a review of the *Prohibited Weapons Act 1989*; and
- no increase in police powers in relation to stop and search, demand name and address and dispersal powers.²⁹

Kevin O'Rourke and Tim Anderson, NSW Council for Civil Liberties: For Kevin O'Rourke, President of the NSW Council for Civil Liberties, all concerned with civil liberties, no matter what their party politics, should resist the push to increase police powers: 'Not because law and order and safe streets are not desirable, but because the motives are suspect'. The push, he said, comes from 'the police industry, the populist radio talkback vigilantes and some politicians. The NSW police, barely recovered from findings of abuse of power, are asking for more powers'. Mr O'Rourke warned that 'the destruction of basic liberties will not prevent tragedy occurring' and that any proposed arbitrary search and 'move-on' powers will allow 'police to target Aborigines, young people and other groups, assuming guilt for group-identity reasons alone'. Instead of increasing police powers, which are already wide ranging and used inefficiently by the police, the emphasis should be on 'smarter policing', with more discussion of 'police deployment, competence and training'. In his view a 'garage-bound, office-bound mentality is still common and tolerated' in the NSW police service: 'Police presence, to deter or assist, has not visibly increased in the city or suburbs despite more police being recruited and promises by Commissioner Ryan that pen-pushers would be moved to patrols'. To Commissioner Ryan he posed this question: 'Why cannot police effectively patrol central Sydney and other "hot spots"? There are more police officers than so-called youth gang members. Police have radio and vehicles. But the NSW Auditor-General, who monitors public services, reports that police responses to

²⁸ M Riley, 'Broader police powers likely', *The Sydney Morning Herald*, 13 March 1998.

²⁹ The Youth Justice Coalition, Submission to the Premier, 3 April 1998. This submission has been endorsed by the Redfern Legal Centre - fax message to Parliamentary Library from Margot Rawsthorne, Redfern Legal Centre, 7 April 1998.

urgent calls are very slow'.³⁰

Responding to the reform package of 31 March 1998, the Secretary of the NSW Council for Civil Liberties, Tim Anderson, said he was disturbed by the foreshadowed laws, especially the power to search people who appeared suspicious.³¹

John Marsden, Australian Council for Civil Liberties: Responding to the package of proposed reforms announced by the Premier on 31 March 1998, Mr Marsden is reported to have commented that it 'was designed to win votes, not to address the issues involved. Police would inevitably exceed their powers and a future government would have to curb them, as occurred in the 1970s'.³²

What the editorials said: Commenting on the Police Commissioner's view that society is becoming more violent, *The Daily Telegraph* said, 'If the community demands streets where citizens can walk without a feeling of insecurity or fear, legislators must give police the appropriate powers, despite the wails from civil libertarians'.³³ Later *The Daily Telegraph* editorial responded to news of the reform package announced on 31 March 1998 with the comment: 'The law-abiding citizens of NSW will today applaud new laws that give police the power to act against knife-carrying criminals...It is a long overdue move that can only make our streets safer'.³⁴

The Sydney Morning Herald's editorial of 10 March 1998 was different in tone warning that it is possible to reach 'a point of diminishing returns' where new laws do not have much real effect. It continued: 'Possibly clarification of existing police powers is necessary. But those proposing increased police powers are obliged to be specific. That is the only way it will be possible to see whether the changes are first, necessary, and second, more beneficial than detrimental in terms of the degree of personal freedom the community might lose in exchange for the promise of a peaceful, ordered society'.

What the columnists said: Two examples are Piers Akerman, writing in *The Sunday Telegraph*, and Mark Riley, writing in *The Sydney Morning Herald*. Against what he terms the failed 'softly, softly approach to crime' Akerman argued for a New York style zero-tolerance approach to crime fighting on the basis that the trend towards social disorder has to be reversed. He stated: 'In NSW, successive governments of both stripes watered down the laws dealing with low-level offences, obliterating the Summary Offences Act, lowering the barriers of acceptable public behaviour'.³⁵

³⁰ K O'Rourke, 'The key to keeping streets safe', *The Sydney Morning Herald*, 23 March 1998.

³¹ 'New laws planned to take knives off thugs', *The Newcastle Herald*, 1 April 1998.

³² D Murphy, 'Carr boosts police powers on knives', *The Sydney Morning Herald*, 1 April 1998.

³³ 'Sweeping the streets of crime', *The Daily Telegraph*, 4 March 1998.

³⁴ 'Safer streets', *The Daily Telegraph*, 1 April 1998.

³⁵ P Akerman, 'Criminal negligence', *The Sunday Telegraph*, 8 March 1998.

Mark Riley, on the other hand, was more cautious. He cited Dr Weatherburn at some length on the pros and cons of crime prevention strategies. He also made the general point that:

No government wants to be seen to be soft on crime, but, equally, none wants to increase sanctions to the point where the liberties of the many are affected because of an inability to deal with the violent actions of the few. And, while police need to be able to protect society against violent crime, continual increases in their powers are not widely seen as the sole answer - particularly after the lessons of the Wood Royal Commission.³⁶

3. POLICE POWERS IN NSW - CURRENT STATE OF PLAY

This overview does not attempt to present an exhaustive discussion of police powers in New South Wales. It looks instead at only those powers relevant to the present debate relating to street offences. This overview does not examine powers given to NSW police by Commonwealth legislation, nor does it examine NSW or Commonwealth regulations. The overview focuses on legislative powers, and does not examine Police Service documentation which could provide interpretation of those powers.

(A) *Crimes Act 1900*

Perhaps the most significant police power is that contained in section 352(1), which empowers the police to apprehend without a warrant any person in the act of committing an offence, or immediately after committing an offence. This discretionary power may be exercised in relation to indictable offences as well as the wide range of summary offences prescribed by the *Summary Offences Act 1988*.

Powers contained in the following table generally do not refer to those exercised under a warrant issued by a Magistrate or Justice employed in the Local Courts Administration in the Attorney-General's Department. Generally, the powers referred to in this part of the paper are discretionary and exercisable whenever the police officer believes there to be sufficient reason, as described above.

Section	Power
352(1)	A police officer may, without a warrant, apprehend any person in the act of committing, or immediately after committing an offence, or any person who has committed an offence for which he or she has not yet been tried, and take the person before a Justice.

³⁶ M Riley, 'Blood on the beat', *The Sydney Morning Herald*, 7 March 1998.

352(2)	A police officer may, without a warrant, apprehend any person who he or she reasonably suspects having committed such offence, or any person lying or loitering in any highway, yard or other place during the night who he or she reasonably suspects of being about to commit any felony, and take the person before a Justice.
352(3)-(4)	Where a warrant has been issued but is not with the police officer, the police officer may apprehend the person in relation to whom the warrant was issued.
352AA	A police officer may, without a warrant, apprehend any person who he or she reasonably suspects is a prisoner unlawfully at large.
352A	A police officer may, without a warrant, apprehend any person who he or she reasonably suspects has committed an offence in another State, which, if it had been committed in NSW would have been an indictable offence or an offence punishable by imprisonment of 2 years or more.
353	Where property is offered to be sold, pawned or delivered which a person reasonably considers to be stolen, that person, whether a police officer or not, may apprehend the person offering the property and take them before a Justice.
353A	When a person is in lawful custody, any police officer has the power to search the person and take from the person anything found in that search. Where the person is over 14 years, the person's photograph, fingerprints and palm prints may also be taken. ³⁷
357	A police officer may, without a warrant, detain or search any person or vehicle, vessel, aircraft or package in which a dangerous article reasonably suspected as having been used or being used in the commission of an offence ³⁸ , and seize and detain any such dangerous article found. Where the police officer is lawfully in any premises, he or she may seize and detain any dangerous article found in those premises in respect of which the police officer reasonably believes an offence has been committed. Where the police officer is in a dwelling house pursuant to an invitation or warrant for the purpose of investigating whether or not a domestic violence offence has been committed, the police officer has the power to search the premises for any firearm or spear gun reasonably believed to have been used to commit the offence.

³⁷ Section 353AA applies, in similar circumstances, to a person under the age of 14 years. A member of the police force at or above the rank of sergeant may apply to the Children's Court or to a Justice where that is not possible, for an order authorising, for the purpose only of identifying the child, the child's photograph, finger prints and palm prints to be taken. Where an alleged offence against a child whose photograph, finger print or palm print has been taken has not been proved, the court may order for them to be destroyed if the child or his or her parent or guardian should desire (section 353AB).

³⁸ An indictable offence or an offence against section 545E or against the *Prohibited Weapons Act 1989* or the *Firearms Act 1989*.

357C	A police officer of or above the rank of sergeant or in charge of a police station or vessel may enter, search and inspect any vessel with as many police officers believed necessary from preventing injury on the vessel by fire or otherwise, or for maintaining good order or preventing an offence from being committed on the vessel.
357D	A police officer of or above the rank of sergeant or in charge of a police station or vessel may stop and detain any vessel in which he or she reasonably believes: an indictable offence has been or is about to be committed; a person having committed an indictable offence may be or there is any thing stolen or otherwise unlawfully obtained or anything that has been used or is intended to be used in the commission of an indictable offence.
357E	A police officer may stop, search and detain an person or vehicle whom he or she reasonably suspects of having or conveying anything stolen or any thing used or intended to be used in the commission of an offence.
357F 357H	Where a police officer reasonably believes that a domestic violence offence has recently been committed, is being committed or is likely to be committed in any dwelling house, he or she may enter and remain in the dwelling house for the purpose of investigating whether such offence has been committed or taking action to prevent such offence being committed, if invited to do so by a resident of the dwelling house, whether or not an adult. The police officer is required to inquire as to the presence of any firearms and if so, take all action as practicable to search and seize such firearms.
562I(3)	A police officer may, without a warrant, arrest and detain a person who he or she reasonably believes has contravened a prohibition or restriction specified in an order made against them.

(B) Summary Offences Act 1988 (NSW)

The *Summary Offences Act 1988* makes unlawful a range of behaviour. A 'summary offence' is an offence which is not triable on indictment, in other words an offence which is not triable before a judge and jury, or for which no procedure is specified. Whether an offence is indictable or summary depends upon the particular jurisdiction.³⁹ Generally a summary offence is less serious than an indictable offence, as evidenced by the range of maximum penalties prescribed by the *Summary Offences Act 1988*. The most serious offences, based on severity of penalty, are wielding of knives in a public place or school, which carries a maximum penalty of 50 penalty units (currently \$5,500) *or* imprisonment for 2 years; custody of offensive implement, which carries a penalty of 50 penalty units (5,500) *or* two years imprisonment; causing or inducing prostitution, which carries a penalty of 50 penalty units (\$5,500) *or* imprisonment for 12 months *or both*, and allowing premises to be

³⁹ P Nygh & P Butt (eds), *Butterworths Concise Australian Legal Dictionary*, 1997, p. 383, definition of 'summary offence' and p. 201, definition of 'indictable offence' and 'indictment'.

used for prostitution (that are held out as providing massage, sauna baths, photography etc), which carries a maximum penalty of 50 penalty units (\$5,500) *or* imprisonment for 12 months. The list of offences in the *Summary Offences Act 1988* is long, and is broken into 4 groups: offences in public and other places; prostitution; public assemblies and violent disorder. The first group, offences in public, is by far the most broad reaching, and includes the following offences:

- offensive conduct (section 4);
- offensive language (section 4A);
- obscene exposure (section 5);
- obstructing traffic (section 6);
- unauthorised entry of vehicle or boat (section 6A);
- damaging fountains (section 7)
- damaging shrines, monuments or statues (section 8)
- climbing of jumping from buildings or other structures (section 8A);
- defacing walls (section 9);
- custody of offensive implement (section 10);
- wielding knives in a public place or school (section 10AA);
- damaging and defacing property by means of spray paint (section 10A);
- possession of spray paint (section 10B), and
- possession of liquor by minors (section 11).

The second category, prostitution, contains the following offences:⁴⁰

- living on the earnings of prostitution (section 15);
- causing or inducing prostitution (section 15A);
- prostitution or soliciting in massage parlours etc (section 16);
- allowing premises to be used for prostitution (section 17);
- advertising premises used for prostitution (section 18);
- advertising for prostitutes (section 18A);
- soliciting (section 19), and
- public acts of prostitution (section 20).

The third category of offences is public assembly offences. This category makes it lawful for a person to participate in an authorised public assembly. A public assembly is an authorised assembly where the Commissioner of Police, in response to a notice in writing of intent to hold the public assembly containing certain prescribed particulars, has notified the organiser of the assembly that he does not oppose the holding of that assembly (sections 23-24). The Act does not expressly prohibit participation in an unauthorised public assembly, nor does it prescribe any penalty. However it is stated in section 24 that a person participating in an

⁴⁰ The application and interpretation of the prostitution offences within the *Summary Offences Act 1988* has, at times, resulted in some confusion. For example, soliciting is legal as long as it conducted in accordance with sections 19 and 20 (which place limitations such as 'near or within view from, a dwelling [etc]). For a more detailed examination of the legal regulation of prostitution in New South Wales, see Parliamentary Library Research Paper No 27/95: *Prostitution in New South Wales: Law Reform Issues*, by Vicki Mullen.

unauthorised public assembly may be found guilty of any offence relating to participating in unlawful assembly or the obstruction of any person, vehicle or vessel in a public place.

The fourth category of offence contains the single offence of violent disorder. Violent disorder is defined in section 28(1) to be:

If 3 or more persons who are present together use or threaten unlawful violence and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using or threatening unlawful violence is guilty of an offence.

The *Summary Offences Act 1988* also contains a number of specific police powers, as described in the table below:

Section	Power
11(2)	A police officer may seize the liquor in the possession of a person in a public place if he or she reasonably believes the person to be under the age of 18 years, not under the supervision of a responsible adult and without a reasonable excuse for possessing the liquor.
11(5A)	A police officer may require a person suspected of being a minor in possession of liquor in a public place to state his or her full name and residential address, and to produce documentary evidence that might prove the person is over the age of 18 years. ⁴¹
29	A police officer to whom it appears a person has committed an offence under section 11 may serve on the apparent offender a notice that, if it is not desired to have the matter determined by a court, the person served may, within a certain time, pay \$20 to an officer so specified.

(C) *Children (Protection and Parental Responsibility) Act 1997*

The *Children (Protection and Parental Responsibility) Act 1997* re-enacted the *Children (Parental Responsibility) Act 1994*, and included new provisions aimed at encouraging the development of community-based crime prevention and support strategies.⁴² Provisions establishing a framework for local crime prevention plans were included in a new Part 4. For the purposes of a discussion of police powers, the relevant sections of the Act are contained in Part 3 - Welfare of Children in Public Places. The powers contained in this Part are exercisable in relation to a child who the police officer believes is under 16 years of age and

⁴¹ If a person refuses or fails to comply with the request, or states a false name or address, he or she is liable for a maximum penalty of \$20 (section 11(5B)). Section 30 provides that a person may not be imprisoned or placed in a detention centre for failing to comply with a penalty notice issued for an offence under section 11.

⁴² Hon P Whelan, MP, second reading speech, NSWPD, 21 May 1997, p. 8975.

who is in a public place in an operational area (section 18). An 'operational area' is an area declared by the Attorney-General as such, upon the request of the Council for that area (section 14). The powers are:

Section	Power
19	A police officer may remove a young person from any public place if the officer believes the person is not subject to the control and supervision of a responsible adult and is in the public place in circumstances that place the person at risk. The police officer must escort the person and place them in the care of the person's parent or carer. ⁴³
27	A police officer may request the person to state his or her name and age, and his or her parent's residential address or the residential address of his or her carer for the purposes of enabling the police officer to escort the person to that place.
28	A police officer may use reasonable force for the purpose of removing a person from a public place.
29	A police officer who believes on reasonable grounds that a person may be carrying weapons may frisk search the person and take possession of any weapon found in the person's possession, if it is believed that retaining the weapon may be dangerous.

(D) *Young Offenders Act 1997*

The *Young Offenders Act 1997*⁴⁴ introduced a new scheme in relation to juvenile offenders whereby the least restrictive form of sanction is to be applied against a child who is alleged to have committed an offence. Criminal proceedings are not to be instituted against a child if there is an alternative and appropriate means of dealing with the matter (Section 7(a), (c)). Offences covered by the Act are summary offences (see Part 3.2 above) and indictable offences which may be dealt with summarily under part 9A of the *Criminal Procedure Act 1986* (section 8(1)). The Act in effect gives police officers the discretion to deal with an offence in a number of ways, having regard to the circumstances of the offence and the guiding principles contained in section 7. Options for penalty which do not involve attendance at court include a warning, a caution, or a conference. Particularly relevant sections include:

Section	Power
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⁴³ If it is not possible to place the person in the care of an adult, carer or other relative, he or she may place the person in the care of another approved person or in the care of the Director-General of the Department of Community Services. The police officer may not, under any circumstances escort the person to a police station (section 22; 23).

⁴⁴ This Act received assent on 2 July 1997.

13	A police officer may give a young person a warning for a summary offence covered by this Act.
14	A child who has committed an offence for which a warning may be given is entitled to a warning unless the circumstances of the offence involve violence or, in the opinion of the officer it is not in the interests of justice for the matter to be dealt with by a warning.
18-19	A police officer may give a young person a caution for any offence covered by this Act. The child must admit the offence, and consent to the giving of a caution.
20	A child who is alleged to have committed an offence for which a caution may be given is entitled to be dealt with by caution if the officer determines a warning is not appropriate. A child is not entitled to a caution, however, if, in the opinion of the officer it is not in the interests of justice for the matter to be dealt with by a caution, having regard to the seriousness of the offence, the degree of violence involved in the offence, the harm caused to any victim and the number and nature of any offences committed by the child and the number of times the child has been dealt with under this Act.
25	A police officer who arranges for a caution may at any time determine that it is not in the interests of justice for the matter to be dealt with by a caution, and refer the matter to a specialist youth officer for consideration whether a youth justice conference would be appropriate.

(E) *Intoxicated Persons Act 1979*

The powers given to police under this Act relate to the care and detention of intoxicated persons. Under this Act, no action may be taken against a police officer for anything done in good faith in the execution of this Act (section 8). The powers contained within this Act are:

Section	Power
5(1)	A police officer may detain and take a person to a proclaimed place (not a police station unless no other place is available) if that person is found to be intoxicated in a public place and is behaving in a disorderly manner, behaving in a manner which is likely to cause injury to himself or another person or damage to property, or is in need of physical protection because of his or her incapacitation due to intoxication.
6	The member of the police force who detained the intoxicated person may search the intoxicated person and take possession of any personal belongings found in the intoxicated person's possession. When the person ceases to be detained those belongings shall be returned.

(F) *Traffic Act 1909*

The *Traffic Act 1909* is another Act, which, like the *Summary Offences Act 1988* creates a number of offences which may not be considered as serious as those indictable criminal offences within the *Crimes Act 1900*, but which extend the scope of a police officer's discretionary powers nonetheless. The *Traffic Act 1909* also contains a number of specific provisions relating to police powers. These provisions are:

Section	Power
4AE	A police officer may require a person to surrender a radar detecting device which he or she reasonably believes is being sold or offered for sale or which is located in a motor vehicle.
4E(2A)-(3)	A police officer may require a person to undergo a breath test where he or she believes that a person is or was driving on a public street, or preparing to drive on a public street. The police officer may request or signal a driver to stop the vehicle for these purposes. Where it appears to a police officer that the person was over the legal blood alcohol limit, he or she may arrest the person without warrant and take the person with such force as may be necessary to the closest police station.
5(1)	A police officer may require a driver or rider of any vehicle to produce his or licence and state his name and place of abode.
5A	A police officer may take charge of and remove any vehicle in which an offence has been committed against sections 4E and 5(2) (Driving under the influence of alcohol or another drug).
7(2)	A police officer may seize any licence presented to him or her if it is believed that the licenced is forged or altered or is unlawfully in the possession of the person.
10K	A police officer may inspect any heavy motor vehicle in order to ascertain whether any monitoring device has been fitted and is operating properly.
11C	A police officer may seize the number plate of any vehicle whose registration has expired or cancelled.
23	A police officer may close any public street to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.
24	A police officer may seize any unregistered vehicle being driven on a public street.

(G) Crimes Amendment (Detention After Arrest) Act 1997

This Act amended the *Crimes Act 1900* with respect to the powers of police to detain a person after arrest and the rights of persons so detained. The Act arguably increases police powers in respect of people detained after arrest. The Act inserted a new Part 10A, the objects of which are:

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- to provide for the period of time that a person under arrest may be detained by a police officer to enable the investigation of the person's involvement in the commission of an offence;
 - to authorise the detention of a person who is under arrest for such a period despite any requirement imposed by law to bring the person before a Justice, Magistrate or court without delay or within a specified period, and
 - to provide for the rights of a person so detained.⁴⁵

The question of police powers of detention after arrest are discussed more fully in the Parliamentary Library's Briefing Paper No 8/87: *Police Powers of Detention After Arrest* by Gareth Griffith.

(H) Other police powers

Police powers which are less relevant to street offences are found in a number of other Acts. An example of these Acts include, but are by no means limited to:

- *Listening Devices Act 1984*, which creates an exception to the requirement that a warrant is necessary in order to use a listening device in a situation which presents an immediate threat of serious violence to persons or of substantial damage to property, or a serious narcotics offence, where it is essential to use a device immediately to obtain evidence (section 5(2)).
- *Drugs Misuse and Trafficking Act 1985*, which gives a member of the police service of or above the rank of sergeant, or in charge of a police vessel or station, the power to enter into any part of any vessel or aircraft to search and inspect for any prohibited plant or drug which is reasonably believed to be contained therein. Any member of the police force may stop, search and detain any person in whose possession the police officer reasonably believes there is any prohibited plant or drug (section 37). Any such drug may be seized by any police officer (section 39).
- *Disorderly Houses Act 1949*, which empowers any police officer to enter any premises declared by the Supreme Court as a disorderly house on the application by a Superintendent or Inspector of Police. The police officer may search such premises for and seize any liquor or drug in such premises.

⁴⁵ *Crimes Act 1900*, section 454.

4. PREVENTING CRIME - WHAT WORKS, WHAT DOESN'T, WHAT'S PROMISING

(A) *Approaches to crime prevention*

By way of an opening comment on what is a large and difficult issue, it can be noted that seven approaches to crime prevention were outlined in a recent Australian publication, all of which can be said to offer different perspectives on the subject. Broadly speaking, some of these approaches emphasise moving 'upstream' and trying to address underlying causes of crime, whereas others rely more on 'downstream' reactions by police and other criminal justice agencies.⁴⁶ These seven approaches are as follows:

- *Crime prevention through environmental design*: this being the notion that offending can be reduced or even eliminated by planning and architecture. O'Malley and Sutton comment that, despite enthusiastic advocacy by 'environmental determinists' there 'is little convincing evidence crime can be reduced through planning and architecture alone'.⁴⁷
- *Situational prevention and crime 'hot spots'*: this approach was developed originally in the United Kingdom's Home Office and it has been identified with three basic techniques - increasing the efforts, increasing the risks and reducing the rewards of crime. The approach includes 'the use of screens, cameras, and reduced cash-handling in banks to combat armed robbery, boom gates and other access controls to reduce thefts in car parks, and the New York underground's inroads against vandalism and graffiti'.⁴⁸ One question asked by some criminologists is whether this approach 'merely treats symptoms'.⁴⁹
- *Early childhood or developmental prevention*: this approach concerns initiatives designed to provide support for 'disadvantaged' children and parents during formative years.⁵⁰
- *Community development*: this relates to 'Programs aimed to seed and strengthen local-community based associations and activities'.⁵¹

⁴⁶ P O'Malley and A Sutton eds, *Crime Prevention in Australia*, The Federation Press 1997, p 1.

⁴⁷ Ibid, pp 4-5.

⁴⁸ Ibid, p 5.

⁴⁹ Ibid.

⁵⁰ For the argument that social welfare or nurturing policies are a more promising approach to reducing violent crime in the long term than more immediate and politically popular options, especially those which increase prison populations, see - K Smith, 'Explaining variation in State-Level Homicide rates: does crime policy pay?' (1997) 59 *Journal of Politics* 350-367.

⁵¹ P O'Malley and A Sutton eds, *Crime Prevention in Australia*, The Federation Press 1997, p 6.

- *Institutionally based prevention*: this is based on reshaping school, training and job-recruitment systems to avoid the problems of marginalisation which affect certain communities, especially at times of economic downturn when job opportunities are limited for young people without formal qualifications. The French Bonnemaison scheme is often cited in this context. This ‘encouraged schools, employers, local government, and training and recreational institutions to cooperate in developing and implementing regional crime prevention plans’.⁵²
- *Diversion schemes*: often used in Australia are schemes to keep young people and ‘at risk’ groups busy and occupied, so that there is literally no time for offending. One question is whether the psychology of offending is too complex to be ‘cured’ by such schemes as wilderness adventure camps which may not be able to compete with the ‘thrills’ of criminal behaviour.⁵³
- *Education and publicity*: such campaigns as Victoria’s ‘Violence is Ugly’ television campaign in 1993.

From this it is clear that the term ‘crime prevention’ is itself the subject of considerable debate and interpretation and, as O’Malley and Sutton point out, the dilemma facing policy makers lies often in determining which combination of approaches to pursue.⁵⁴ Of course political and financial considerations must also be factored into any debate of the policy making process. There are, too, important philosophical ideas at issue here, in particular as between those approaches which emphasise individual responsibility and accountability, on one side, as against those which stress social and cultural influences on human action and behaviour, on the other.

(B) 1997 Report to the US Congress⁵⁵

‘*Preventing crime: what works, what doesn’t, what’s promising*’ is the title of a major report commissioned by the US National Institute of Justice at the behest of Congress, for the purpose of providing a ‘comprehensive evaluation of the effectiveness’ of over \$3 billion annually in Department of Justice grants to assist State and local law enforcement and communities in preventing crime. The report, which was undertaken by Professor Lawrence Sherman and his colleagues at the University of Maryland’s Department of Criminology and Criminal Justice, was published in 1997. Part of its interest is that it draws upon a wide field of research findings relating to crime prevention strategies in America, Europe and Australia. It serves therefore as a useful starting point for a review of the current literature concerning crime prevention. Of course it should be emphasised that, where overseas

⁵² Ibid, p 7.

⁵³ Ibid.

⁵⁴ Ibid, p 8.

⁵⁵ LW Sherman et al, *Preventing Crime: What Works, What Doesn’t, What’s Promising*, A Report to the US Congress, 1997. References are to the version of the report published on the Internet.

experience is relied upon, the question of the applicability of the report's findings to Australian conditions is an issue in itself.

Generally, the report argued that crime prevention results from informal and formal practices and programs located in seven institutional settings. These institutions were identified as follows:

- *communities* (such practices as community mobilising against crime and gang violence prevention);
- *families* (including programs for preventing family violence);
- *schools* (practices such as gang resistance education and law-related education);
- *labour markets* (for example, training and placement programs for the unemployed);
- *places* (blocking opportunities for crime in specific premises such as homes, retail shops, bars or parking lots);
- *police* (police practices including directed patrol in crime hot spots, foot patrol and neighbourhood watch);
- and the *criminal justice system* (including prisoner rehabilitation, mandatory drug treatment for convicts and home detention programs).

Separate chapters of the report were devoted to each of these institutions which, at the local level, were said to be 'interdependent', in that events in one institution could affect events in others that in turn could affect the local crime rate.⁵⁶ Following on from this, the report found that it may be necessary to mount crime prevention programs 'in several institutional settings simultaneously - such as labor markets, families and police - in order to find programs in any one institution to be effective'.⁵⁷ In other words, the suggestion is that, in the final analysis, crime prevention programs need to be judged more as a package of measures than as isolated strategies: 'Schools cannot succeed without supportive families, families cannot succeed without supportive labor markets, labor markets cannot succeed without well-policed safe streets, and police cannot succeed without community participation in the labor market'.⁵⁸ That is not to say that some attempt should not be made to evaluate the independent effect of each individual program,⁵⁹ however difficult such evaluation may prove to be in practice. The core assumption behind the report is that some programs may indeed work better than others in preventing crime or reducing risk factors

⁵⁶ Ibid, p v.

⁵⁷ Ibid, p 2-4.

⁵⁸ Ibid, p 2-5.

⁵⁹ A 'program' is defined in the report as a 'focused effort to change, restrict or create a routine practice in a crime prevention setting' - Ibid, p 2-8.

for crime, whereas some programs are almost certain to fail.

For the purposes of this overview three of the seven institutional settings discussed in the report can be considered in more detail, namely, the role of communities, policing and places in crime prevention. Thus, the report's main findings into the first institutional setting, *Communities and Crime Prevention*, were as follows:

- the institutions of community and family are critically important to crime prevention;⁶⁰
- crime prevention programs are more likely to take root, and more likely to work, in communities that need them least;⁶¹
- conversely, communities with the greatest crime problems are the hardest to reach through innovative program efforts;⁶²
- most of the serious violent juvenile crime in the US is concentrated in a relative handful of communities;
- in relation to such communities no programs are of 'proven effectiveness', which means that by the standards of empirical testing none of them can be said to 'work' with any reasonable certainty. For example, research into gang membership prevention programs and gang intervention programs, usually involving a 'detached worker' in the form of a trained youth counsellor who spends most working hours on the streets with gang members, tend to show the difficulties involved in discouraging gang membership in the US. Indeed, one research finding was that the level of crime increased while the detached worker program was in operation, but declined after the program was terminated.⁶³
- research suggests that some programs don't work, notably, community mobilisation against crime in high crime inner-city areas and gun buyback programs operated without geographic limitations;
- on the other hand, research also suggests that some programs are promising, including a Boston-based program to reduce juvenile firearms related crime. In this program, gang related gun violence is met by massive police response to any shootings and this action is supported by probation officers who have the statutory

⁶⁰ Ibid, p 2-6.

⁶¹ Ibid, p 2-9.

⁶² Ibid.

⁶³ Ibid, p 3-14. Reference is made to M Klein, *Street Gangs and Street Workers*, Prentice-Hall 1971. On the other hand, Klein's more recent research findings on gang violence prevention programs focused on reducing gang cohesion are more promising - M Klein, *The American Street Gang: Its Nature, Prevalence and Control*, Oxford University Press 1995.

authority to search probationers at will.⁶⁴ Further, it is suggested that volunteer mentoring of 10 to 14 year-olds by big brothers/big sisters is promising for the reduction of substance abuse, but not delinquency;

- the difficulties involved in conducting research into gangs is one point to bear in mind; another is the conclusion that gangs ‘cannot long be controlled by attacks on symptoms alone; community structure and capacity must also be targeted’.⁶⁵

Chapter 8 of the report deals with *Policing for Crime Prevention*. Its main message is that the contribution of the police to crime prevention may depend on ‘putting police where serious crime is concentrated, at times it is most likely to occur’. In other words, policing must be focussed on risk factors. The report stated:

The connection of policing to risk factors is the most powerful conclusion reached from three decades of research. Hiring more police to provide rapid 911 responses, unfocused random patrol, and reactive arrests does not prevent serious crime. Community policing without a clear focus on crime risk factors generally shows no effect on crime. But directed patrols, proactive arrests and problem-solving at high-risk ‘hot spots’ has shown substantial evidence of crime prevention. Police can prevent robbery, disorder, gun violence, drunk driving and domestic violence, but only by using certain methods under certain conditions.⁶⁶

In relation to *directed patrols*, the report cited research into the crime prevention effects of extra uniformed patrol in marked police cars at high crime ‘peaks’. One referred to the decision of the Minneapolis Police Department to reorganise its entire police patrol force in 1998-89 to test a pattern of directed patrols at ‘hot spots during hot times’. This research found a very strong relationship between the length of each police patrol presence (which averaged around 14 minutes) and the amount of time the hot spot was free of crime after the police left the scene. From this it is said that the ‘Koper curve’ (named after the person who undertook the research) in the Minneapolis data suggests the optimum length of a police patrol visit to a hot spot for the purpose of deterring crime is around 15 minutes.⁶⁷ The research of Sherman and Weisburd is also cited showing ‘an average of twice as much patrol presence and up to half as much crime in the extra-patrol hot spots as

⁶⁴ LW Sherman et al, *Preventing Crime: What Works, What Doesn't, What's Promising*, A Report to the US Congress, 1997, p 3-18.

⁶⁵ Ibid, p 3-15. Reference is made to - M Klein, *The American Street Gang: Its Nature, Prevalence and Control*, Oxford University Press 1995, p 147.

⁶⁶ LW Sherman et al, *Preventing Crime: What Works, What Doesn't, What's Promising*, A Report to the US Congress, 1997, p 8-1.

⁶⁷ Ibid, p 8-18.

in the no-extra patrol group'.⁶⁸

The report notes that, like the evidence on directed patrols, 'the evidence on the focused proactive arrest hypothesis is generally supportive across a wide range of studies and research designs'. As with directed patrols, *proactive (police-initiated) arrests* concentrate police resources on a narrow set of high-risk targets. The hypothesis is that a high certainty of arrest for a narrowly defined set of offences or offenders will accomplish more than low arrest certainty for a broad range of targets. The high-risk targets identified by the research in recent years are as follows: chronic serious offenders; potential robbery suspects; drug market places and areas; and high risk places and times for drunk driving. In fact the report pointed to Australian experience in making its case that evidence on drunk driving 'is one of the great success stories of world policing': 'The ability of the police to control drunk driving appears to be a direct and linear function of the amount of effort they put into it'.⁶⁹

Another version of the proactive arrest hypothesis, the report explains, is the *broken windows zero tolerance arrests hypothesis*. The theory is that areas appearing disorderly and out of control provide an attractive climate for violent crime, just as a window with one broken pane attracts more stones than a completely unbroken window. The crime prevention hypothesis contained in the theory is that the more arrests police make for every petty disorder, the less serious crime there will be. According to the report, the evidence for that hypothesis is 'consistently supportive'.⁷⁰ As formulated by its chief exponents, James Wilson, George Kelling and Catherine Coles,⁷¹ the zero tolerance strategy is concerned to combine elements of community policing with an emphasis on aggressive order maintenance. The example is given of the New York City Police Department which, it is said, 'is moving strongly in the direction of community policing and focusing on order maintenance and attention to disorderly behavior, or quality-of-life crimes, as well as index crimes'.⁷² In terms of proactive policing, the central argument is that '*we should not be relegating police to their cars, keeping them away from dealing with problems in neighborhoods in the name of waiting for calls or shortening response times*' (emphasis in original).⁷³ The broader argument is that:

⁶⁸ Ibid. It is noted that such findings can be questioned, like most place-linked crime prevention effects. The question is whether crime is simply moved from one place to another. However, by application of the 'routine activities' theory, which holds that crimes are only likely to happen in certain places and times, it can be argued that if crime is displaced, it would have to be displaced to other hot spots.

⁶⁹ Ibid, p 8-28. Reference was made to - R Homel, 'Random breath testing and random stopping programs in Australia' from *Drinking and Driving: Advances in Research and Prevention*, Guilford Press 1990.

⁷⁰ LW Sherman et al, *Preventing Crime: What Works, What Doesn't, What's Promising*, A Report to the US Congress, 1997, p 8-28.

⁷¹ The original 'broken windows' theory was formulated by Wilson and Kelling in 1982 - JQ Wilson and GL Kelling, 'Broken windows' (March 1982) *The Atlantic Monthly* 29-38.

⁷² GL Kelling and CM Coles, *Fixing Broken Windows*, Martin Kessler Books 1996, p 8.

⁷³ Ibid, p 103.

we must return to our long-abandoned view that the police ought to protect communities as well as individuals. Our crime statistics and victimization surveys measure individual losses, but they do not measure communal losses. Just as physicians now recognize the importance of fostering health rather than simply treating illness, so the police - and the rest of us - ought to recognize the importance of maintaining, intact, communities without broken windows.⁷⁴

The New York experience with the Zero Tolerance strategy has been by former Police Commissioner William J Bratton. This included changing the policy under which 'Heavily supervised special squads had primary responsibility for enforcing drug laws' and, instead, 'encouraging officers to seek out drug arrests during peak drug dealing times'. The use by detectives of computer-based techniques in crime fighting was also encouraged. Writing in 1997, William Bratton reported 'During my tenure, violent crime has been reduced by 38 per cent and the murder rate has declined by 51 per cent'.⁷⁵ Indeed, zero tolerance appears to have met the two key goals of crime prevention - in reducing crime rates and in making New Yorkers feel safer.⁷⁶ A major feature of New York experience is that the aggressive 'cuffs off' policing style encouraged by Bratton, characterised by persistent stop, frisk and arrests, resulted in around 300 gun arrests in a two square mile precinct within a two year period. This policy, it has been argued, was the main cause of the striking reduction in murder in the mid-1990s: it is pointed out in this context that between 70 and 80 per cent of murders in New York are the result of shootings, mostly with hand guns.⁷⁷

On the other side, alternative explanations of the drop in the homicide rate in New York have also been put forward, explanations which do not point to zero tolerance policing as the main cause. Notable in this context is the US Justice Department's 1997 report, commissioned by Attorney General Janet Reno, which the 'most important reason for the decline may be the waning of the crack cocaine epidemic'. The report acknowledges that improved police work, along with longer prison sentences and better emergency medical care have all contributed to the lower homicide rate. But the Justice Department's report:

suggests that the close link between crack and homicide may be a fundamental dynamic that explains why homicide rates have declined not only in cities like New York, which have instituted aggressive police strategies, but also in cities like Los Angeles, where the police have been

⁷⁴ JQ Wilson and GL Kelling, 'Broken windows' (March 1982) *The Atlantic Monthly* 29 at 38.

⁷⁵ WJ Bratton, 'Crime is down in New York City: blame the police' from *Zero Tolerance: Policing a Free Society* edited by N Dennis, Institute of Economic Affairs 1997, p 39. A compilation of this and other articles on zero tolerance policing is found in - *Policing: The New Policing (II) - Zero Tolerance and Crime Control*, The University of NSW 1997.

⁷⁶ *Ibid*, p 41.

⁷⁷ B Bowling, 'Zero tolerance' (Autumn 1996) *Criminal Justice Matters* 11-12.

demoralized or have not adopted new methods.⁷⁸

In any event, in its discussion of the zero tolerance strategy, the National Institute of Justice report noted that some of the methods associated with it had been called ‘unconstitutional’, including the ordering of loitering teenage males off street corners, on the ground that they were obstructing traffic. The problem in this context of the police themselves constituting a crime risk factor ‘simply by using bad manners’ was also discussed,⁷⁹ with the point being made that US experience suggested that ‘it is possible to regulate public behavior in a polite manner that fosters rather than hinders police legitimacy’. A more long-term consideration was that, while zero tolerance may reduce violence in the short term, its longer term consequences for people arrested for minor offences needs to be evaluated, for example, in relation to their chances of securing future employment and in contributing to a higher crime rate at some point in the future. The report concluded: ‘The data suggests that zero tolerance programs should be evaluated in relation to long-term effects on those arrested, as well as short-term effects on community crime rates’.⁸⁰

In relation to community policing itself, the report noted mixed results. One finding was that *neighbourhood watch* programs were ineffective at preventing crime, the primary problem being that those neighbourhoods with the highest crime rates are the most reluctant to organise. One study even found that neighbourhood watch increases fear of crime.⁸¹ More promising in this context were *community accountability conferences* of the kind now used in New South Wales and other Australian jurisdictions, in which offenders and victims (together with their respective families and friends) to discuss the harm caused by the offender and how this can be repaired. The report pointed directly to Australian experience in this regard, stating ‘Of all the approaches to community policing yet tried, this one may have found the most focused empowerment of “community” to prevent future crimes’.⁸²

Summing up the findings of available research on policing for crime prevention, the report presented the following checklist:

⁷⁸ F Butterfield, ‘Drop in homicide rate linked to crack’s decline’, *The New York Times*, 27 October 1997.

⁷⁹ The rise in abuse and discourtesy claims to the New York Civilian Complaints Review Board is said to have increased by 30 per cent in the mid 1990s - E Pooley, ‘One good apple’, *Time*, 15 January 1996, pp 48-50.

⁸⁰ LW Sherman et al, *Preventing Crime: What Works, What Doesn’t, What’s Promising*, A Report to the US Congress, 1997, p 8-29.

⁸¹ *Ibid*, p 8-30.

⁸² *Ibid*, p 8-35.

What works -

- increased directed patrols in street-corner hot spots of crime.
- proactive arrests of serious repeat offenders. It is noted that the evidence on 'high-risk' people comes from two strongly positive evaluations of police units aimed at repeat offenders. It seems both projects aimed at increasing the incarceration rate of the targeted offenders, and 'both succeeded';⁸³
- proactive drunk driving arrests, as has occurred in NSW since 1982;
- arrests of employed suspects for domestic violence. Presumably, the deterrent here is the prospect of the employed suspect being unable to go to work, with the practical complications, perhaps resulting in the loss of a job, along with the embarrassment and shame this may cause. What the research appears to show is that 'Arrest increases repeat offending among unemployed suspects while reducing it among employed suspects'.⁸⁴

What doesn't work -

- neighbourhood watch;
- arrests of juveniles for minor offences. The report noted that research had found that 'the more legalistic the processing of a juvenile suspect, the higher the official recidivism rate. In interpreting these results, it is necessary to recall that most juvenile offenses are for fairly minor offenses, and that most juveniles with one police contact never have another. Thus to a certain degree, arresting some juveniles and not others for such offenses may be perceived as arbitrary or procedurally unfair';⁸⁵
- arrests of unemployed suspects for domestic violence. Presumably, the deterrent factors which apply to employed suspects do not apply;
- drug market arrests. The report's focus in this regard appears to have been on the relationship between drug crackdowns and their effect, if any, on violent crime rates. It commented that 'The evidence on drug crackdowns shows no consistent reductions in violent crime during or after the crackdown is in effect...Other drug enforcement strategies in open-air markets have even less encouraging results, with the exception of the Jersey City experiment in which the principal outcome measure

⁸³ Ibid, p 8-24.

⁸⁴ Ibid, p 8-23.

⁸⁵ Ibid, p 8-23.

was disorder, not violence'.⁸⁶ This can be considered alongside the 1996 research findings of Maher and Dixon in NSW that law enforcement 'crackdowns' on street-level user/dealers can be counterproductive, with the research indicating that, while some forms of policing can and do disrupt the market, both sellers and consumers adapt rather than cease their behaviours.⁸⁷

- community policing with no clear crime-risk factor focus.

What's promising -

- police traffic enforcement patrols against illegally carried handguns. Cited was the Kansas City Gun Experiment in which police 'focused traffic enforcement and field interrogations on gun crime hot spots during hot times. With special training in the detection of carrying concealed weapons, police focused on seizing illegally carried weapons. Gun seizures in the target area rose by 60%, and gun crimes dropped by 49%';⁸⁸
- community policing with community participation in priority setting;
- community policing focused on improving police legitimacy;
- zero tolerance of disorder, if legitimacy issues can be addressed;
- problem-oriented policing generally;
- adding extra police to cities, regardless of assignments. The report cited research which found that the prevention benefits of hiring more police officers are greater in higher-crime cities than across the country in general. Indeed, the research showed that 'six times as much crime is prevented for each officer added in cities than added in all places on average. Why the benefit ratio exceeds the risk ratio is unknown, but one likely candidate is the greater population density in cities which lets additional police officers have greater effects on patrol visibility per resident';⁸⁹
- warrants for arrest of suspect absent when police respond to domestic violence.⁹⁰

⁸⁶ Ibid, p 8-28.

⁸⁷ Cited in L Maher et al, *Anh Hai: Young Asian Background People's Perceptions and Experiences of Policing*, University of NSW 1997, p v.

⁸⁸ LW Sherman et al, *Preventing Crime: What Works, What Doesn't, What's Promising, A Report to the US Congress*, 1997, p 8-36.

⁸⁹ Ibid, p 8-11.

⁹⁰ Ibid, p 8-40. The report noted that absent from these findings were many topics of great concern to police: 'Gang prevention, for example, is a matter about which we could not find a single impact evaluation of police practices. Police curfews and truancy programs lack rigorous tests. Police recreation activities with juveniles, such as Police Athletic Leagues, also

Chapter 7 of the report, *Preventing Crime at Places*, opened with the statement: ‘Most places have no crimes and most crime is highly concentrated in and around a relatively small number of places. If we can prevent crime at these high crime places, then we might be able to reduce total crime. Do we have evidence that this is feasible?’⁹¹

One ‘place’ considered in the report were open public spaces in cities, including street corners. The first crime prevention strategy looked at in this context involved efforts to *control public drinking*. Based on evidence from England and Sweden it was concluded that the banning of public drinking may reduce the incidence of incivility and disorder, although the English study found that there were no changes in the level of assaults.⁹² However, the evaluations were said to be too small in number and weak in design, leaving the effectiveness of this strategy unknown.⁹³

The second open public space prevention strategy discussed in the report related to improved *street lighting campaigns*. The finding here was that the research does not point to any firm, general conclusion one way or the other, with the report stating ‘We may speculate that lighting is effective in some places, ineffective in others, and counter productive in still other circumstances’. One difficulty is that better lighting may also assist the offender in detecting targets and low-risk situations. For example, an ATM user may feel safer when the ATM and its surroundings are well lit; on the other hand, the same lighting makes the patron more visible to passing offenders.⁹⁴

The third relevant strategy related to the use of *closed-circuit television*. Three evaluations of the effectiveness of this strategy were considered, all from the United Kingdom. For example, cameras were installed around the town centre of Newcastle-upon-Tyne in late 1992 and early 1993 and research found that, as a result, burglaries declined by 18 per cent, auto thefts dropped 9 per cent, thefts from autos went down 11 per cent, and other thefts declined 7 per cent. No effect, however, was found for robberies. Similar results were reported for the use of closed-circuit television cameras in Birmingham and King’s Lynn, with reductions in burglary, assaults, thefts from vehicles and thefts of vehicles.⁹⁵ All the same, the report found that, at this stage, it could only recommend the adoption of this tactic for the purposes of more rigorous testing.

On the other hand, research into various *street closure* strategies were said to be promising,

remain unevaluated. Automated identification systems, in-car computer terminals, and a host of other new technologies costing billions of dollars remain unevaluated for their impact on crime prevention’.

⁹¹ LW Sherman et al, *Preventing Crime: What Works, What Doesn’t, What’s Promising*, a Report to the US Congress, 1997, p 7-1.

⁹² Ibid, p 7-39.

⁹³ Ibid, p 7-43.

⁹⁴ Ibid, p 7-40.

⁹⁵ Ibid, p 7-41.

particularly in high crime areas. One program noted in the report related to street closures in a Dayton, Ohio neighbourhood, where the streets were closed off so that the area was subdivided into small areas and so one could not drive directly through the area. Police reported crime statistics showed that crime in the city rose by one per cent, whereas total crime in the target neighbourhood declined 26 per cent, and violent crime declined 50 per cent. The report concluded:

Closing streets makes offenders' escapes more problematic. In the case of prostitution cruising and drive-by shootings, the offenders are likely to follow a circular driving pattern in their search for targets. By making circular driving patterns more difficult and increasing the chances offenders will find themselves at the end of a dead end street, criminal behaviour may be thwarted.⁹⁶

(C) Preventing drug related crime, including the electronic tagging of drug offenders

It is widely acknowledged that the use of illegal drugs is a major cause of crime in NSW as elsewhere. For example, Dr Weatherburn of the NSW Bureau of Crime Statistics and Research is reported to have said that drug addiction, particularly heroin use, is the biggest underlying cause of crime.⁹⁷ Likewise, in the United Kingdom official figures are said to reveal that 'more than half of those arrested by police are on drugs' and that addicts may be stealing up to £2 billion of property a year to feed drug habits. In a study commissioned from the Institute of Criminology at Cambridge University it is found that 25 per cent of all those arrested by police in London (and who agreed to be tested for the purposes of the study) had traces of heroin in their urine.⁹⁸ One response canvassed by the British Home Office is the creation of new legislative powers against drug pushers and abusers, including methods used by American courts to force addicts into 'cold turkey', plus the *electronic tagging of drug offenders* while they undergo treatment. Under the proposed scheme, random drug testing will be carried out by probation officers and private contractors. The report in *The Times* continues:

Under new drug treatment and testing orders to go before the Commons this week as part of the Crime and Disorder Bill, addicts who offend will face prison unless they agree to constant monitoring. The technique has been successful in America, where repeat offending has been cut as low as 5% of previous levels. Pilot treatment programmes are due to begin in Britain in the autumn.⁹⁹

An example of a program from the US is the Clackamas County Intensive Out-Patient Drug Program from Oregon, which was designed for drug offenders who had failed in prior

⁹⁶ Ibid, p 7-43.

⁹⁷ M Riley, 'Blood on the beat', *The Sydney Morning Herald*, 7 March 1998.

⁹⁸ N Rufford, 'Addicts face tagging to curb drug crime', *The Times*, 5 April 1998.

⁹⁹ Ibid.

substance abuse programs or on probation/parole. It combined electronic surveillance with two weekly drug treatment group sessions, one weekly life structuring group session, attendance at a minimum of two weekly community self-help group meeting (such as Alcoholics Anonymous) and drug and alcohol testing. Participants paid a daily fee. The program consisted of 14 weeks of surveillance plus treatment, followed by 14 weeks of non-monitored, voluntary attendance at treatment meetings. Consequences following from rule violations ranged from 'increasing the surveillance level and the frequency of drug tests, to loss of earned privileges, to ultimately returning the offender to jail'.¹⁰⁰ Of the program Jolin and Stipak concluded, 'Although admittedly somewhat tentative, the findings from this study provide evidence that this approach works' and that it can lower recidivism rates.¹⁰¹

A second example from the US is the electronic tagging of drug offenders in Los Angeles County, a program based on house arrest and electronic tagging, in which convicted persons are required to remain at home as a condition of probation.¹⁰² One tentative conclusion of research into this scheme was that 'Most drug abusers with poor employment records but not extremely serious offense histories are best sentenced to electronic monitoring with drug testing'.¹⁰³

The National Institute of Justice report does not seem to have dealt specifically with the electronic monitoring of drug offenders, although it did consider a range of strategies for dealing with what it called 'drug-involved offenders'. In particular, it looked at programs which combine components of rehabilitation and restraint, including the use of 'drug courts' which bring together criminal justice and drug treatment approaches to the problem. These drug courts were described in the report in the following terms:

a courtroom-based team approach with specifically adapted outpatient drug abuse treatment is used to coerce offenders into treatment. Judges play a central and active role in the team in the unorthodox courtroom approach that brings the defense, prosecution, treatment, and other court-related agencies together...Drug use is monitored through urine testing and the results are reported to the court. Frequently the courts emphasize individual responsibility through a system of rewards and graduated sanctions for

¹⁰⁰ A Jolin and B Stipak, 'Drug treatment and electronically monitored home confinement: an evaluation of a community-base sentencing option', (1992) 38 *Crime and Delinquency* 158 at 161.

¹⁰¹ Ibid at 167. For a discussion of home detention measures generally see - H Figgis, *The Home Detention Bill 1996: Commentary and Background*, NSW Parliamentary Library Research Service, Briefing Paper No 20/1996.

¹⁰² For an account of the program operating in California see - RK Watts and D Glaser, 'Electronic monitoring of drug offenders in California' from *Smart Sentencing* edited by JM Byrne, AJ Lurigio and J Petersilia, Sage Publications 1992, pp 68-84.

¹⁰³ D Glaser and R Watts, 'Electronic monitoring of drug offenders on probation' (October-November 1992) 76 *Judicature* 112 at 117. Glaser and Watts went on to say that 'Drug abusers with little other criminality and fair to good job records are most cost effectively deterred by fines, other monetary penalties, community service, or a combination of these methods'.

misbehavior.¹⁰⁴

Contrasting this approach with the use of other intermediate sanctions, the reports went on to say that ‘drug courts attempt to combine increased surveillance with treatment. The court’s responsibility for oversight of the offender, the treatment programs, and the supervising agents also means that all involved can be held accountable for outcomes’. Regarding the success of these drug courts in preventing re-offending, the report concluded: ‘There is yet little research to examine how effective the programs are in reducing crime, but the early results appear hopeful’.¹⁰⁵

(D) Australian perspectives on crime prevention

Over the past two decades or so the various Australian jurisdictions have adopted a wide range of crime prevention programs and strategies. These include the introduction in NSW in 1982 of random breath testing of motorists and, in the 1990s, the program to prevent motor vehicle theft in this State. An example from Victoria was the public transport safety campaign which started in 1991 with a railway station cleanup program, in which all metropolitan stations were cleaned of graffiti. Programs have also been aimed specifically towards reducing crime in Aboriginal communities, one example being the Tennant Creek Julalikari Night Patrol program, in which voluntary community based patrols were used to break the cycle of violence associated with alcohol consumption.¹⁰⁶ An example of a more ambitious five-year strategy was the South Australian Together Against Crime program, which is perhaps the closest we have come in this country to mounting a crime prevention approach which purported to be an alternative approach to the more customary ‘law and order’ model. This South Australian initiative, which developed its own unique features, also showed the influence of overseas social engineering approaches to crime prevention, of the kind associated with the French Bonnemaison scheme and the Dutch Society and Crime program. The Dutch scheme is said to have three major themes: improving urban planning and design; enhancing security in public and semi-public environments; and introducing school, training, employment and recreational schemes to strengthen the attachment of marginalised young people to mainstream institutions.¹⁰⁷ South Australia’s Together Against Crime program has been described as an attempt to learn from overseas initiatives but to adapt them to local needs. Adam Sutton, a Senior Lecturer in the Department of Criminology at the University of Melbourne, has explained that it was pursued through two key mechanisms:

¹⁰⁴ LW Sherman et al, *Preventing Crime: What Works, What Doesn’t, What’s Promising*, a Report to the US Congress, 1997, p 9-64.

¹⁰⁵ Ibid.

¹⁰⁶ Theses and other initiatives are discussed in P Grabosky and M James eds, *The Promise of Crime Prevention*, Australian Institute of Criminology 1995.

¹⁰⁷ For an analysis of the South Australian program see - a Sutton, ‘Crime prevention: policy dilemmas - a personal account’ from *Crime Prevention in Australia* edited by P O’Malley and a Sutton, The Federation Press 1997, pp 12-37.

a State-wide Coalition Against Crime, with five working groups dedicated to disseminating program philosophies and commissioning 'exemplary' projects and reports in specific fields, and a system of regional committees charged with formulating two-year crime prevention plans based on systematic assessment of problems and issues. Funded partly from a State government allocation - \$10 million over five years - and partly through re-allocation of local resources, local plans were to be critical mechanisms for building a State-wide network of constituencies for crime prevention...The regional crime-prevention committees, with mandates for implementing prevention plans and with core representation from local government and State government agencies, were a direct adaptation from the Bonnemaison scheme...However, other aspects - most notably the attempts to stimulate exemplary work in such fields as planning and design, alcohol-related crime and family and other violence - signified recognition that if crime prevention was to endure, South Australia would need to compliment the inter-agency approach with focused expertise.¹⁰⁸

More generally, it can be said that, in the last decade or so, Australian policy-makers have placed more emphasis on the crime prevention role of the police, along with the requirement of consultation between the police and the community. Associate Professor Rick Sarre from the University of South Australia has argued that, faced with the problem of rising crime rates, policy-makers have developed 'problem-oriented' and 'community policing' strategies. However, his analysis of this trend is decidedly negative in nature, with Sarre concluding that:

the evidence suggests that what may be sound in theory does not always emerge in practice. Suspicion is mounting that there is little consultation between the police and the community in relation to crime prevention, and if the consultation does take place, the coordination is dominated by police.¹⁰⁹

Of course this is only one point of view. It is interesting to note in this regard that the NSW Police Minister, the Hon Paul Whelan MP, is reported to have pledged to breath fresh life into 'the ailing Neighbourhood Watch scheme'.¹¹⁰

Generally speaking there will always be room for alternative interpretations of the same or comparable data. What does seem to be more or less consistently argued, however, is that *simply* increasing the number of police across the community generally will not prevent crime. With that in mind three observations can be made about the current crime prevention

¹⁰⁸ Ibid, p 27.

¹⁰⁹ R Sarre, 'Crime prevention and the police' from *Crime Prevention in Australia* edited by P O'Malley and a Sutton, The Federation Press 1997, pp 64-83. For a somewhat more positive evaluation of community policing see - C Cunneen and R White, *Juvenile Justice: An Australian Perspective*, Oxford University Press 1995, p 210.

¹¹⁰ Editorial comment, 'Zero option on crime', *The Sun Herald*, 4 May 1997.

debate in Australia.

Smart policing, or problem-oriented policing: One is that, at the political level at least, it is probably fair to say that there is much greater emphasis on combatting crime by developing focused 'law and order' strategies, as against attempting to tackle the big upstream environmental and societal causes of criminal behaviour. That is not to say that programs designed, for example, to alleviate the worst of features and consequences of bad urban planning are neglected altogether. Indeed, the issue of Urban Design: Community Safety and Crime is to be subject of a major Australian Institute of Criminology conference in September 1988. Rather, the point is that the present focus at the level of public debate is more with policing strategies and their part in crime prevention. In particular, as the debates concerning crime rates in Sydney's George Street area and the concentration of drug-related crimes in Cabramatta shows, the focus is on the identification of crime 'hot spots' with the idea of mounting an appropriate, intelligence-based response to these and other problems. As a part of this approach resources are dedicated to such intelligence-gathering techniques as a crime mapping.¹¹¹

Of problem-oriented policing generally, Cunneen and White have said that it 'encourages the identification of recurring problems and the causes of anti-social behaviour and crime. The approach analyses - for example, ongoing conflict between police and young people in a particular locale - and devotes time and funds to determining causes and solutions'.¹¹² On the other hand, Cunneen and White, who hold the view that the police as part of the criminal justice system have only a marginal affect on crime, suggest that the following measures have had little impact on overall crime rates and offence patterns:

- patrolling at saturation level in high crime areas;
- decreasing police response time by getting to the crime scene faster;
- employing technology, such as two-way radios, motorised patrols, computerised data systems and advanced software for data retrieval;
- using administrative measures such as prioritisation of calls;
- replacing random patrols with directed patrols to pre-determine destination and times;
- screening cases as a means to write off unsolvable cases;
- and increasing police powers, such as fingerprinting.¹¹³

The zero tolerance debate: a second point to make is that, particularly in the wake of the recent stabbing incidents in Sydney, a lot of attention has been paid in the media and elsewhere to New York's zero tolerance program. One theme relates to the role of the police, which is in the form that police officers should concentrate on law enforcement

¹¹¹ 'Ryan to launch new crime blitz', *The Sydney Morning Herald*, 24 December 1997. These are described as a 'New York-style computer mapping techniques to identify suburban "hot spots"'.
¹¹² C Cunneen and R White, *Juvenile Justice: An Australian Perspective*, Oxford University Press 1995, p 203.
¹¹³ *Ibid*, p 202.

duties and not try to act as a surrogate social workers, that they should deal with crime not social issues.¹¹⁴ Another is the question of whether New York's zero tolerance policing can or should be applied in NSW. Stuart Snell, writing in *The Sunday Telegraph*, has noted the interest showed by both the NSW Police Force and the NSW Police Association in learning more about the New York experience with zero tolerance policing.¹¹⁵ He notes, too, that the concept 'has already been unofficially put to the test in Sydney's drug-infested Cabramatta, with mixed results'. Snell continues: 'The phrase 'zero tolerance' has been associated with Operation Puccini III at Cabramatta, where for three months police made hundreds of arrests to combat the prolific drug problem. But as a police readily admit, as soon as a they arrested one drug dealer, a replacement was on the street'.¹¹⁶ This, too, can be considered alongside the 1996 research findings of Maher and Dixon in NSW that law enforcement 'crackdowns' on street-level user/dealers can be counterproductive, with the research indicating that, while some forms of policing can and do disrupt the market, both sellers and consumers adapt rather than cease their behaviours.¹¹⁷

Obviously the prospect of introducing zero tolerance policing in NSW is sure to generate a range of opinions as to its wisdom and appropriateness. Editorials in both *The Sun Herald*¹¹⁸ and the in *The Sunday Telegraph*¹¹⁹ have argued unequivocally in its favour. Also, it was reported in January 1997 that the Government 'plans to enforce a tough New York-style crime fighting plan in NSW', although its precise relation the New York model was not spelt out.¹²⁰ a very different response is offered by Associate Professor David Dixon of the University of New South Wales who has said that:

the lessons to be learnt from New York are of limited relevance to NSW. Proactive searches and arrests for minor offences may be productive when, as a in New York, the target population is highly criminalised, with many people with warrants or on parole for serious offences, and in which carrying guns is connected closely to a pattern of serious assaults and homicides in public places. The population and pattern of crime in NSW are very different in each respect. It would be unrealistic to expect proactive street policing to

¹¹⁴ 'Chalk and cheese philosophies', *Police Review*, Volume 104 September 1996 - a compilation of articles relating to zero tolerance policing is found in *Policing: The New Policing (II) - Zero Tolerance and Crime Control*, The University of NSW 1997. See also *NSWPD* (Hansard proof), 1 April 1998, p 36.

¹¹⁵ S Snell, 'But can it work here?', *The Sunday Telegraph*, 29 March 1998. Snell quotes Police Association research and resources director, Greg Chilvers, as saying that the Association 'had no formal view on zero tolerance, although its concept was worth studying'.

¹¹⁶ Ibid.

¹¹⁷ Cited in L Maher et al, *Anh Hai: Young Asian Background People's Perceptions and Experiences of Policing*, University of NSW 1997, p v.

¹¹⁸ Editorial comment, 'Zero option on crime', *The Sun Herald*, 4 May 1997.

¹¹⁹ Editorial comment, 'Crackdown works', *The Sunday Telegraph*, 29 March 1998.

¹²⁰ M Chulov, 'Zero tolerance for petty crime', *The Sun Herald*, 26 January 1997.

significantly affect rates of serious crime in NSW...We should be particularly cautious, because the potential costs of vigorous policing of public disorder and incivilities may be considerable. In particular, it may seriously harm relations between police and young people, particularly those from Aboriginal and ethnic minority communities.¹²¹

Again, that is only one perspective on an issue which is certain to generate considerable interest and controversy.

Young people and the crime prevention debate: a third point to make is that a particular focus of the 'law and order' debate in recent years, both in terms of legislative changes and media interest, is the problem of juvenile crime. Any discussion of crime prevention must, therefore, address the real and perceived problems at issue, as well as the measures which are in place to deal with these. An overview of this subject is, in fact, presented in the NSW Parliamentary Library's Briefing Paper No 9/1996, *Juvenile Justice in NSW: Overview and Current Issues*. It is enough to say here that the family conferencing scheme for young offenders which was discussed in detail in that paper is now the subject of a legislative initiative under the *Young Offenders Act 1997*. It can be noted, too, that it was precisely this sort of youth justice conferencing scheme which, as a previously mentioned, found approval in the National Institute of Justice report. Moreover, in the midst of what are sometimes intemperate media reports on juvenile justice matters, this statement from the Attorney General, Hon JW Shaw MLC, is worth citing on the theme of crime prevention and the young generally:

Low level interventions such as a warnings or police cautions have been shown to be effective in preventing reoffending. Indeed a 1996 Department of Juvenile Justice report found that rates of reoffending increase proportionately with the severity of the first sanction imposed on the child. It is recognised that emphasis on prevention rather than punishment is appropriate when dealing with most offences committed by young people.¹²²

A 1996 Discussion Paper issued by the NSW Attorney General's Department recommended a new system based on a 'hierarchy of four different levels of interventions into juvenile offending, beginning with warnings and cautions and graduating through to conferencing and court'. In developing a new warning and cautioning system for NSW, the Discussion Paper adopted the following principles:

- both warnings and cautions should be targeted towards the majority of offences committed by young people;
- warnings and cautions should involve the minimum degree of intervention in the

¹²¹ *Policing: The New Policing (II) - Zero Tolerance and Crime Control*, The University of NSW 1997, p 31. See also the comments of the Hon PT Primrose MLC, *NSWPD* (Hansard proof), 1 April 1998, p 35.

¹²² *NSWPD*, 21 May 1997, p 8985.

young person's life;

- warnings and cautions should be provided with a legislative base in order to ensure certainty and clarity in decision making;
- there should be a sense of immediacy between the commission of the offence and the administration of a warning or caution;
- the system should be as simple as possible;
- adequate safeguards need to be in place to protect the young person's rights;
- it should involve a minimum of resources; and
- it should be culturally appropriate.¹²³

The last point is well made considering the vexed debate which attends the relationships between the police and the Aboriginal and other ethnic communities. The findings of a recent study dealing with *Young Asian People's Perceptions and Experiences of Policing* are not encouraging in this regard. Among other things, the study found that 'Encounters between the police and young Asian background people are often conducted in a climate of fear, racism and hostility'.¹²⁴ If nothing else, the study suggests the complexities involved in mounting any crime prevention strategy, or combination of strategies, in a complex, multicultural society.¹²⁵

The problematic question of police/youth relations is discussed in the NSW Parliamentary Library Briefing Paper No 26/1996, *Dealing With Street Gangs: Proposed Legislative Changes*.

5. CONCLUSIONS

Curing crime is not like mending a broken arm or, in its way, like fixing a broken window pane. What seems to be clear is that the sorts of problems considered in this paper have a propensity to re-occur and re-surface, perhaps in a different form, or in an altered context, shaped by the particular contingencies of the moment, but recognisable nonetheless as the base currency of the law and order debate. Proposed remedies range from those who place

¹²³ NSW Attorney General's Department, *Report of the NSW Working Party on Family Group Conferencing and the Juvenile Justice System*, September 1996. These proposals form the basis of the new scheme for young offenders introduced under the *Young Offenders Act 1997*.

¹²⁴ L Maher et al, *Anh Hai: Young Asian Background People's Perceptions and Experiences of Policing*, University of NSW 1997, p v.

¹²⁵ A good reference point for the issues involved is J Chan, 'Policing Youth in Ethnic Communities' from *The Police and Young People in Australia* edited by R White and C Alder, Cambridge University Press 1994, pp 175-198.

emphasis on social causes of crime to advocates of stricter policing and more police powers as the solution. It is reasonably certain that no one, or group of strategies, taken in isolation, will solve the crime problem completely. However, if some of the studies discussed in the paper are correct, certain programs may be better than others at modifying or reducing crime rates at any given time. At the very least, it may be possible to positively identify those programs which do not work.

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