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**Important deficiencies : A history of juvenile detention in post-war Victoria**

**Coventry, Rebecca Frances**

Coventry, R. F. (2025). Important deficiencies : A history of juvenile detention in post-war Victoria [PhD Thesis]. Australian Catholic University. <https://doi.org/10.26199/acu.920yw>

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**Important Deficiencies:**

**A History of Juvenile Detention in Post-War Victoria**

**Rebecca Frances Coventry**  
**(BCom, LLB, MA)**

Submitted in total fulfilment of the requirements of the degree of Doctor of Philosophy

National School of Arts and Humanities  
Faculty of Education and Arts

Australian Catholic University  
March 2025

## **Statement of Authorship**

This thesis contains no material that has been extracted in whole or in part from a thesis that I have submitted towards the award of any other degree or diploma in any other tertiary institution. No other person's work has been used without due acknowledgment in the main text of the thesis.

Signed:

## Acknowledgements

Firstly, I offer my profound thanks to my supervisory team – Nell Musgrove, Jen Couch and Noah Riseman – for their dedication to the work, to developing me as a researcher and to their accommodation of their student’s personal life. As any scholar of welfare and crime can surely attest, the topic is not an easy one either for its fraught emotions or its popularity, which waxes and wanes with the news cycle. My supervisors never lost interest or failed to understand the importance of the work. Additionally, I came to this topic from a background in law, accounting and literature studies, so there was an initial period of finding my feet. The supervisors always appreciated the angles at which I instinctively approached matters and knew which direction to point me in. And, of course, in between periods of research and writing there was a succession of babies and overseas migrations to the point that nothing seemed to surprise them by the end. They, along with the Australian Catholic University, were always tremendously understanding and helpful.

I also thank the Australian Catholic University for awarding me the Australian Government Research Training Program (RTP) Stipend and RTP Fee-Offset Scholarship, which made this work possible. I thank Nell and Noah for helping secure this for me. There are a number of people who helped me along the way, including Kristine Moruzi, Shurlee Swain, Rachel Busbridge, Benjamin Moffitt, Dee Michell, Nick Carter, Jacqueline Z. Wilson and Keir Reeves. I further thank the library staff of ACU, Federation University Australia, Deakin University and the State Library of Victoria.

Lastly, to my family – Cam, Aoife, Fedelm and Ailill – thank you for all the colour. For the singing, the laughter, the insights and love. Every day you teach me something. Cam, you are my partner in every sense of the word and it is only through your unwavering support that I embarked on this adventure; one of our many. And Aoife, Fedelm and Ailill, every day you confirm to me the importance of striving to make this world a better place.

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## **Abstract**

The Australian state of Victoria's juvenile detention system has been the subject of political dispute in every decade since the Second World War. The thesis reveals this essentially continuous dispute as being a function of systemic problems in juvenile detention – many of which resonate with similar systems in other parts of the world – and of bipartisan politics, which has seemingly been unable to resolve these problems. Beginning in 1945, young people in detention gradually became the responsibility of government instead of the philanthropic sector. Since then, rival political parties have alternated between critical advocacy for detained young people and defensive management of the system, depending on which party was in power. This oscillation was maintained until at least the year 2000, irrespective of changes in governmental control, economic policy or the political concerns of the time. The rhetoric of urgent change was never substantially followed through once a party achieved government. The favoured method of defense by governments was to implement a public inquiry from which little reform would ultimately be achieved. This pattern of unending crisis in juvenile detention, and repeated cycles on inquiries, is not unlike the experiences of similar systems in other liberal democracies, including those in the British Isles, North America and New Zealand. The thesis argues that the locus of the problem may be found in the post-war welfare state, with its prevailing views of delinquency, professionalism and class (which obscured the perpetuation of older stereotypes about 'deserving' and 'undeserving' poor through the use of new 'expert' rhetoric), and an unwillingness to spend money on the implicitly 'undeserving'. With news media interest in and public concern about the latest crisis in the juvenile detention system, governments have once again opted for public inquiries to 'get to the bottom' of what is wrong, staying true to an 80-year-long pattern of avoidance.

# Introduction

Australia's juvenile justice systems are constantly debated and maligned, whether it be from those wanting more welfare provision or those wanting a tougher approach to crime. According to both sides, juvenile justice is in crisis. Western Australia has seen children suicide within its system, while the Northern Territory has lowered the age of criminal responsibility and introduced mandatory sentencing for children who assault the adults that are meant to care for them.<sup>1</sup> Queensland has recently passed laws that ensure children who commit murder, serious assaults or break-ins will be treated to the same penalties as adults.<sup>2</sup> Meanwhile, Victoria has recently opened a new juvenile detention centre that still routinely uses solitary confinement.<sup>3</sup> At the same time there have been various reports produced calling for better treatment of imprisoned children.<sup>4</sup> This trend is not restricted to Australia. Indeed, it is evident across other liberal democracies. In the United Kingdom a recent report called for child imprisonment to end because it did not find one institution that was safe for children.<sup>5</sup> In Ireland, children have reported being repeatedly physically and sexually abused by staff, and in Canada institutions are overcrowded and understaffed.<sup>6</sup> The United States has also seen the use of adult guards in juvenile prisons and various state-based reports finding the mistreatment of children.<sup>7</sup>

The modern approach to juvenile detention was born in the British Isles with the creation of reformatory schools.<sup>8</sup> It has continuously suffered from a lack of clarity as to whether it should be controlled by the welfare system or by the criminal justice system, and has been problematic for both those inside and those in control. Prior to the Second

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<sup>1</sup> Rhiannon Shine and Andrea Mayes, "Banksia Hill Teenager Becomes the Second Child to Die by Suicide in Wa's Troubled Youth Detention System," *ABC News*, 30 August 2024; Northern Territory Government, "Reduce Crime - New Laws Introduced."

<sup>2</sup> Hannah Ritchie, "Children as Young as 10 Will Face Adult Jail Time in Australian State," *BBC News* 2024.

<sup>3</sup> Sarah Schwartz, "It Is a Matter of When, Not If, a Child Dies by Suicide in Victoria's Broken Youth Justice System," *Crikey* 2024.

<sup>4</sup> See for example NT Royal Commission, "Final Report of the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory," (Canberra, 2017); Penny Armytage and James Ogloff, "Meeting Needs and Reducing Offending: Youth Justice Review and Strategy," (Melbourne Victorian Government, 2017).

<sup>5</sup> Simon Hattenstone, "Justice Review Calls for End to Child Imprisonment in England," *The Guardian* 2024.

<sup>6</sup> Darragh McDonagh, "Over 100 Allegations of Children Being Physically and Sexually Assaulted at Oberstown Detention Centre," *Irish Mirror* 2024; Bob Becken, "Ontario Youth Detention Centres at Overcapacity, Creating Concerns as Another Is Set to Close," *CBC News* 2024.

<sup>7</sup> Jamiles Lartey, "The Seemingly Endless Cycle of Reforms in Juvenile Justice," *The Marshall Project* 2024.

<sup>8</sup> Sarah-Anne Buckley and Caroline McGregor, "Interrogating Institutionalisation and Child Welfare: The Irish Case, 1939-1991," *European journal of social work* 22, no. 6 (2019): 1062-72; Eileen Yeo, *The Contest for Social Science: Relations and Representations of Gender and Class* (London: Rivers Oram Press, 1996), 123.

World War the trend was for liberal democracies to push juvenile detention to the ambit of philanthropic groups (often referred to as voluntary organisations in the Australian context).<sup>9</sup> This allowed governments to distance themselves from their operation, and to minimise government spending in an area that frequently attracted public scrutiny. However, following the Second World War in Australia, the welfare state was extended and consolidated.<sup>10</sup> This also brought the juvenile detention system more directly under the control of government. Irrespective of this fundamental shift in control, the problems that had continuously plagued juvenile detention institutions were not remediated.

This thesis uses the Australian state of Victoria as a case study for examining developments in juvenile justice during the second half of the 20<sup>th</sup> century, aiming to highlight how this example illuminates the historical origins of some of the broader issues that continue to plague similar systems across the Western world. During this period the Victorian system moved from being legislatively located within criminal justice to being more firmly incorporated into child and youth welfare frameworks. Yet, this did not result in a comparable shift in public perceptions of the purpose of the system. Another significant transition of the system during this time was the increasing role of government in direct provision and oversight of juvenile detention. Despite these apparently significant changes, this thesis will demonstrate that, more often than not, very little changed for the people within the system. The 1956 Barry Report (full title “Report of the Juvenile Delinquency Advisory Committee”) used the phrase “important deficiencies” to describe the state of Victoria’s juvenile detention system.<sup>11</sup> Sixty-one years later, a comparable report still found Victoria’s youth justice system wanting.<sup>12</sup> Indeed, writing in 2019 Judith Bessant and Rob Watts concluded that irrespective of Australia’s position as a signatory to the United Nations Convention on the Rights of the Child (UNCRC), “all Australian governments have regularly contravened the rights of young people in the youth justice systems”,<sup>13</sup> and as Shurlee Swain observed in a 2014 report prepared for the Royal Commission into Institutional Responses to Child Sexual Abuse, the lack of progress has not been for want of inquiries into the problems plaguing

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<sup>9</sup> Peter Quinn, "Unenlightened Efficiency: The Administration of the Juvenile Correction System in New South Wales 1905-1988" (Doctor of Philosophy, University of Sydney, 2004), 27.

<sup>10</sup> Stuart Macintyre, *Australia's Boldest Experiment: War and Reconstruction in the 1940s* (Sydney, NSW: NewSouth Publishing, 2015).

<sup>11</sup> Juvenile Delinquency Advisory Committee, "Report of Juvenile Delinquency Advisory Committee," (Melbourne: Victorian Government, 1956), 54.

<sup>12</sup> Armytage and Ogloff, "Meeting Needs and Reducing Offending: Youth Justice Review and Strategy."

<sup>13</sup> Judith Bessant and Rob Watts, "Public Administration, Habermas and the Crisis of Legitimacy in the Youth Justice System: An Australian Case Study," *Administrative theory & praxis* (2019): 2.

child welfare and juvenile justice.<sup>14</sup> This thesis, therefore, aims to unravel the factors that have inhibited meaningful reform.

The present-day Victorian juvenile justice system traces its origins from the *Neglected and Criminal Children Act 1864* (Vic) which enabled the government to send children convicted of crimes to a reformatory, following the model proposed by British social reformer Mary Carpenter. Most other Australian colonies made similar moves around the mid-19<sup>th</sup> century, although each was tailored to its local specificities.<sup>15</sup> After Federation, in 1901, child welfare and juvenile justice (as with most criminal justice) remained the jurisdiction of the states (the former colonies). There are certainly trends that were shared across much of Australia in juvenile justice, but Victoria provides a valuable case study of the impact of centralising juvenile justice in government hands because of its distinctly high reliance on the voluntary sector in the years immediately following the Second World War.<sup>16</sup> It is also a state that had the illusion of progress during the post-war period because of the opening and closing of various juvenile detention institutions and the commissioning of numerous reports.<sup>17</sup> However, what this thesis argues is that even though the juvenile detention system moved to state management, the government's approach was characterised by rhetorical responses to appease social concerns, and a lack of financial commitment to resourcing services. Ultimately there was negligible genuine change or investment in the system.

In order to demonstrate this, the thesis conducts a close reading of the parliamentary debates in the post-war period from 1952 to 2000. The parliamentary

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<sup>14</sup> Shurlee Swain, "History of Australian Inquiries Reviewing Institutions Providing Care for Children," (The Royal Commission into Institutional Responses to Child Sexual Abuse, 2014); Cate O'Neill, "'She Had Always Been a Difficult Case...': Jill's Short, Tragic Life in Victoria's Institutions, 1952-1955," *Provenance: The journal of Public Record Office Victoria*, no. 14 (2014).

<sup>15</sup> Nell Musgrove, "'The Scars Remain': Children, Their Families and Institutional 'Care' in Victoria" (Doctor of Philosophy, University of Melbourne, 2010), 2.

<sup>16</sup> See Children's Welfare Department and Department for Reformatory Schools, "Report of the Secretary for the Years 1951 and 1952," (Melbourne, 1954).

<sup>17</sup> For example, in 1956 a detention centre for girls, Winlaton, was opened. Before Winlaton there had been no equivalent institution for girls. Prior to this there had been insufficient institutional places for girls, with 'delinquent' girls often being kept at the Royal Park Depot which only had minimal provision for reformatory girls in the early 50s. Nine years later in 1965 the government opened two centres for boys, Malmsbury Youth Training Centre and Langi Kal Kal. Prior to these there were – and continued to be – privately run detention centres for boys such as Bayswater Boys' Home and the Morning Star Boys' Home. By the end of the century Winlaton had been shut, Turana was renamed to the Melbourne Youth Justice Precinct and Langi Kal Kal was being used as an adult prison. Donella Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria* (Melbourne: Centre for Youth and Community Studies, Phillip Institute of Technology, 1986), 156; O'Neill, "'She Had Always Been a Difficult Case...': Jill's Short, Tragic Life in Victoria's Institutions, 1952-1955," 42; "Malmsbury Youth Training Centre (1965 -)," Find & Connect Web Resource Project for the Commonwealth of Australia, , <https://www.findandconnect.gov.au/ref/vic/biogs/E000197b.htm>; "Langi Kal Kal (1965 -)," Find & Connect Web Resource Project for the Commonwealth of Australia, , <https://www.findandconnect.gov.au/ref/vic/biogs/E000196b.htm>.

debates are an invaluable source of evidence because they illustrate how both the government and opposition responded to issues concerning society at the time, in this case, the often conflicting discourses around ‘juvenile delinquency’. They also reveal a pattern of governments commissioning reports to look into the juvenile justice system, and then promoting the reports themselves, rather than the implementation of their recommendations, as the evidence of action. This research is significant because it shows that the government itself was complicit in the stagnation of conditions and that using their own words one can follow the rhetoric management that occurred simultaneously with the lack of genuine reform. As Mark Peel writes, it is important to read official documentation “against the grain, for their silences and their strategies, and for what lies half-spoken on their edges”.<sup>18</sup> This approach, therefore, extends the evidence already provided by inmate histories to further show that the reality for incarcerated children today is not so different from that suffered over half a century ago.

1952 was a significant year in Victoria because it was when the Cain Government took power and began discussions with the voluntary sector about building a new child welfare system in Victoria. The *Child Welfare Act 1954* (Vic) was supposed to realise these plans, but it was more a modernisation of language than of function or structure.<sup>19</sup> If there were minimal systemic reforms that profoundly changed the system between 1952 and 2000, the same cannot be said of the terminology: during this period juvenile detention centres have been called reformatories, juvenile schools, youth training centres and youth residential centres.<sup>20</sup> In the body of the thesis the terminology of the time being discussed will be used, but when discussing, generally, institutions designed to detain children who have committed a criminal offence or who are on remand, the institution will be called a juvenile detention centre. This is reflective of the language used by the United Nations Children’s Fund (UNICEF).<sup>21</sup> It also needs to be noted that these institutions have often housed State Wards with no criminal convictions.<sup>22</sup> Nevertheless, the government’s intention was to detain and so the institutions will be labelled thus. Similarly, any individual sentenced to a juvenile detention centre will be called a child, irrespective of their age, although in the later chapters examining periods in which a clear discourse of youth and young people emerged, these terms will also be found. The

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<sup>18</sup> Mark Peel, *Miss Cutler and the Case of the Resurrected Horse: Social Work and the Story of Poverty in America, Australia, and Britain* (Chicago: University of Chicago Press, 2011), 18.

<sup>19</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 156.

<sup>20</sup> Find & Connect Web Resource Project, "Juvenile School (1954 - C. 1961)," Commonwealth of Australia, <https://findandconnect.gov.au/ref/vic/biogs/E000324b.htm#related>.

<sup>21</sup> UNICEF, "Child Protection from Violence, Exploitation and Abuse," UNICEF, [https://www.unicef.org/protection/57929\\_57999.html](https://www.unicef.org/protection/57929_57999.html).

<sup>22</sup> State Wards is capitalised here as it refers to the children who fell under government guardianship.

Victorian legislation, however, did not and does not today recognise such a division, nor does UNICEF.<sup>23</sup> By using definitions provided by UNICEF this research is also consistent with the current position taken by academics, namely viewing “the past treatment of children...through the lens of the UN Convention of the Rights of Children”.<sup>24</sup>

### Contextual Scholarship

The two texts that are of fundamental importance to this thesis are the books by Donella Jaggs and Nell Musgrove, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria* and *The Scars Remain: A Long History of Forgotten Australians and Children's Institutions* respectively.<sup>25</sup> Jaggs provides a long-term view of Victoria's child welfare system, including juvenile detention, spanning from the 1850s up to the 1980s. Complemented by her inside knowledge as a social worker for the then Children's Welfare Department, Jaggs' history provides a detailed analysis of the policy and legislative changes made across this period, considering material such as government reports, parliamentary debates and internally generated memoranda. Musgrove's social history also takes a long-term view – focusing on institutional ‘care’ throughout Australia and in particular Victoria – revealing forgotten voices through her use of archival material.<sup>26</sup> This thesis builds on their work by delving further into the post-war period and specifically the juvenile detention system.

Jaggs and Musgrove also establish the conceptual, structural, administrative, and practical merging of the ‘welfare’ and ‘reformatory’ parts of the child welfare system. This merging necessarily means that this thesis also contributes to a body of work that considers issues of child welfare in Victoria more broadly. As well as Jaggs and Musgrove, some key texts specific to Victoria are Dorothy Scott and Shurlee Swain's book *Confronting Cruelty: Historical Perspectives on Child Protection in Australia* and Jill Barnard and Karen Twigg's *Holding on to Hope: A History of the Founding Agencies of MacKillop Family Services 1854-1997*.<sup>27</sup> *Confronting Cruelty* considers the history of

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<sup>23</sup> United Nations, "Convention on the Rights of the Child," (Geneva: United Nations, 1989), Article 1.

<sup>24</sup> Johanna Sköld and Shurlee Swain, "Introduction," in *Apologies and the Legacy of Abuse of Children in 'Care': International Perspectives*, ed. Johanna Sköld and Shurlee Swain (New York, NY: Palgrave Macmillan, 2015), 4.

<sup>25</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*; Nell Musgrove, *The Scars Remain: A Long History of Forgotten Australians and Children's Institutions* (North Melbourne, Victoria Australian Scholarly Publishing, 2013).

<sup>26</sup> Care has been put in ‘ ’ to recognise the abuse suffered by the children that passed through this system, a system that did not provide the care the children needed.

<sup>27</sup> Dorothy Scott and Shurlee Swain, *Confronting Cruelty: Historical Perspectives on Child Abuse* (Melbourne: Melbourne University Press, 2002); Jill Barnard and Karen Twigg, *Holding on to Hope: A*

child protection and child cruelty through an examination of the Victorian Society for the Prevention of Cruelty to Children (VSPCC), founded in 1897 and still in operation today as Kids First Australia. Whilst it does not specifically deal with juvenile detention, it does consider how children were treated and viewed across the 20th century. Importantly, it argues that the definition of child abuse is both “an historical and social construct” as it is defined by child rearing practises at the time.<sup>28</sup> This thesis extends this analysis by considering the impact of social views on the definition of ‘delinquency’ and how these social views impact the policing of such behaviour. Barnard and Twigg’s history of Catholic welfare in Victoria explores “the darkness, despair and failure” and the “holding onto hope” that characterised the system.<sup>29</sup> While Barnard and Twigg provide most detail on the Catholic provision of services at the welfare end of the system, it provides important context for this thesis since Catholic institutions were some of the most important reformatory ones in the early part of the period examined. This thesis also sits amongst a broader body of work that considers child welfare in other Australian states.<sup>30</sup>

This thesis also is informed by a body of international work. Tamara Myers in *Youth Squad: Policing Children in the Twentieth Century* explores the development of police ‘youth squads’ in the mid-20<sup>th</sup> century, arguing that the police intentionally integrated themselves amongst young people to prevent delinquent behaviour.<sup>31</sup> Myers uses various examples in North America to chart this. The thesis extends this consideration by looking at the role of the state bureaucracy in the policing of children. Another important work of note is the essay by Efi Avdela, “When Juvenile Delinquency

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*History of the Founding Agencies of Mackillop Family Services 1854-1997* (Melbourne: Australian Scholarly Publishing, 2004).

<sup>28</sup> Scott and Swain, *Confronting Cruelty: Historical Perspectives on Child Abuse*, xii.

<sup>29</sup> Barnard and Twigg, *Holding on to Hope: A History of the Founding Agencies of Mackillop Family Services 1854-1997*, xiv.

<sup>30</sup> See for example Naomi Parry, "Stolen Childhoods. Reforming Aboriginal and Orphan Children through Removal and Labour in New South Wales (Australia), 1909-1917," *Revue d'histoire de l'enfance*, no. 14 (2012): 141-63; Caroline Evans and Naomi Parry, "Vessels of Progressivism? Tasmanian State Girls and Eugenics, 1900-1940," *Australian historical studies* 32, no. 117 (2001): 322-33; Robert Van Krieken, *Children and the State: Social Control and the Formation of Australian Child Welfare* (Sydney: Allen & Unwin, 1992); Quinn, "Unenlightened Efficiency: The Administration of the Juvenile Correction System in New South Wales 1905-1988."; Karen George, "'Sad Death of a Child': Researching the Death of Children in State Care as an Act of Remembrance," *Journal of the history of childhood and youth* 8, no. 3 (2015): 476-99; Margaret Barbalet, *Far from a Low Gutter Girl: The Forgotten World of State Wards, South Australia 1887-1940* (Melbourne: Oxford University Press, 1983); Penelope Hetherington, *Settlers, Servants and Slaves Aboriginal and European Children in Nineteenth-Century Western Australia* (Crawley, Western Australia: University of Western Australia Press, 2002); *Paupers, Poor Relief and Poor Houses in Western Australia, 1829-1910* (Crawley, Western Australia: UWA Publishing, 2009); Shirleene Robinson, *Something Like Slavery?: Queensland's Aboriginal Child Workers, 1842-1945* (North Melbourne, Victoria: Australian Scholarly Publishing, 2008).

<sup>31</sup> Tamara Myers, *Youth Squad: Policing Children in the Twentieth Century* (Montreal: McGill-Queen's University Press, 2019), 17.

Became an International Post-War Concern". Avdela posits that it was post-war conditions and activity generated by international bodies such as the UN that internationalised social concerns around juvenile delinquency, which both allowed for "international collaboration while consolidating political and professional hierarchies in a troubled world order".<sup>32</sup> Her work is expanded by this thesis, which follows how broader social concerns around delinquency shaped government approaches to juvenile detention. It is also worth noting the work of John Muncie, in particular his article "The 'Punitive Turn' in Juvenile Justice; Cultures of Control and Rights Compliance in Western Europe and the USA".<sup>33</sup> Muncie explores the contradictions apparent in an international trend towards penalising children in the juvenile justice system and the development of the United Nations Convention on the Rights of the Child. Whilst explores Western Europe and the USA, this thesis extends this observation to Australia where a similar trend is evident.

A reluctance to make financial investment in child welfare or juvenile justice is also identified cyclically throughout this thesis, and this issue has been identified by scholars examining other locations. Peter Quinn's dissertation "'Unenlightened Efficiency': The administration of the juvenile correction system in New South Wales 1905-1988" provides an analysis of the influence of budget pressures on decision making in child welfare, arguing that the government provided a "façade of continuous improvement" whilst being "driven by the need to save money".<sup>34</sup> He posits that this attitude was aided by the notion of a "delinquent class".<sup>35</sup> Put simply, Quinn argues that the government did not genuinely believe that the juvenile detention system could be of value to the children within it, so at the very least it should be run as cheaply as possible. Writing on institutional abuse in Canada and Australia criminologist Kathleen Daly also points out that one reason why institutional practices remained unchanged irrespective of known individual offending was "because funding arrangements between the state and religious or charitable organisations made it difficult to enforce regulations".<sup>36</sup>

The notion of a 'delinquent class' has also been the subject of scholarly exploration. Harry Ferguson, in his 2007 article "Abused and Looked After Children as

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<sup>32</sup> Efi Avdela, *When Juvenile Delinquency Became an International Post-War Concern: The United Nations, the Council of Europe and the Place of Greece* (Gottingen: Vandenhoeck & Ruprecht, 2018), 6.

<sup>33</sup> John Muncie, "The 'Punitive Turn' in Juvenile Justice: Cultures of Control and Rights Compliance in Western Europe and the USA," *Youth justice* 8, no. 2 (2008): 107.

<sup>34</sup> Quinn, "Unenlightened Efficiency: The Administration of the Juvenile Correction System in New South Wales 1905-1988," 113.

<sup>35</sup> *Ibid.*, 14.

<sup>36</sup> Kathleen Daly, "Conceptualising Responses to Institutional Abuse of Children," *Current Issues in Criminal Justice: responding to historical child sex abuse* 26, no. 1 (2014): 8.

‘Moral Dirt’: Child Abuse and Institutional Care in Historical Perspective”, discusses the harsh moral attitude taken towards children in the Irish child welfare system.<sup>37</sup> Despite the differences in his case study – he looks at non-offending children and not specifically those in the juvenile detention system – a similar trope can be seen in those considered ‘juvenile delinquents’. Academic Jacqueline Z. Wilson makes a similar observation with respect to State Wards in Australia. Using her own experiences as a case study, Wilson writes that during her two years as a state ward of Victoria she experienced “humiliation and blame” and was “[systematically] dismissed, disapproved of and disbelieved”.<sup>38</sup> The same theme is also evident when looking at the abuse suffered by the girls sent to Parramatta Girls Training School, a juvenile detention centre previously operating in New South Wales that also housed a large number of State Wards.<sup>39</sup> Former inmate and historian Bonney Djuric writes of how their agency was so diminished that “the only way we could express ourselves was to scratch words into the walls or onto our bodies.”<sup>40</sup> David McCallum also discusses how some classes of children are seen as the ‘other’, as “types lacking what might be termed an ideal readiness for the inculcation of habits of self-restraint as a precondition of the granting of the freedom of self-government.”<sup>41</sup> It is worth noting that the idea of a ‘delinquent class’ talks to how the welfare system and social discourses of the time categorised certain children.

Another interrelated concept is the idea of the deserving and undeserving poor, that is, an idea distinguishing between people who were the innocent victims of misfortune and who *deserved* help, and those who had created their difficult circumstances through perceived immorality. These two categories have long history in European views of charity and welfare, and in the British context (which profoundly shaped Australian colonial societies) from the notions of deserving and undeserving poor were reinforced by the 1834 English Poor Law. These concepts have been recognised as still pervading the social consciousness even if these exact words are not used.<sup>42</sup>

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<sup>37</sup> Harry Ferguson, "Abused and Looked after Children as Moral Dirt: Child Abuse and Institutional Care in Historical Perspective," *Journal of social policy* 36, no. 1 (2007): 123-39.

<sup>38</sup> Jacqueline Z Wilson, "Beyond the Walls: Sites of Trauma and Suffering, Forgotten Australians and Institutionalisation Via Punitive ‘Welfare’," *Public history review* 20 (2014): 86.

<sup>39</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 7: Child Sexual Abuse at the Parramatta Training School for Girls and the Institution for Girls in Hay," (Sydney: Commonwealth of Australia, 2014).

<sup>40</sup> Bonney Djuric, "Living Traces - an Archive of Place: Parramatta Girls Home," *Archives and manuscripts* 44, no. 3 (2016): 167.

<sup>41</sup> David McCallum, *Criminalizing Children: Welfare and the State in Australia* (Cambridge, England: Cambridge University Press, 2017), 273.

<sup>42</sup> Edin Lakasing, "The Concept of the Undeserving Poor: Pejorative Stereotypes and Worsening Inequalities Undermine Welfare Reform," *British journal of general practice* 65, no. 641 (2015): 63; Janet McCalman, *Struggletown: Portrait of an Australian Working-Class Community* (Ringwood, Victoria: Penguin, 1988), 494.

Musgrove writes of this attitude pervading the child welfare system up into the 20<sup>th</sup> century, and as this thesis will show it continued to influence children in juvenile detention in the post-war period.<sup>43</sup>

Class, as it pertains to social stratification, is also a relevant concept when it comes to scholarship on juvenile offending. For example, class is also seen as a central feature of juvenile offending in Chris Cunneen, Rob White and Kelly Richards' book *Juvenile Justice: Youth and Crime in Australia*.<sup>44</sup> This is because working-class behaviour is viewed through a middle-class lens. This was central to the worldview that 19<sup>th</sup>-century social reformers brought to their work as the foundations of juvenile detention systems were laid across much of the Western world in the 1800s and as Sarah-Anne Buckley has shown in the Irish case, class biased profoundly shaped 20<sup>th</sup>-century child welfare and juvenile justice practices.<sup>45</sup> This was also true in post-war Australia, despite the nation's increasing discomfort with the language of class, and the notion of class hegemony, in relation to welfare provision.<sup>46</sup> The influence of middle-class values on political policy and social constructions more broadly has also been well documented.<sup>47</sup> The interplay between working-class and middle-class values has also been discussed in relation to the exercise of police powers. As Janet McCalman writes: "part of a middle-class boy's growing up was to realize that the police were his protectors, even his servants; and that middle-class crimes were peccadilloes, while working-class peccadilloes were crimes."<sup>48</sup> Thus, across many of the political and social institutions shaping juvenile justice across the second half of the 20<sup>th</sup> century, class was a strong – if poorly acknowledged – force.

The interrelated theme of social control is explored in Robert van Krieken's *Children and the State*.<sup>49</sup> He argues against the idea of top-down control by the state and the objectification of the powerless, instead suggesting that the working class promote

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<sup>43</sup> Musgrove, "The Scars Remain": Children, Their Families and Institutional 'Care' in Victoria," 18.

<sup>44</sup> Chris Cunneen, R. D. White, and Kelly Richards, *Juvenile Justice: Youth and Crime in Australia*, Fifth edition ed. (South Melbourne, Victoria: Oxford University Press, 2015). See also the paper by Rob White and Chris Cunneen Rob White and Chris Cunneen, "Social Class, Youth Crime and Justice," in *Youth Crime and Justice*, ed. B Goldson and J Muncie (London: Sage, 2015).

<sup>45</sup> See for example Sarah-Anne Buckley, "'Growing up Poor': Child Welfare, Motherhood and the State during the First World War," *Women's history review* 27, no. 3 (2018): 343-59; Yeo, *The Contest for Social Science: Relations and Representations of Gender and Class*.

<sup>46</sup> Anne O'Brien, *Philanthropy and Settler Colonialism* (London: Palgrave Macmillan UK, 2015).

<sup>47</sup> See for example John Murphy, *A Decent Provision: Australia Welfare Policy, 1870 to 1949*, Modern Economic and Social History Series (London: Routledge, 2016); Michelle Arrow, *Friday on Our Minds: Popular Culture in Australia since 1945* (Sydney: University of NSW Press, 2009); Marcelo S. Isidório, "Introduction: The Social Construction of Adolescence in Contemporaneity," in *The Social Construction of Adolescence in Contemporaneity*, ed. Marcelo S. Isidório and Loretta E. Bass, Sociological Studies of Children and Youth (Emerald Publishing Limited, 2023).

<sup>48</sup> Janet McCalman, *Journeys: The Biography of a Middle-Class Generation 1920-1990* (Carlton: Melbourne University Press, 1995), 202.

<sup>49</sup> Van Krieken, *Children and the State: Social Control and the Formation of Australian Child Welfare*.

state-based control themselves by – essentially – ‘dobbing in’ their neighbours.<sup>50</sup> He does, however, temper this approach by noting that top-down control is still clearly seen within institutions such as juvenile detention centres.<sup>51</sup> Michel Foucault famously asks us to look to who is doing the speaking in order to reveal who is wielding control.<sup>52</sup> In *Discipline and Punish: The Birth of the Prison*, he writes of the criminal justice system: “its fate is to be redefined by knowledge.”<sup>53</sup> Post-Foucauldian scholar Nikolas Rose takes this further in *Governing the Soul: the Shaping of the Private Self*.<sup>54</sup> He argues that individuals are controlled by internalising the authority of the ‘expert’. By internalising this authority, people monitor their own behaviour by seeking out and following ‘expert’ advice. Ferguson also refers to the “unquestionable authority of the experts”, and the invocation of ‘expert’ knowledge is also a key trend traced in this thesis.<sup>55</sup> Those in control of juvenile justice systems did ultimately internalise the advice of ‘experts’ – such as psychologists and social workers – often identifying as part of the same ‘helping’ professional class.<sup>56</sup> Such ‘expert’ knowledge was still tainted with the same biases that influenced the philanthropic social reformers whose moral judgements they supposedly replaced, and thus the increasing the role of the ‘expert’ within juvenile detention centres did not fundamentally change the conditions of inmates.

In Victoria the juvenile detention ‘expert’ has changed over time, from self-styled social reformers, to the psychologist and the social worker.<sup>57</sup> Throughout this history the true role of the ‘expert’ has been far from transparent. In the 1940s the psychiatrist and psychologist reigned supreme, yet not all children came before them.<sup>58</sup> The nature of their work was intrinsically linked with the pre-existing legal processes, and in some cases newly-created ‘expert’ roles intended to ‘modernise’ systems were performed by old staff: McCallum notes that the first appointed psychologist at the Victorian children’s court clinic – a role meant to replace A J Meadows (the bureaucratically appointed

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<sup>50</sup> Ibid., 34.

<sup>51</sup> Ibid., 22.

<sup>52</sup> Michel Foucault, *The Will to Knowledge: The History of Sexuality 1* (London: Penguin Books, 1998), 11.

<sup>53</sup> *Discipline and Punish: The Birth of the Prison* (London: Penguin Books, 1991), 22.

<sup>54</sup> Nikolas Rose, *Governing the Soul: The Shaping of the Private Self*, 2nd ed. (London: Free Association Books, 1999).

<sup>55</sup> Ferguson, “Abused and Looked after Children as Moral Dirt: Child Abuse and Institutional Care in Historical Perspective,” 137.

<sup>56</sup> Tamara Myers, *Montreal's Modern Girls and the Law, 1869-1945* (Toronto: University of Toronto Press, 2005), 88.

<sup>57</sup> See for example Eileen Janes Yeo, “‘The Boy Is the Father of the Man’: Moral Panic over Working-Class Youth, 1850 to the Present,” *Labour history review* 69, no. 2 (2004): 185-99; Nell Musgrove and Deidre Michell, *The Slow Evolution of Foster Care in Australia: Just Like a Family?* (Oxford, UK: Palgrave Macmillan, 2018).

<sup>58</sup> David McCallum, “Punishing Welfare: Genealogies of Child Abuse,” *Griffith law review* 18, no. 1 (2009): 118.

Stipendiary Probation Officer ex-teacher) – was the same A J Meadows.<sup>59</sup> As McCallum aptly writes: “The moment of entry of the clinical scientist was one of a seamless transition, rather than contestation or displacement of the bureaucracy.”<sup>60</sup> What this also means is that an increasing reliance on ‘expert’ advice did not mean fundamental change within the system itself. Even in 2017 tensions were reported to exist regarding inmate treatment between those considered ‘experts’ and those that were not, namely the Parkville College staff (therapeutically trained teachers) and the Youth Justice staff (a position with no pre-requisite qualifications).<sup>61</sup> Elaine Martin points out that social workers, too, were constrained by the state – even though they were increasingly positioned as key professionals in the field, they experienced “mediative control” by the government, it being the predominant employer that shaped the required training.<sup>62</sup> Scott and Swain show, with respect to the VSPCC, that even non-government organisations employing social workers were still subject to state control by way of access to funding, and in their examination of the Tasmanian Children of the State Department, Caroline Evans and Naomi Parry also point out financial expediency often trumped “progressivist methods, and there was considered opposition to the recommendations of the ‘experts’.”<sup>63</sup>

It also needs to be remembered that the juvenile detention system has not existed in a vacuum. Throughout its development the system has been part of the broader child welfare regime and intrinsically linked with other institutionalised children. The effective criminalisation of welfare cases has been aptly observed by Kerry Carrington. Carrington considers the plight of girls who found themselves in the juvenile court system in New South Wales, in particular the interplay between child protection and juvenile detention.<sup>64</sup> The intermingling of different ‘classes’ of children in single institutions is an ongoing theme in the history of juvenile detention and speaks directly to the nature of the power wielded over the children and the abuses suffered. As Carrington wrote in 1993:

while recent reforms have attempted to separate welfare cases from criminal cases the nexus between the two still exists because the mundane daily management of

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<sup>59</sup> "Law and Norm: Justice Administration and the Human Sciences in Early Juvenile Justice in Victoria," *Newcastle law review*, *The* 7, no. 2 (2003): 112; "Punishing Welfare: Genealogies of Child Abuse," 118. In this article he also goes on to discuss the increased importance of the social worker.<sup>60</sup> <sup>60</sup> "Law and Norm: Justice Administration and the Human Sciences in Early Juvenile Justice in Victoria," 112.

<sup>61</sup> Armytage and Ogloff, "Meeting Needs and Reducing Offending: Youth Justice Review and Strategy," Part 1 p. 84.

<sup>62</sup> Elaine Wilson Martin, "Themes in a History of the Social Work Profession," *International social work* 35, no. 3 (1992): 336.

<sup>63</sup> Scott and Swain, *Confronting Cruelty: Historical Perspectives on Child Abuse*, 138; Evans and Parry, "Vessels of Progressivism? Tasmanian State Girls and Eugenics, 1900-1940," 333.

<sup>64</sup> Kerry Carrington, *Offending Girls: Sex, Youth and Justice* (St. Leonards, N.S.W: Allen & Unwin, 1993); Kerry Carrington and Margaret Pereira, *Offending Youth: Sex, Crime and Justice* (Annandale, N.S.W: Federation Press, 2009).

the abused child and the abusive child relies on similar forms of knowledge and power.<sup>65</sup>

As Carrington points out, reforms later in the 20<sup>th</sup> century attempted to deal with this intermingling, such as a shift towards community based programs as alternative sentencing options.

There is a large amount of scholarship dealing with these schemes, however of importance here is the impact such schemes had upon juvenile detention. Muncie argues that community programs result in a stagnation of the standards in the detention facilities, as those left are considered “‘hard core’, dangerous or intractable.”<sup>66</sup> Writing in 1991 about Victoria he points out that despite this view, “only 5 percent of inmates have been convicted of violent offences.”<sup>67</sup> Hudson points out that alternatives to incarceration guarantee the continued existence of incarceration, as without it the alternative options would not be considered alternatives.<sup>68</sup> Community alternatives are also recognised as widening the net of departmental oversight; namely capturing children that would otherwise not come into contact with the system. Reece Walters point out that this means “first and early offenders are more likely to progress through the sentencing hierarchy at an accelerated rate, thereby placing them in jeopardy of heavier sanctions well before their time.”<sup>69</sup> Quinn also argues that community based regimes became popular largely because they were cheaper than detention.<sup>70</sup> It should be noted that the Victorian government was conscious of this possibility and did try to ensure that net widening did not occur, nonetheless what this thesis shows is that the promulgation of community alternatives did result in incarcerated children being rendered invisible.

Sitting alongside this has been the ongoing debate about the welfare model versus the justice model. Both models are used to describe a manner in which to treat juvenile justice. Chris Cunneen and Rob White offer a detailed explanation of the two models and their application in the Australian context in *Juvenile Justice: Youth and Crime in Australia*.<sup>71</sup> The welfare model situated rehabilitation as the aim of the system, however ultimately it also meant ‘pre-delinquent’ children were also captured by the system and

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<sup>65</sup> Carrington, *Offending Girls: Sex, Youth and Justice*, 3.

<sup>66</sup> John Muncie, "The Deinstitutionalization of Juvenile and Young Offenders in Victoria, Australia," *International social work* 34, no. 3 (1991): 230.

<sup>67</sup> Ibid., 242.

<sup>68</sup> Barbara Hudson, "The Rising Use of Imprisonment: The Impact of 'Decarceration' Policies," *Critical social policy* 4, no. 2 (1984): 58.

<sup>69</sup> Reece Walters, "Alternatives to Youth Imprisonment: Evaluating the Victorian Youth Attendance Order," *Australian & New Zealand journal of criminology* 29, no. 2 (1996): 177.

<sup>70</sup> Quinn, "Unenlightened Efficiency: The Administration of the Juvenile Correction System in New South Wales 1905-1988," 13.

<sup>71</sup> Cunneen, White, and Richards, *Juvenile Justice: Youth and Crime in Australia*.

inmates could be subject to indeterminate sentences.<sup>72</sup> The justice model – which came into favour in the late 1970s – focused on punishment and the adherence of legal protections, although in reality children found it difficult to access their full suite of legal rights.<sup>73</sup> The impact of these models was also a topic of discussion by the Australian Institute of Health and Welfare in their report “Juvenile Justice and Youth Welfare: A Scoping Study” in the 1990s.<sup>74</sup> Later chapters of this thesis will follow the move to the justice model and argue that it only served to further criminalise youthful offenders and more closely link the child and adult systems.

This is exemplified by the system today where the adult prison system has directly touched the child system. The broader trend that children who have been in the child welfare system – be they offending or non-offending – are overrepresented in the adult penal system has also been well established both nationally and internationally.<sup>75</sup> In 2016, in Victoria, a number of children were transferred to Barwon Prison in Lara as a response to the Parkville prison riots. They were placed in a segregated part of the prison, renamed Grevillia Youth Justice Centre, and subject to conditions so bad that the Supreme Court found them to be unlawful under the *Charter of Human Rights and Responsibilities Act 2006* (Vic).<sup>76</sup> Similarly, in 2017 the Victorian government also confirmed that “staff from the adult prison system, equipped with extendable batons and capsicum spray, would be deployed at the Malmsbury and Parkville centres”; another example of increasing weaponisation so poignant today.<sup>77</sup> Indeed, today juvenile detention centres are run by the Department of Justice and Community Safety, the same department that manages adult prisons. Therefore, whilst this thesis does not propose to investigate the adult system in detail, it does discuss the theme that is evident throughout the post-war period, namely that by many the juvenile detention system and the adult prison system are seen as interchangeable.

Interlinked with this is the criminogenic nature of the child welfare system. There are many examples where children have passed through the juvenile detention system

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<sup>72</sup> Ibid., 110.

<sup>73</sup> Ibid.

<sup>74</sup> Australian Institute of Health and Welfare, “Juvenile Justice and Youth Welfare: A Scoping Study,” (Canberra 1998).

<sup>75</sup> See for example Kim Dvorchak, “Closing the Justice Gap for Youth in the Foster Care to Prison Pipeline,” *Juvenile justice update* 27, no. 4 (2022): 3-17; Barry S. Godfrey et al., *Young Criminal Lives: Life Courses and Life Chances from 1850* (Oxford: Oxford University Press, 2017).

<sup>76</sup> Supreme Court of Victoria, “Detention of Children in Youth Justice Facility within Barwon Prison Found to Be Unlawful,” Supreme Court of Victoria, <https://www.supremecourt.vic.gov.au/detention-of-children-in-youth-justice-facility-within-barwon-prison-found-to-be-unlawful>.

<sup>77</sup> McCallum, *Criminalizing Children: Welfare and the State in Australia*, 272.

only to end up in the criminal justice system in their adulthood.<sup>78</sup> The Royal Commission into Aboriginal Deaths in Custody (RCIADC) recognised that the number of children in juvenile detention centres and the conditions which they experienced was of concern “because of the likely flow-on from such institutions to adult gaols.”<sup>79</sup> This observation was pointedly made when investigating the case of Malcolm Smith, an Aboriginal man who had been through the juvenile detention system in the 1970s before he ended up in the adult gaol system. A similar observation was made again in 2017, with a participant in the ““Meeting Needs and Reducing Offending” report being quoted: “Youth prison is a practice prison because it gets them adapted to being incarcerated.”<sup>80</sup>

Finally, it is important to recognise the intersection between race and detention. It is well recognised among scholars that crossover children – children that have first entered the child welfare system under child protection orders but then cross over the juvenile justice system – are disproportionately Indigenous.<sup>81</sup> This is also the case internationally where there has been settler-colonialism.<sup>82</sup> It has also been demonstrated the Indigenous crossover children are disproportionately represented in the adult criminal system. Indeed, the RCIADC was concerned with the link between juvenile detention centres and adult gaols. It noted that:

Aboriginal juveniles are grossly over-represented in appearances in the juvenile justice system throughout the country. Not only do they come into the system to a disproportionate extent, the penalties which they receive are demonstrably more severe than those of equivalent non-Aboriginal juveniles.<sup>83</sup>

The over-representation has remained true into the 21<sup>st</sup> century. In 2007 it was documented that “Indigenous youth between 10 and 17 years of age were 28 times more likely to be in detention than non-Indigenous youth.”<sup>84</sup> As McCallum concludes in his book *Criminalizing Children*:

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<sup>78</sup> See for example Diana Georgeff, *Delinquent Angel* (Sydney: Random House Australia, 2007); Jacqueline Z. Wilson, Nell Musgrove, and David McGinniss, "Care-Leaver Activism and Criminogenic Welfare: An Australian Case Study," *Journal of criminology* (2021) (2024): doi: 10.1177/26338076241286577.

<sup>79</sup> J.H. Wootten, "Report of the Inquiry into the Death of Malcolm Charles Smith," ed. Royal Commission into Aboriginal Deaths in Custody (Perth 1989).

<sup>80</sup> Armytage and Ogloff, "Meeting Needs and Reducing Offending: Youth Justice Review and Strategy," Part 1 p. 210.

<sup>81</sup> Susan Baidawi, "Crossover Children: Examining Initial Criminal Justice System Contact among Child Protection-Involved Youth," *Australian social work* 73, no. 3 (2020): 282.

<sup>82</sup> Ibid.

<sup>83</sup> Greg Gardiner, "Aboriginal Boys' Business: A Study of Indigenous Youth in Victoria in Relation to Educational Participation and Contact with the Juvenile Justice System," *Journal of intercultural studies* 18, no. 1 (1997): 55.

<sup>84</sup> Allan Borowski, "Indigenous Participation in Sentencing Young Offenders: Findings from an Evaluation of the Children's Koori Court of Victoria," *Australian & New Zealand journal of criminology* 43, no. 3 (2010): 466.

Particular cohorts of children, it seems, continue to be made up in the context of a range of aspirations to do with population, territory, national security and racial identity, and as legitimately subject to administrative practices counter to contemporaneous ethical norms embedded elsewhere in the logic of governing childhood ‘proper’.<sup>85</sup>

Using Banksia Hill in Western Australia as a case study, Hannah McGlade also argues that once incarcerated Indigenous children are not able to connect with their culture and are treated in a way contrary to human rights laws.<sup>86</sup> Over-representation is also a product of intersectionality.<sup>87</sup> Scholars have recognised that factors such as being “Indigenous peoples, people of colour, those from areas and backgrounds of socio-economic disadvantage, those experiencing drug and alcohol addiction, and people with mental health disorders and cognitive disability” intersect to increase contact with the police and incarceration.<sup>88</sup> This is to say that the pipeline between ‘care’ and prison, and the mistreatment of children from a range of social stigmatised and marginalised groups, is well documented.

There is no doubt that Aboriginal communities have been profoundly harmed by Victoria’s child welfare and juvenile justice systems. However, there remain challenges in identifying this trend in Victoria for a number of reasons. Historically, Indigenous children have made up a small percentage of the inmate populations – even though the number of children in detention represented a disproportionately high percentage of the state’s Aboriginal population – due to the small Indigenous population in Victoria (the thriving Aboriginal population had been viciously impacted by rapid colonisation of Victoria from the 1830s, and legislation of the late 19<sup>th</sup> century denied the Aboriginality of many who had survived).<sup>89</sup> Issues pertaining to race have also often been underplayed by Victorian authorities and therefore not adequately recorded.<sup>90</sup> Furthermore, unlike

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<sup>85</sup> McCallum, *Criminalizing Children: Welfare and the State in Australia*, 274.

<sup>86</sup> Hannah McGlade, "Australia’s Treatment of Indigenous Prisoners: The Continuing Nature of Human Rights Violations in West Australian Jail Cells," in *The Routledge Handbook of Disability Activism*, ed. Maria Berghs, et al. (Abingdon, Oxon: Routledge, 2020), 281.

<sup>87</sup> Amelia Radke and Heather Douglas, "Indigenous Australians, Specialist Courts, and the Intergenerational Impacts of Child Removal in The criminal Justice System," *The International journal of children's rights* 28, no. 2 (2020): 379.

<sup>88</sup> Ruth McCausland and Eileen Baldry, "Who Does Australia Lock Up?: The Social Determinants of Justice," *International journal for crime, justice and social democracy* 12, no. 3 (2023): 40. Also see Syrus Ware, Joan Ruzsa, and Giselle Dias, "It Can’t Be Fixed Because It’s Not Broken: Racism and Disability in the Prison Industrial Complex," in *Disability Incarcerated: Imprisonment and Disability in the United States and Canada*, ed. Liat Ben-Moshe, Chris Chapman, and Allison C. Carey (New York: Palgrave Macmillan US, 2014). This chapter discusses the intersection of race and disability as it applies to the Canadian prison system.

<sup>89</sup> McCallum, *Criminalizing Children: Welfare and the State in Australia*, 223; Richard Broome, *Aboriginal Victorians: A History since 1800* (Crows Nest, NSW: Allen & Unwin, 2005).

<sup>90</sup> See for example McCallum, *Criminalizing Children: Welfare and the State in Australia*, 263.

most other Australian states, Victoria has never had a separate institutional system for Indigenous children; although in the 1930s such a reformatory was proposed.<sup>91</sup> The overrepresentation of Indigenous children in juvenile detention only begins to be recorded in Victoria in the 1970s. Therefore, whilst this thesis recognises that this trend of overrepresentation existed throughout the entire period examined, it will not be able to discuss it in detail until later chapters. Nonetheless, it contributes to the scholarly debate on this subject because it shows that governmental inability to engage in genuine reform also necessarily disproportionately impacted Indigenous communities.

Towards the end of the 20<sup>th</sup> century culturally and linguistically diverse (CALD) communities were also demonstrably overrepresented in the juvenile detention system. Throughout the late part of the 20<sup>th</sup> century and into the 21<sup>st</sup> it has been well documented that refugee communities, such as Indochinese children in the 1990s, have been overrepresented. Scholars have recognised that moral panics fuelled by media campaigns have contributed to social views of certain CALD groups, contributing to over policing and public suspicion of certain groups, often labelled as ‘ethnic young gangs’.<sup>92</sup> Again, this thesis contributes to this scholarship because it demonstrates that these social moral panics directly influence the inmate population and the political rhetoric. What it also shows is that children from these communities are categorised as ‘hardcore’, one factor influencing their institutionalisation.

## **Methodology and Sources**

The aim of this thesis is to investigate the extent to which the waves of structural and rhetorical changes applied to juvenile justice in Victoria across the second half of the 20<sup>th</sup> century achieved their stated goals, and to explain how and why they fell short of true reform of the system. In order to do this, a systemic review will be undertaken of the juvenile detention system’s history using the parliamentary debates of the Victorian government and surrounding materials, such as departmental annual reports, inquiries and Royal Commission reports. In considering the great harm suffered in these institutions, as evinced by inmate testimony, the thesis shows that fundamentally the reality of life in prison for children today is little different to that experienced over half a century ago.

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<sup>91</sup> Ibid., 200.

<sup>92</sup> Rob White, "Ethnic Diversity and Differential Policing in Australia: The Good, the Bad and the Ugly," *Journal of international migration and integration* 10, no. 4 (2009): 360. See also for a general discussion on police relationships and CALD women: Balawyn Jones and Akuch Kuol Anyieth, "Cald Communities as ‘Collateral Damage’ in the Criminalization of Coercive Control: An Argument for Prioritizing Civil System Reform over Further Criminalization in Victoria," *Violence against women* 31, no. 2 (2025): 598-616.

Other sources complement these records, such as the various inquiries into the juvenile detention system during the post-war period and inmate testimony provided as part of these inquiries. It must be emphasised that government records are not being read as a *prima facie* reflection of the truth. Instead, they are being read together holistically to give a voice to the experience of those in the margins, namely the inmates themselves. As Care Leavers and academics Jacqueline Z. Wilson and Frank Golding point out,<sup>93</sup> when it comes to government-produced documents:

Much depends on the point of view and purpose of the author, the intended audience and the context in which events occurred and were recorded, or arguably more importantly, not recorded. In an ideological sense, narratives can be a representation of a particular situation or process constructed to reflect an overarching set of values or to produce an intended outcome in the minds of readers.<sup>94</sup>

The predominant source of evidence used in this thesis is parliamentary reports. By following the debates over a long time span, this thesis is able to reveal the unrelenting trend of the system. That is, irrespective of the party in power or the platform on which they are running, fundamentally genuine reform was never implemented. When this is coupled with extraneous evidence a detailed picture of a fundamentally flawed system is clearly revealed.

Therefore, this thesis will also consider other relevant materials, such as annual reports and the various reports that have covered juvenile detention in the second half of the 20<sup>th</sup> century. These reports are at both a state and federal level. The value of these documents is multifaceted. At a high level, what they show is that the government has consistently been aware of the poor conditions of juvenile detention centres and have been given recommendations on how to change this. When compared against the parliamentary debates and legislative changes what is also shown is that in many cases these recommendations are not adopted, either in full or at all.

This research does not propose to review case files. The reasons for this are multitudinous. Importantly, it must be remembered that because this thesis is looking at the post-war period many individuals mentioned in case files are still alive. This presents

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<sup>93</sup> The term Care Leaver is used here to refer to people who experienced some form of out-of-home 'care' during their childhood. It must be recognised that many individuals that have had these experiences do not necessarily identify with this specific label. However, this is the phrase adopted by the national peak membership body that represents Care Leavers - Care Leavers Australasia Network (CLAN) – therefore it will be used in this thesis.

<sup>94</sup> Jacqueline Z Wilson and Frank Golding, "Contest Memories: Care About the Past - or Past Caring?," in *Apologies and the Legacy of Abuse of Children in 'Care': International Perspectives*, ed. Johanna Sköld and Shurlee Swain (New York, NY: Palgrave Macmillan, 2015), 27.

a genuine ethical concern as there is the real chance that the individuals in the case files have not been able to access the information themselves.<sup>95</sup> As Musgrove writes: “Why should their childhoods, which had already been disrupted and highly controlled, be subjected to the researcher’s gaze without their knowledge or consent?”<sup>96</sup> Personal testimony is also publicly available through sources such as the Forgotten Australians Senate Inquiry, the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA) and autobiographical material. There are also case studies available as part of the RCIADC. This research will therefore instead engage with publicly available material in order to call upon individual stories. Therefore, whilst this thesis does not include new records of inmate voices, it is intended that through reading government records against each other it will contribute to the “never-ending construction and re-construction” of the experiences of those that found themselves inside the system.<sup>97</sup>

## Thesis Outline

This thesis will be set out chronologically, broken into six chapters. Each chapter will cover a significant period of time as it pertains to governmental power or societal trends. Therefore, it is not strictly divided by decade. By organising the chapters in this way, the thesis can explore the different factors that have influenced each government, showing that ultimately the post-war period has been characterised by rhetorical management with no impactful reform.

Chapter one sets the scene by showing that after the Second World War the juvenile detention system was primed for reform. It sets out the juvenile detention system as it was following the war, and argues that international influences prompted local reformers to push the Victorian government for change. This is important in order to explain the context for the serious considerations of systemic reform that were discussed when the Cain Government took control in 1952. The second chapter then covers the period between 1952 and 1956. Although this is a small period compared to following chapters, it is significant because it traces the development of the *Children’s Welfare Act 1954*, often considered the beginning of the modern child welfare system in Victoria. However, what this chapter will show is that tensions surrounding professionalisation, fiscal policy and the nature of delinquency limited reform efforts.

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<sup>95</sup> Nell Musgrove, “The Role and Importance of History,” in *Apologies and the Legacy of Abuse of Children in ‘Care’*, ed. Johanna Sköld and Shurlee Swain (New York: Palgrave Macmillan, 2015), 151.

<sup>96</sup> Ibid.

<sup>97</sup> Wilson and Golding, “Contest Memories: Care About the Past - or Past Caring?,” 38.

The third chapter examines the years 1956 to 1970. This covers the majority of the Liberal Party's Bolte Government.<sup>98</sup> During this period professional voices – such as social workers, psychologists and psychiatrists – came to dominate the juvenile justice field. They argued that prevention was better than a cure. However, this was rhetoric rather than reality. Part of this failure resulted from expertise being influenced by social views of class, gender and race. Furthermore, reform efforts were hindered by structural changes that reinforced the elision of 'delinquency' and criminality. The fourth chapter will then deal with 1970 to 1982, another period of Liberal governments. The 1970s saw 'youth' become a political issue and recognised that problems facing young people were best understood as 'symptoms' of societal problems. However, whilst this saw an increase in alternate sentencing options and consideration of recommendations from the RCIADC, change did not trickle down to those in juvenile detention. Indeed, for those incarcerated life became harsher.

Chapter five then covers 1982 to 1992, which saw Labor take control under John Cain Jr. This period is often associated with meaningful change as alternate sentencing was further developed and there were significant legislative changes fuelled by replacing the welfare model with the justice model. This blinded the government to the shared problems of homeless youth – a growing concern – and inmates in juvenile detention. It will show that institutional conditions failed to improve due to deinstitutionalisation, a lack of consideration for the reality of inmates, lack of staff training and the development of prison industries. It will conclude with an examination of the RCIADC and Indigenous overrepresentation, evincing that conditions failed to improve. Finally, chapter six will look at the Kennett Government, a return to Liberal control. The nineties were characterised by neoliberal economic policy, conservatism and privatisation. This chapter will trace how this policy approach impacted Victoria and ultimately led to a strong rhetoric of privatising the juvenile justice system. It will explore the government's 'tough on crime' approach and how this impacted inmates. The reality was that the inmate population stopped decreasing, fears of 'youth gangs' saw the overrepresentation of CALD communities and conditions did not fundamentally change. It will conclude by arguing that despite the RCIADC and the "Bringing them Home" report, there was no genuine change for Indigenous children in detention, who continued to be overrepresented.<sup>99</sup> As Howard Zinn writes: "While there is some legitimacy to the idea

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<sup>98</sup> The Liberal Party is the major conservative party in Australia.

<sup>99</sup> The RCAIDC and the "Bringing them Home" report were major national government inquiries, both of which had extensive public coverage and significantly raised the visibility of the abuses suffered by Indigenous people within Australian carceral systems.

that the mistreatment of any person deserves acknowledgement, the greater good in [understanding] historical cases of abuse is the goal of helping society understand how and why things went wrong in the past, in the hope of avoiding the repetition of those mistakes.”<sup>100</sup>

## 1. 1945 – 1952: A call for reform

With the end of the Second World War, it was time to reconsider how society could provide for all of its members. In 1945, at the Federal level, the Chifley Government was in the throes of implementing reconstruction through a Keynesian economic policy. Although full employment was central to this vision of the “new social order”, it also included expansion of the welfare state to support the poor, particularly women and children without breadwinners, although it did so at a meagre level.<sup>1</sup> This is reflective of the Australian welfare model, which has been viewed by scholars as sitting as distinct to other welfare models emerging at a similar time.<sup>2</sup> Whilst there was an international trend to expand the welfare state, Australia’s model did so through wage regulation instead of redistribution through taxation.<sup>3</sup> The impact of this was that for individuals outside of the labour market standards of living were low.<sup>4</sup> The Menzies government, which came into power in 1949, further extended the social welfare state, but did so in a way that reinforced the middle-class as the moral backbone of the nation and positioned the single-income nuclear family as the ideal economic unit.<sup>5</sup> In Victoria, the parliament was run by minority governments for seven years following the 1945 election loss of the Country Party (who had held the majority since 1937), although developments were still seen in areas such as criminal justice, health, education and slum clearance.<sup>7</sup> However,

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<sup>1</sup> Ross McMullin, *The Light on the Hill: The Australian Labor Party, 1891-1991* (Melbourne: Oxford University Press, 1991), 233; Macintyre, *Australia’s Boldest Experiment: War and Reconstruction in the 1940s*, 204-07; John Murphy, *A Decent Provision: Australian Welfare Policy, 1870 to 1949* (Surrey, UK: Ashgate Publishing Limited, 2011), 27, 204.

<sup>2</sup> Christopher Deeming, "The Working Class and Welfare: Francis G. Castles on the Political Development of the Welfare State in Australia and New Zealand Thirty Years On," *Social policy & administration* 47, no. 6 (2013): 670. See also Francis G. Castles, *The Working Class and Welfare: Reflections on the Political Development of the Welfare State in Australia and New Zealand, 1890-1980* (Wellington: Allen & Unwin in association with Port Nicholson Press, 1985).

<sup>3</sup> Deeming, "The Working Class and Welfare: Francis G. Castles on the Political Development of the Welfare State in Australia and New Zealand Thirty Years On," 668-91.

<sup>4</sup> Ibid.

<sup>5</sup> G.C. Bolton, "1939-51," in *A New History of Australia*, ed. F.K. Crowley (Melbourne: Heinemann, 1974), 498.

<sup>6</sup> Nicholas Brown, *Richard Downing: Economics, advocacy and social reform in Australia* (Melbourne: MUP, 2001), 209.

<sup>7</sup> Geoffrey Blainey, *A History of Victoria*, Second ed. (Cambridge: Cambridge University Press, 2013), 207.; Victorian Electoral Commission, "1920-1952: Minority Governments," <https://www.vec.vic.gov.au/voting/learn-to-vote/history-of-elections-in-victoria/minority-governments.>; Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 145.

ultimately, the Victorian government followed the trend of the Federal government, and that was to give minimal assistance to those that needed it most.

These post-war years also saw rising international interest in children's rights and the significant developments in the fields of child psychology and psychiatry. Such ideas were also influential in Victoria, although as in the interwar years, it was child welfare advocates in the voluntary (rather than the government) sector who spearheaded new approaches.<sup>8</sup> Most of the leading reformers worked for agencies that provided for non-offending children, and so by the post-war period a clear deficit was apparent in what was then termed the reformatory part of the system.<sup>9</sup> As the opening section of this chapter explains, although the two arms of the system were officially run through separate departments – the Children's Welfare Department and the Department of Reformatory Schools – at the beginning of the post-war era, they were administered and reported on jointly. Both departments fell under the control of the Chief Secretary, and were widely conceptualised as two parts of the one 'child welfare system'.<sup>10</sup> The roles of the departments by this period were effectively administrative and almost all of the institutional provision for State Wards was provided by voluntary organisations. This chapter begins by explaining the state of the Victorian child welfare system as it was in 1945 with particular attention to the rising tension between the government's heavy reliance on voluntary organisations and shifting public expectations and about the role of government in welfare provision. This provides the context for the chapters argument that international influences paved the way for local reformers to start pushing an otherwise inactive government to engage with change. This would ultimately push the state to become the primary provider of juvenile detention institutions, although much of the real movement towards reform did not begin until after the election of the Cain government in 1952.

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<sup>8</sup> See for example Scott and Swain, *Confronting Cruelty: Historical Perspectives on Child Abuse*.

<sup>9</sup> Sharron Lane, "The Significance of Individual Contributions to the History of Kildonan Unitingcare" (Doctor of Philosophy, Australian Catholic University, 2018).

<sup>10</sup> Children's Welfare Department and Department for Reformatory Schools, "Report of the Secretary for the Years 1951 and 1952," (Melbourne, 1954), 71; Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*.

## Juvenile Detention as it was in Victoria's Child Welfare System

By the beginning of the post-war period, the Australian welfare state was expanding and centralising, and although much of this growth was based at the Federal level, social expectations about government taking a more direct role in welfare provision applied similarly to services, like child welfare and juvenile justice, run at state level.<sup>11</sup> Victoria's child welfare system and its institutions were still based on thinking that was developed almost 100 years before. When the Colony of Victoria introduced the first legislation empowering the government to take guardianship of children, the *Neglected and Criminal Children Act 1864*, it assumed it was addressing 'criminal' and 'wayward' youths rather than the social problem that emerged as the department's core business: families unable to support their children because of widespread poverty and lack of social welfare supports.<sup>12</sup> Based on this mistaken understanding of the core function that government-run child welfare would come to perform, the 1864 legislation followed the British model of industrial schools and reformatories, following the principles set out by social reformer Mary Carpenter in the 1850s. Carpenter envisaged two streams of schools, industrial schools for the 'perishing classes' and reformatories for the 'dangerous classes', seeing these as an extension of the pre-existing institutions and services in Britain that would "reclaim the 'outer barbarians,' perpetually hanging and preying upon the lower frontiers of civilised society".<sup>13</sup> Carpenter was careful to differentiate reformatories from prisons and her vision was that they should also encompass children tainted by 'immorality' and not just those with a criminal background.<sup>14</sup> The 1864 Victorian legislation introduced industrial schools and reformatories as the sole government-run forms of provision for children placed under government control, and with the exception of the introduction of foster care as an authorised form of placement for State Wards in the 1870s, the underlying structure of the system was fundamentally unchanged in the 1940s.

Legislative changes to the Victorian system had been implemented periodically (although infrequently) since the 1870s, but these were only minor in nature. Victoria became an independent colony (as opposed to a district of the New South Wales Colony) in 1851, and its early government had entered direct provision of child welfare reluctantly, preferring a model of social welfare in which government funds supported

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<sup>11</sup> See for example Macintyre, *Australia's Boldest Experiment: War and Reconstruction in the 1940s*.

<sup>12</sup> There was strong opposition to anything that looked like a centralised Poor Law in Victoria during the 1850s and 1860s. For more exploration of this see: Nell Musgrove, "Emotion as a Tool for Humanising Histories of the Marginalised: A Case Study of Industrial Schools in Colonial Victoria," *Social history (London)* 49, no. 1 (2024): 53-77.

<sup>13</sup> Mary Carpenter, *Reformatory Schools: For the Children of the Perishing and Dangerous Classes and for Juvenile Offenders* (London: C. Gilpin, 1851), vi, 211.

<sup>14</sup> *Ibid.*, 2.

private charitable organisations.<sup>15</sup> Although the 1864 Act was a step towards government-run social welfare, its way of dealing with Catholic/Protestant sectarianism was to make provision for privately-run institutions to be registered under the Act and to then be partially funded for the children they housed.<sup>16</sup> This was originally intended as a way of providing Catholic institutions, but it opened a legislative space for a range of non-government institutions to operate within the government system, and by the 1940s the department was relying on private institutions to provide placements for the majority of its wards.<sup>17</sup> The system's institutions were still predominately classified as either industrial schools (although this term was no longer used in practice) or reformatories; the former were governed by the *Children's Welfare Act 1928* (Vic) and the latter by the *Crimes Act 1928* (Vic), an historical legacy of the location of juvenile offending within the various iterations of criminal justice legislation since the *Crimes Act 1890* (Vic).<sup>18</sup>

Thus, by the mid-20th century, the system that was typically thought of as a government-run child welfare system straddled both social welfare and criminal justice legislative frameworks, and relied heavily on private institutions. Indeed, the system's only government-run institution was the Royal Park Receiving Depot (now known as the Parkville Youth Justice Precinct).<sup>19</sup> The Depot, as it was colloquially known, was ostensibly a sorting house for children entering the system, but in reality it always contained a number of long-term residents.<sup>20</sup> The government provided a substantial portion of the funding for many voluntary institutions because they held large numbers of children who were State Wards, and technically the department was responsible for oversight of each Ward's wellbeing, but in reality government involvement in the day to day functioning of private institutions was minimal.

The government's reliance on the voluntary sector for placement of so-called 'neglected' children was at least ideologically consistent with the view that such children were essentially innocent victims of poverty or cruelty – the relief of which sat comfortably within the kinds of work that Victoria has long viewed as the remit of the

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<sup>15</sup> Musgrove, *The Scars Remain: A Long History of Forgotten Australians and Children's Institutions*, 11.

<sup>16</sup> "The Scars Remain": Children, Their Families and Institutional 'Care' in Victoria," 47-48.

<sup>17</sup> Ibid.

<sup>18</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 71. Institutions could also be classified as probationary schools or receiving homes; however, these were rarely used.

<sup>19</sup> This reliance was not legislatively enshrined. Under section 322 of the *Crimes Act* the Government had explicit power to open reformatories. The *Children's Welfare Act* contained equivalent provisions for probationary schools and receiving homes. No such provision existed for industrial schools. However, section 7 did give the Governor in Council the power to approve a school established by private contributions as an industrial school, which given a broad interpretation, would have allowed for a government run institution to be built if there were some private funds provided.

<sup>20</sup> Laurence Turner, "She Scrawled Her Name in Blood," *The Herald*, 27 October 1952, 4.

philanthropic sector. Nevertheless, the ratio of government to non-government institutions holding State Wards was remarkable. In addition to the Royal Park Depot, the 1951-52 combined annual report by the Children's Welfare Department and the Department for Reformatory Schools listed 70 institutions as holding State Ward. All were run by voluntary organisations, with the exception of four institutions described as being "for retarded children" (and those were run by a different department).<sup>21</sup> The vast majority of these were providing for non-offending Wards. There was an historical logic to this – a phenomenon welfare scholars describe as path dependency – since Victoria had enthusiastically leaned on charitable organisations as significant social welfare providers since the 1850s.<sup>22</sup>

Perhaps more surprising, given Victoria's firm commitment to government-run adult prisons, was that there were two privately-run reformatory schools for boys – Morning Star Training Farm, run by the Catholic Church, and the Reformatory School for Protestant Boys (otherwise known as Bayswater), run by the Salvation Army. There were no government-run reformatories, and no reformatory at all – government or private – for girls. What this meant, then, was that girls who fit this classification had to be sent to institutions that were also functioning as industrial schools. The Convent of Good Shepherd institutions at both Abbotsford and Oakleigh performed this function for Catholic girls described as "delinquent".<sup>23</sup> The Abbotsford and Oakleigh convent homes had both originally had reformatory classification. However, by 1950 this had dropped away (both of these convents would receive the designation of 'juvenile school' – the replacement term for reformatories under the new child welfare legislation to be discussed in Chapter 2 – in 1956).<sup>24</sup> However, because no other reformatories had been opened to take girls, they still effectively performed this function. Both institutions had also started taking younger girls than had previously been the case, thereby increasing the degree of intermingling between children of different classifications.<sup>25</sup> As the 1954 Annual Report

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<sup>21</sup> Children's Welfare Department and Department for Reformatory Schools, "Report of the Secretary for the Years 1951 and 1952," 19.

<sup>22</sup> Paul David, "Why Are Institutions the 'Carriers of History'? Path Dependence and the Evolution of Convention," *Structural change and economic dynamics* 5, no. 2 (1994): 205-20.

<sup>23</sup> Cate O'Neill, "Convent of the Good Shepherd, Abbotsford (1863-1974)," Find & Connect Web Resource Project for the Commonwealth of Australia,

<https://www.findandconnect.gov.au/ref/vic/biogs/E000128b.htm>; "Convent of the Good Shepherd, Oakleigh (1883-1981)," Find & Connect Web Resource Project for the Commonwealth of Australia, , <https://www.findandconnect.gov.au/ref/vic/biogs/E000188b.htm>

<sup>24</sup> "Convent of the Good Shepherd, Abbotsford (1863-1974)," Find & Connect Web Resource Project for the Commonwealth of Australia, , <https://www.findandconnect.gov.au/ref/vic/biogs/E000144b.htm> ; "Convent of the Good Shepherd, Oakleigh (1883-1981)".

<sup>25</sup> Children's Welfare Department and Schools, "Report of the Secretary for the Years 1951 and 1952," 4. O'Neill, "Convent of the Good Shepherd, Oakleigh (1883-1981)"; "Convent of the Good Shepherd, Abbotsford (1863-1974)".

explained, there were very few options for girls deemed “delinquent” who were not Catholic. This shows the system’s reliance on voluntary institutions at a time when social expectations were shifting towards more centralised government provisions, as well as the ways the department’s work was limited by the resources provided by the voluntary sector.

Child welfare infrastructure and legislation were coming under public criticism for being outdated and inadequate. Tied up with shifting expectations of government involvement in welfare, journalist Laurence Turner criticised the government for the lack of funding to voluntary organisations housing State Wards, the lack of training required of staff, the lack of appropriate institutions in which to house all classes of children, and the department’s reliance on psychiatric clinics “run by the Mental Hygiene Department and the Children’s Court.”<sup>26</sup> A series of reforms were called for, including redrafting of the *Children’s Welfare Act*, however it is clear that legislative barriers were not the core factor restricting development and modernisation of the system. This is well-illustrated by the example, raised by Turner, of the lack of a reformatory institution for girls.<sup>27</sup>

Despite a perception that legislative reform would help give the government more direct authority to operate institutions, the government preceding the Cain Government had made moves to establish an institution for girls perceived as ‘delinquent’ and found the barriers to be financial rather than legislative. The government’s Chief Secretary, Keith Dodgshun, went as far as finding a location, drawing up plans and applying for public funding to go ahead with the building.<sup>28</sup> However, the Public Works Department turned down the request for funding.<sup>29</sup> Dodgshun was, however, able to fund the building of a new section for “incorrigible girls” at Royal Park, although it seems that this was only intended to be used for short periods.<sup>30</sup> Essentially, what this showed was that the government was financially, rather than legally, hindered in providing adequate facilities.

While there was public debate about the system’s shortcomings, this did not address the plight of Aboriginal children, indeed, even the department’s annual reports did not discuss Indigenous children at all. Unlike other states in Australia, with the

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<sup>26</sup> Laurence Turner, "Other States Shame Our Niggardly Child Welfare," *The Herald*, 3 November 1952, 8.

<sup>27</sup> Ibid.

<sup>28</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 October 1953, 1364 (Keith Dodgshun).

<sup>29</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 16 September 1953, 935 (Keith Dodgshun); Victoria, *Parliamentary Debates*, Legislative Assembly, 9 November 1954, 1606 (Keith Dodgshun).

<sup>30</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 16 September 1953, 935 (Keith Dodgshun); Victoria, *Parliamentary Debates*, Legislative Assembly, 9 November 1954, 1606 (Keith Dodgshun), Laurence Turner, "Black Eyes at Royal Park," *The Herald*, 25 October 1952; Children’s Welfare Department and Department for Reformatory Schools, "Report of the Secretary for the Year 1954," (Melbourne, 1955), 4.

exception of Tasmania, Victoria did not have a separate institutional system for Indigenous children.<sup>31</sup> Instead, Indigenous children who were removed from their families were sent into the mainstream system. This was a legacy from the late 1800s, when the passing of the *Aborigines Protection Act 1886* (Vic) and the *Aborigines Act 1890* (Vic) had given the Governor the power to send Indigenous children into the child welfare system.<sup>32</sup> The policy principle of those acts was that of assimilation and it was still the prevailing one into the 1950s, and systematic removal of Indigenous children from their families played a major role in its enactment. Indeed, it was estimated by the late Gunai Elder Albert Mullett – who himself had three brothers removed by the authorities in 1934 – that Lake Tyers, an Indigenous Reserve which was home to around 250 people at any time during the 1930s, had 200 children “placed into white foster care or institutions over a generation”.<sup>33</sup> Recognising that contemporaneous records are difficult to come by, Richard Broome also writes of children being taken from Indigenous families living at Framlingham in the 1940s, indeed the “Bringing them Home” report (a report that considered the impact of child removal policies on Indigenous Australians), found that child removal touched every Indigenous family.<sup>34</sup> This is despite the fact that the kinship networks in Indigenous communities meant that children could have easily been looked after by other adults if their parents were unable to do so.<sup>35</sup>

The lack of separate discussion about Indigenous children can also be reasoned by the view held by authorities that by the 1950s Victoria had a very small Indigenous population (wilfully and significantly underestimating the size of the Indigenous population by refusing to recognise many people with both Indigenous and non-Indigenous ancestry). In 1951 and 1952 the Commonwealth government held two Native Welfare Conferences, with the intention of implementing assimilation policy across the country. However, on both occasions Victoria declined to attend. The Victorian government argued that Victoria had a very small population of Indigenous people and that it had provided for them more than any other state. It was concerned that Victoria

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<sup>31</sup> Musgrove, *The Scars Remain: A Long History of Forgotten Australians and Children's Institutions*, 30-31.

<sup>32</sup> *Ibid.*, 29.

<sup>33</sup> Broome, *Aboriginal Victorians: A History since 1800*, 228; "Albert Mullett: An Admired Storyteller, Activist and Craftsman," State Government of Victoria, <https://www.aboriginalvictoria.vic.gov.au/albert-mullett>.

<sup>34</sup> Broome, *Aboriginal Victorians: A History since 1800*, 248; National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, "Bringing Them Home," (Sydney: Commonwealth of Australia, 1997).

<sup>35</sup> Broome, *Aboriginal Victorians: A History since 1800*, 248.

was going to be required to cross-subsidise other states' programs.<sup>36</sup> However, the reality was that Victoria simply had a very narrow definition of what it meant to be Indigenous, which excluded “‘mixed descent’ Indigenous people who lived in association with people of European descent, or in the manner of Europeans”.<sup>37</sup> Indeed, when pushed on the matter of Indigenous people living near Shepparton in 1952, Keith Dodgshun replied “They are not aborigines [sic]... There are only nine full blooded aborigines [sic] in Victoria; the others are quadroons [sic], half-castes [sic] and so forth”.<sup>38</sup> Thus assimilationist rhetoric, ideologies and practices denied Aboriginality to people while simultaneously removing children from their families and culture.<sup>39</sup> Furthermore, both *Bring them Home* and the RCIADIC found that Aboriginal children were often pushed towards the more punitive end of the system, aligning with the internationally recognised trend towards racializing delinquency, particularly in settler-colonial societies.<sup>40</sup>

### International Influences

Following the Second World War, the welfare of children was being reconsidered at an international level. The influence of psychology and psychiatry was pronounced in this wave of reform activity, as was concern about the consequences of wartime separation and trauma on young children: a factor that placed children at the juvenile justice end of the system as a less urgent priority than others.<sup>41</sup> One of the key influences on calls for reform in Victoria was the United Kingdom's 1946 “Report of the Care of Children Committee” (Curtis Report).<sup>42</sup> As a result of this review the *Children Act 1948* came into operation in Britain which put more control into the hands of the government by requiring voluntary organisations to be inspected by the Home Office.<sup>43</sup> Interested bodies in Victoria were prompted by both the recommendations and outcomes of the Curtis report.

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<sup>36</sup> Corinne Manning, “The Mclean Report: Legitimising Victoria's New Assimilationism,” *Aboriginal history* 26 (2011): 162.

<sup>37</sup> *Ibid.*, 161.

<sup>38</sup> Keith Dodgshun quoted in *ibid.*, 162.

<sup>39</sup> Beth Marsden, “Tally Ho Boys' Training Farm, Aboriginal Children and the Intersection of School, Welfare and Justice Systems, 1950s–1960s,” *History of education review* 50, no. 2 (2021): 167.

<sup>40</sup> See for example Myers, *Youth Squad: Policing Children in the Twentieth Century*, 20; Tera Eva Agyepong, *The Criminalization of Black Children: Race, Gender, and Delinquency in Chicago's Juvenile Justice System, 1899–1945*, 1 ed. (Chapel Hill: The University of North Carolina Press, 2018); Deirdre Mayer Dougherty, “Mapping the Contours of Black Juvenile Delinquency: The Journal of Negro Education, 1945–1975,” *Journal of urban history* 49, no. 5 (2023): 995–1014; O'Brien, *Philanthropy and Settler Colonialism*, 169.

<sup>41</sup> See for example Karen Julie Longson and Roger Beech, “The Long-Term Effects of Childhood Wartime Trauma on Anxiety in Later Life,” *Mental health practice* 21, no. 4 (2017): 30–35.

<sup>42</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 146.

<sup>43</sup> *Ibid.*, 147.

In 1945 a committee – the Interdepartmental Committee on the Care of Children – was created to investigate the conditions of children living in state ‘care’ in Britain.<sup>44</sup> The chair of the committee was Miss Myra Curtis.<sup>45</sup> An equivalent committee entitled the Clyde Committee was set up to investigate Scotland.<sup>46</sup> These inquiries reflected a number of post-war concerns about childhood and youth, perhaps most notably those influenced by the rising field of child psychology. As Gordon Lynch discusses, concerns around children’s emotional needs in out-of-home ‘care’ had been circulating since the 1920s.<sup>47</sup> However, as Lynch also argues, the Curtis Report did become “a significant public document for those already sympathetic to broad insights from psychoanalytically informed child psychology”; indeed their interviewees included renowned psychotherapists David Winnicott and John Bowlby.<sup>48</sup>

Following the publication of the Curtis Report, the work of Bowlby gained high traction internationally, so his involvement with the inquiry is noteworthy. Prior to the Second World War – a then medical student although he would also train in psychoanalysis – Bowlby had been considering the impact of severing maternal bonds, in particular with juvenile delinquents.<sup>49</sup> However, the work which first gained international attention, *Maternal Care and Mental Health* (1951), looked at the impact of children being separated from their families as part of evacuation plans during the Second World War.<sup>50</sup> Bowlby argued that the infant-maternal bond was fundamental to children’s psychological development and therefore maternal deprivation could have negative consequences. He advocated for the importance of family bonds and individual care of children, later to be developed as attachment theory.<sup>51</sup> This added further support to the idea that the proper care and treatment of children included consideration for their emotional and not just physical wellbeing, and this view clearly informed the conclusions of the Curtis Report. It also formed the basis for introducing ‘expert’ advice into the

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<sup>44</sup> Ibid., 146.

<sup>45</sup> Gordon Lynch, "Pathways to the 1946 Curtis Report and the Post-War Reconstruction of Children's out-of-Home Care," *Contemporary British history* 34, no. 1 (2020): 33-34. The Committee was chaired by Miss Myra Curtis. Her appointment was not without controversy. She had previously been criticised for ‘whitewashing’ a review into London’s remand homes by criticising the senior juvenile magistrate who had called for it more than the institutions themselves.

<sup>46</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 November 1954, 1597 (Valentine Doube).

<sup>47</sup> Lynch, "Pathways to the 1946 Curtis Report and the Post-War Reconstruction of Children's out-of-Home Care," 24.

<sup>48</sup> Ibid.; Richard Bowlby and Pearl King, *Fifty Years of Attachment Theory* (London: Winnicott Clinic of Psychotherapy, 2004).

<sup>49</sup> *Fifty Years of Attachment Theory*, 13.

<sup>50</sup> Lane, "The Significance of Individual Contributions to the History of Kildonan Unitingcare," 162.

<sup>51</sup> Carla Pascoe Leahy, "The Mother Within: Intergenerational Influences Upon Australian Matrescence since 1945," *Past & present* 246, no. Supplement 15 (2021): 266; Bowlby and King, *Fifty Years of Attachment Theory*, 13.

juvenile detention system, although as subsequent chapters will show this did not result in a fundamental improvement of conditions or treatment of inmates.

The Curtis Report reviewed a broad range of children impacted by the child welfare system in the UK, however it's focus tended away from the positions of 'delinquent' and convicted children. The committee was not required to consider the formal juvenile prison system known as Borstal institutions, and it opted not to deal with issues pertaining to 'delinquent children' sent to approved schools (an institution type that dealt with children deemed 'delinquent' as well as those 'in need of care and protection').<sup>52</sup> The report recommended that children deprived of a home life be given "affection and personal interest", "stability", "opportunity of making the best of his ability and aptitudes" and "a share in the common life of a small group of people in a homely environment".<sup>53</sup> It also recommended the centralisation of standards with "one central department which would define requirements, maintain standards, advise and assist those taking immediate responsibility for the care of children and act as a clearing house for progressive ideas".<sup>54</sup> However, the report still wanted "the actual provision, except for some special groups of abnormal children, [to] remain a matter for local authorities and the voluntary organisations."<sup>55</sup>

While not a primary focus of the Curtis Report, the committee's work was clearly shaped by international debates and understandings of delinquency. Their discussions clearly envisage a scientific model of delinquency, meaning that it could be cured even if the formulation had not been developed yet. This favoured the psychological approach to delinquency that was gaining favour in the post-war period.<sup>56</sup> Similarly, in other liberal democracies the state was starting to become directly involved in preventative work.<sup>57</sup> Yet concurrently, there was a moral underpinning to the concerns around delinquency because international focus was being driven by moral panics surrounding out of control young people.<sup>58</sup>

In so far as the Curtis Report dealt with juvenile delinquency, it gave more attention to the aspect of delinquency discourse related to girls, noting that institutions

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<sup>52</sup> Care of Children Committee, "Report of the Care of Children Committee," (London 1946), 6.

<sup>53</sup> Ibid., 139.

<sup>54</sup> Ibid., 140.

<sup>55</sup> Ibid.

<sup>56</sup> Katie Wright, "Inventing the 'Normal' Child: Psychology, Delinquency, and the Promise of Early Intervention," *History of the human sciences* 30, no. 5 (2017): 47; Efi Avdela, "Youth 'in Moral Danger': (Re)Conceptualizing Delinquency in Post-Civil-War Greece," *Social history (London)* 42, no. 1 (2017): 73.

<sup>57</sup> See for example Myers, *Youth Squad: Policing Children in the Twentieth Century*.

<sup>58</sup> Avdela, "Youth 'in Moral Danger': (Re)Conceptualizing Delinquency in Post-Civil-War Greece," 73.

“dealing largely with the over-sexed adolescent, and are handling a problem to which, according to our witnesses, no satisfactory answer has yet been, found”.<sup>59</sup> The report argued that “a period of detention in a remand home with no equipment for educative occupation may be worse for the girls concerned than leaving them at large”, and considered it “deplorable” that girls who were being “taken under care or protection as in moral danger” could be sent to prison for becoming “unruly while in custody” without having been charged with an offence.<sup>60</sup> However, the committee admitted that there was no clear ‘cure’ – yet – and that experimentation would be required, but also stated that it was important that girls were able to lead as normal a life as possible.<sup>61</sup> That there was such focus, and concern, on girls as compared to boys is something that is also evident in the Victorian system, as will be shown in subsequent chapters. Victoria also followed the approach of the Curtis review in failing to seriously consider juvenile detention reform as it reviewed its system.

Just as the experiences of war and post-war reconstruction were shaping understandings of child psychology and juvenile delinquency, so too were ideas about the right of the child. As Paula Fass writes, in the early twentieth century with the developments in child psychology and medicine it was expected that the lives of children would continue to improve throughout the century.<sup>62</sup> However, following the atrocities of the First World War I and the Second World War the evidence revealed that this had not been the case; children had not escaped the horrors of war and the protection of their rights needed to be reconsidered.<sup>63</sup> The draft declaration was influenced by both the 1924 Declaration of Geneva – an earlier declaration on the rights of the child – and the Universal Declaration of Human Rights adopted in 1948.<sup>64</sup> It included the right for a child:

to grow up in economic security, the care of his own parents whenever possible, and in a family atmosphere of affection and understanding favourable to the full and harmonious development of his personality.<sup>65</sup>

In 1951 the United Nations Organization adopted a draft declaration on the rights of the child; it would be adopted in full in 1959.<sup>66</sup> Although they had not yet been articulated in

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<sup>59</sup> Care of Children Committee, "Report of the Care of Children Committee," 171.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid., 172.

<sup>62</sup> Paula S Fass, "A Historical Context for the United Nations Convention on the Rights of the Child," *The Annals of the American Academy of Political and Social Science* 633, no. 1 (2011): 21.

<sup>63</sup> Ibid., 22.

<sup>64</sup> United Nations, "Draft Declaration of the Rights of the Child," (Geneva: United Nations 1951), 1-2.

<sup>65</sup> Ibid., 8.

<sup>66</sup> Ibid.; Fass, "A Historical Context for the United Nations Convention on the Rights of the Child," 17.

a formal UN declaration at the time of the Curtis Report, these ideas clearly informed its thinking. So too did they influence reformers in the Victorian system to push for reform, although as Sharron Lane points out, the Victorian government never prioritised these concerns to the degree the British government did in response to the Curtis Report.<sup>67</sup>

### Local Reformers

Central to the changes introduced by Victoria's Cain Government was the call to reform by the voluntary sector. Two notable bodies pushing for change were the Victorian Council of Social Service (VCOSS) and the Children's Welfare Association (CWA).<sup>68</sup> Whilst the VCOSS was only established in 1946, the CWA had been operating since 1912.<sup>69</sup> These bodies were also assisted by E. J. Pittard, the then Secretary (bureaucrat head of department) of the Children's Welfare Department.<sup>70</sup> The CWA called for nationwide reform from as early as 1944, including "scientifically planned and staffed juvenile centres...to include child guidance' clinics, vocational guidance bureaux, family welfare bureaux, shelters, juvenile courts and schools".<sup>71</sup> However, it was after the publication of the Curtis Report that the CWA and the VCOSS started to push for reform being guided by the report's recommendations.<sup>72</sup> They sought a formal relationship between the government and the voluntary organisations which would see the voluntary organisations directly influence government policy through the development of an advisory council.<sup>73</sup> In return the voluntary organisations would agree to a more formalised set of standards set by the State who would in turn offer training and research programs for staff, deliver adequate funding for Wards placed in voluntary institutions, and expand state-run institutions' capacities to provide for children needing special care.<sup>74</sup>

By the early 1950s the call for reform was being made both publicly and privately. In December 1951 the CWA held a lunch for parliamentary members to impress upon

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<sup>67</sup> Lane, "The Significance of Individual Contributions to the History of Kildonan Unitingcare," 168.

<sup>68</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 145.

<sup>69</sup> Ibid.; Cate O'Neill, "Children's Welfare Association of Victoria (1912-2003)," Find & Connect Web Resource Project for the Commonwealth of Australia, <https://www.findandconnect.gov.au/ref/vic/biogs/E000024b.htm>.

<sup>70</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 145.

<sup>71</sup> The CWA were calling for reform as early as 1944, although the form of the reforms changed following the Curtis Report. Anonymous, "Sweeping Reforms in Child Welfare," *The Argus*, 20 May 1944, 10.

<sup>72</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 148.

<sup>73</sup> Ibid.; Children's Welfare Association, "It's the Children Who Suffer," ed. Children's Welfare Association (1952).

<sup>74</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 148. "Royal Commission Case Study 33", 11286.

them the problems the voluntary organisations saw with the system.<sup>75</sup> The CWA also circulated a brochure to the public entitled *It's the Children that Suffer*, which called for increased funding, amendments to the *Children's Welfare Act*, more support and co-operation from the government, and an advisory council.<sup>76</sup> Lady Angliss of the CWA further contacted the Chief Secretary in the middle of 1952 to reiterate her concerns and position regarding reform and reminding him that he had promised to bring the matter before Cabinet.<sup>77</sup> She also noted that the CWA and VCOSS would soon be releasing the outcome of their current study of the *Children's Welfare Act*.<sup>78</sup> It should be noted that whilst the *Children's Welfare Act* only covered non-offending children, the CWA's work included "Institutions for those who are truant, wayward, and delinquent".<sup>79</sup> Thus while a great deal of the rhetoric about reform in this period was framed around the notion of child welfare more broadly, the thinking behind proposed reforms encompassed the needs of those within the juvenile detention part of the system.

Later in 1952 the CWA and VCOSS released the Preliminary Report on Child Care. It was a direct commentary on the current *Children's Welfare Act* and included a number of recommendations, including as expected the development of an advisory council, more training and expertise, specialised institutions and separate reception centres for certain classes of children so as to avoid the current intermingling occurring at the Royal Park Depot.<sup>80</sup> It recommended that 'deprived children on remand', 'first offenders on remand', 'adolescents' and 'subnormal children on remand' have their own reception centres.<sup>81</sup> The report also called for less formal Children's Court proceedings for children under 14, the development of a Child Guidance Clinic that could assess all children prior to entry into State 'care' as well as the provision of annual reports to the Department from the institutions caring for the children.<sup>82</sup> They also called for a change in departmental apparatus and promotion policy, advocating for promotion based on ability rather than seniority and also the retention of married officers; the current policy was for female public servants to retire upon marrying.<sup>83</sup> What this meant was that they wanted departmental staff to be of a higher quality and they wanted to reduce the amount

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<sup>75</sup> Ibid., 149.

<sup>76</sup> Ibid.; Children's Welfare Association, "It's the Children Who Suffer."

<sup>77</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 149.

<sup>78</sup> Ibid.

<sup>79</sup> Children's Welfare Association, "It's the Children Who Suffer."

<sup>80</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 150-51.

<sup>81</sup> Ibid., 150.

<sup>82</sup> Ibid., 151-52.

<sup>83</sup> Ibid., 151.

of knowledge lost when female staff were required to retire. In order to implement these reforms, the system would need to have money spent on it.

The Victorian government was also lobbied by other members of the community to reform the child welfare system. These include members of the National Council of Women, Melbourne University's Law Faculty and medical professionals.<sup>84</sup> Furthermore, following Turner's articles in 1952 responses arguing for reform included a letter to the editor from the superintendent of a boys' home, the Tally-Ho Boy's Village, and an article written by a legal academic from Melbourne University.<sup>85</sup>

Officers of the Children's Court were also calling for reform. Two key problems that faced them were "the Court's organisational weakness and its inability to provide a professional level of response to an apparently serious increase in juvenile delinquency."<sup>86</sup> In 1954 the Children's Court heard 5,331 cases, up from 3,000 cases in 1950.<sup>87</sup> The call for expansion was evident from 1945, with the then stipendiary magistrate calling for a secondary stipendiary magistrate to be employed so as to allow him to preside over regional cities Ballarat, Bendigo and Geelong as well as the metropolitan courts.<sup>88</sup> In the same year the Children's Court Clinic – a clinic attached to the Children's Court that assessed children – was also expanded to run full time as opposed to its previous two afternoons a week.<sup>89</sup> Around this time the clinic was also being influenced by developments in psychology.<sup>90</sup> What this meant was that not only was the system out of date, it was also under pressure.

During this time the government itself was also considering penal reform, which would influence developments in juvenile detention. In particular, following a New Zealand tour, in 1947 the Inspector-General of Penal Establishments, Alexander

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<sup>84</sup> Ibid., 145.

<sup>85</sup> Edgar M. Derrick, "Letters to the Editor: Advice Refused About Unwanted Children," *The Herald*, 8 November 1952, 4; Norval Morris, "You Neglect Your Children!," *ibid.*, 12 November.

<sup>86</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 162.

<sup>87</sup> Ibid.

<sup>88</sup> Diane Alley, "The History and Development of the Children's Court of Victoria," *Australian Crime Prevention Council Forum: quarterly journal of the ACPC* (1980): 19.

<sup>89</sup> The Children's Court and the Clinic were intrinsically linked, as is evident from the cross over of staff. For example, a Mr. Meadows – a trained teacher and one of the current stipendiary probation officers – became a psychologist at the clinic. He also continued his role as stipendiary probation officer until his replacement in 1947 by an ex-Royal Park officer. He was also one of the staff at the Clinic that was interested in developing psychoanalytical approaches in dealing with the children that passed through. Ibid.

<sup>90</sup> The Children's Court Clinic had close ties to the Melbourne Institute of Psychoanalysis. The institute was opened in 1940 following the immigration of a number of European psychoanalysts and in particular Hungarian Clara Lazar-Geroe to Australia. Its aim was to introduce psychoanalytic ideas to the community.<sup>90</sup> It also included a clinic specifically run for children.<sup>90</sup> Through the children's clinic a relationship was developed with the Children's Court Clinic, promoting analytical thinking to solve behavioural issues for the children that passed through it. Joy Damousi, *Freud in the Antipodes* (Sydney: UNSW Press, 2005), 179.

Whatmore, developed a reform agenda.<sup>91</sup> This was extended following an international tour and in 1951 he published the *Development of Penal Sciences in the United Kingdom, Europe and in the United States of America*.<sup>92</sup> He called for modernisation and improvement of prisoner treatment, the development of the parole system and the development of Youth Training Centres.<sup>93</sup> These recommendations were to be picked up the 1956 Barry Report, which will be discussed in more depth in Chapter 3.

Another factor influencing reform at the local level in this period was the increasing practice of psycho-social casework, and the entry of professionally trained social workers into the field of child welfare. Social work itself was a relatively new profession in Australia during this period. Its origins stretched back to 19<sup>th</sup>-century philanthropic principles which were consolidated into an articulation of casework in the early 20<sup>th</sup> century by works such as Mary Richmond's *Social Diagnosis*.<sup>94</sup> A number of Catholic Universities in the United States opened social work courses in the 1920s, and Melbourne offered its first formal training – for Hospital almoners – in 1929.<sup>95</sup> Constance Moffit and Norma Parker were the first Australian social workers that received postgraduate training in social work.<sup>96</sup> Both had attended the University of Western Australia – where they were influenced by Dr Ethel Stoneman, a psychologist and academic – before attending the National College of Social Service in the United States of America.<sup>97</sup> They had also gained experience in both psychiatric and children's agencies before commencing work back in Australia.<sup>98</sup> They both worked in Victoria for a time and in the second half of the 1930s they worked in the newly formed Catholic Family Welfare Bureau to help develop alternatives to institutionalising children.<sup>99</sup>

However, it was following the war that there was a real push for formalising and increasing the training of social workers in Australia, seen in Victoria by the push for increased academic standards by Melbourne University's Social Studies qualification.<sup>100</sup>

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<sup>91</sup> David Provan, "Fifty Years of the Adult Parole System in Victoria 1957 to 2007," (Carlton: Adult Parole Board of Australia, 2007), 2.

<sup>92</sup> Ibid.

<sup>93</sup> Ibid.

<sup>94</sup> Mary Ellen Richmond, *Social Diagnosis* (New York: Russell Sage Foundation, 1917, 1917).

<sup>95</sup> Nell Musgrove, "Teresa Wardell: Gender, Catholicism and Social Welfare in Melbourne," in *Founders, Firsts and Feminists: Women Leaders in Twentieth-Century Australia*, ed. Fiona Davis, Nell Musgrove, and Judith Smart (Melbourne: The University of Melbourne, 2011), 132-33.

<sup>96</sup> Lane, "The Significance of Individual Contributions to the History of Kildonan Unitingcare," 156; Damian J. Gleeson, "Some New Perspectives on Early Australian Social Work," *Australian social work* 61, no. 3 (2008): 213.

<sup>97</sup> "Some New Perspectives on Early Australian Social Work," 213.

<sup>98</sup> Ibid.

<sup>99</sup> Lane, "The Significance of Individual Contributions to the History of Kildonan Unitingcare," 156; Gleeson, "Some New Perspectives on Early Australian Social Work," 214.

<sup>100</sup> R. J. Lawrence, *Professional Social Work in Australia* (Canberra: ANU Press, 2016).

In 1947 the diploma course was extended to three years, with social history and social biology being added to the curriculum.<sup>101</sup> Students were also required to choose a specialisation in their third year. The options included family casework, group work, personnel work and medical social work.<sup>102</sup> At the same time Norma Parker was integral to developing the Australian Association of Social Workers, presiding over it as president from 1946-53. She wished “for Australia to have a national body representing the major social welfare agencies, and she did much towards the eventual establishment of the Australian Council for Social Service.”<sup>103</sup> However, the status of social work as a profession was hindered by its view as a “feminised field and by the attrition of women from the workforce, particularly after marriage”.<sup>104</sup> Indeed, in 1947 census data reveals that 94 per cent of social workers were women.<sup>105</sup> As discussed above, one of the reforms sought was the continued employment of married women in the Children’s Welfare Department, which would decrease the amount of knowledge lost from the department simply because women got married.

However, it was not until 1952 that the Children’s Welfare Department first employed a professionally trained social worker. Theresa Wardell – who would become an influential advocate for children and families in need – had trained in both Victoria and the USA.<sup>106</sup> Employed as the department’s first classification officer, Wardell encountered resistance from the male administrators and her approach to casework was not consistent with that of the department.<sup>107</sup> She favoured psychoanalytic theories and a methodological approach to case work, which stood in stark contrast with the other members of the department who operated in a fundamentally administrative manner.<sup>108</sup> She was also generally opposed to institutionalisation, although she did consider that “a ‘period in an institution’ may assist a young person to ‘develop a sense of responsibility to herself and the community’”.<sup>109</sup>

As part of her role Wardell was required to assess the teenage girls being held at Royal Park.<sup>110</sup> It was here that she clashed with the Royal Park superintendent who saw

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<sup>101</sup> Ibid., 141.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid., 136.

<sup>104</sup> Elaine Martin’s work being discussed in Musgrove, “Teresa Wardell: Gender, Catholicism and Social Welfare in Melbourne,” 130.

<sup>105</sup> Hannah Forsyth, “Reconsidering Women’s Role in the Professionalisation of the Economy: Evidence from the Australian Census 1881–1947,” *Australian economic history review* 59, no. 1 (2019): 71.

<sup>106</sup> Lane, “The Significance of Individual Contributions to the History of Kildonan Unitingcare,” 158-59.

<sup>107</sup> Ibid., 159; Musgrove, “Teresa Wardell: Gender, Catholicism and Social Welfare in Melbourne,” 138.

<sup>108</sup> “Teresa Wardell: Gender, Catholicism and Social Welfare in Melbourne,” 137-38.

<sup>109</sup> Theresa Wardell quoted in Gleeson, “Some New Perspectives on Early Australian Social Work,” 215.

<sup>110</sup> Musgrove, “Teresa Wardell: Gender, Catholicism and Social Welfare in Melbourne,” 138.

himself as in charge of all of the girls, whilst Wardell considered herself to be in the best position to determine the outcome for each girl. She protested the conditions in which they were kept, which included physical deprivation and violence, commenting that “the whole thinking behind the conditions permitted does not bear any relation to present day needs and belongs to an era of at least half a century ago”.<sup>111</sup> The medical superintendent also refused her request to help train the staff at Royal Park.<sup>112</sup> Ultimately her contract was not renewed and she finished her work with the department in 1953.<sup>113</sup> Her struggle for authority was emblematic of a tension between new employees with training and older employees dedicated to pre-existing ways of thinking and working.<sup>114</sup> Whilst the department did not readily accept her psychologically informed approach to casework, it is the first clear example where it was applied in the public system and was influential in development the reforms that will be discussed in the next chapter.

## Conclusion

Following the war conditions were primed for introducing child welfare reform. The extension and consolidation of the welfare state internationally meant that in the social conscience juvenile justice should become the purview of the state, and not only philanthropic organisations. At a local level Commonwealth government policy was also supporting increased government involvement in matters of social welfare and the Victorian political scene was also shifting. However, given Victoria’s political instability and its extreme reliance on the voluntary sector – more so than other similar jurisdictions – it fell to organisations and individuals outside of the government to push for reform. With the Curtis Report being published in the UK, developments in psychological thinking pertaining to delinquency and the publication of the UN draft declaration on the rights of the child local reformers were prompted themselves to push for change. This lay the groundwork for the Cain Government – the topic of the next chapter – to reform the child welfare system.

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<sup>111</sup> Theresa Wardell quoted in *ibid.*, 139.

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*, 140.

<sup>114</sup> *Ibid.*, 130; Scott and Swain, *Confronting Cruelty: Historical Perspectives on Child Abuse*, 97-98.

## 2. 1952 – 1956: All steam and no substance

In December 1952 the Cain Government took power.<sup>1</sup> It was the first ever Labor majority government in Victoria and it was the first government in decades to pay any serious attention to the child welfare system.<sup>2</sup> The voluntary sector was energised for change and with a willing government petitioning it, the parliament passed the *Children's Welfare Act 1954* (Vic). This rhetorically heralded a new era for child welfare, and in the case of juvenile detention, it saw the state recognise itself as a future primary provider of institutions.<sup>3</sup> Indeed, in 1956 Winlaton – a state-run juvenile detention centre for girls – would be opened. However, despite the promise that the passing of the act would result in meaningful change, issues that had historically plagued the juvenile detention system remained. This chapter will illustrate that in its final form, the *Children's Welfare Act* failed to resolve a number of underlying tensions, a failure that would plague the system into the 21<sup>st</sup> century.

Accordingly, this chapter will be structured around the tensions that influenced (and limited) the final form and implementation of the new act. The first of these was the government's debate around professionalisation. The second factor that hindered genuine reform was the hesitancy of the government to commit the finances needed to implement change. The third was debates – often heavily influenced by moral panics – that existed around the nature of delinquency. Delinquency discourse reinforced gendered ideas about the perceived threat posed by 'unruly' youth, and limited structural change to the juvenile detention system by validating its ties to the adult penal system. The ultimate result was that whilst the state promised that the new act would bring fundamental change, the government's inability to resolve a number of underlying tensions meant that genuine change could never occur.

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<sup>1</sup> Victoria, *Parliamentary Debates*, Legislative Council, 22 December 1952, 1 (John Galbally).

<sup>2</sup> Victorian Electoral Commission, "1920-1952: Minority Governments".

<sup>3</sup> *Children's Welfare Act 1954* (Vic), s 12 clarified that the government had the ability to open long-term institutions to house State Wards, even though this had already explicitly been the case for reformatories under section 322 of the *Crimes Act* (Vic).

## Resistance to Professionalisation

From the beginning, the Children's Welfare Bill reflected the tension between the voluntary and the public sector, in particular the extent to which the provision of welfare should be professionalised. The bill was read into the Legislative Assembly on 22 September 1954. Its introduction was much awaited and followed delays resulting from continuous amendments.<sup>4</sup> While the voluntary sector had been instrumental in calling for reform, there was still tension with respect to how much oversight and involvement the government should have. The bill was put together through significant consultation with voluntary providers and a working group including members of the VCOSS, the CWA, the National Council of Women and the Young Women's Christian Association.<sup>5</sup> As the Chief Secretary, Leslie William Galvin said himself: "The voluntary bodies, with their wealth of experience, and in the light of their extensive activities, have much to contribute to the pool of knowledge and ideas in childcare work. The government will welcome their contribution, but, of course, an appropriate channel is necessary."<sup>6</sup>

However, whilst the voluntary organisations were pushing for reform, as Lane writes, "rather than embrace the private sector's enthusiasm for innovation the passage of the bill was most notable for the nostalgia with which it was presented in parliament."<sup>7</sup> This is perhaps not surprising when one considers the background of Galvin.<sup>8</sup> Galvin's mother had worked for the Children's Welfare Department during his childhood as both an inspector and night sister, and his wife was a special magistrate of the Children's Court.<sup>9</sup> Speaking of his childhood, he talked fondly of those whom he knew through his mother's work, concluding his second reading speech with: "a tribute to the officers of the Children's Welfare Department... They did the best they possibly could with a full realization of the social problems which they were engaged in alleviating."<sup>10</sup> Accordingly, he was adamant in his rejection of requiring training for voluntary welfare officers:

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<sup>4</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 May 1954, 500 (Leslie Galvin, Chief Secretary).

<sup>5</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 153.

<sup>6</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 September 1954, 756 (Leslie Galvin, Chief Secretary).

<sup>7</sup> Lane, "The Significance of Individual Contributions to the History of Kildonan Unitingcare," 197.

<sup>8</sup> Charles Fahey, "'Galvin, Leslie William (Bill) (1903-1966)'," Australian National University <http://adb.anu.edu.au/biography/galvin-leslie-william-bill-10272>

<sup>9</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 September 1954, 761-762 (Leslie Galvin, Chief Secretary); *ibid.*

<sup>10</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 September 1954, 761-762 (Leslie Galvin, Chief Secretary).

The assertion of the honorable member for Mornington that [the honorary welfare officers] will not do much good is a damning indictment of those who have given their services over the years. Their efforts have achieved much and are still doing so... When it comes to the selection of honorary workers for the Children's Welfare Department, give me the good motherly type of woman who has had children of her own. In my view, she is much more suitable for the task than are all the trained experts from universities and other institutions.<sup>11</sup>

So adamant was Galvin's refusal, he even rejected the inclusion of a provision that would give the Minister power to require training.<sup>12</sup>

Similarly, a number of significant recommendations put forward by the voluntary sector were not carried through, such as dealing with issues of prevention, the development of a specialist guidance clinic and the provision of annual reports on State Wards.<sup>13</sup> The only way in which the government addressed prevention was to include a provision for children to be made State Wards on the grounds of 'habitual' truancy.<sup>14</sup> By ignoring issues such as prevention and psychological support, the government were going against international trends as discussed in Chapter 1. This therefore very much positioned the new act as one that was new in name and not substance. Instead the bill focused on updating language and introducing an advisory council made up of non-government members.<sup>15</sup> This was to include members from the VCOSS and two members from the CWA.<sup>16</sup> This meant that whilst the private institutions lost a degree of control over their charges the voluntary sector as a whole was given a formal avenue for influencing government policy by way of the new advisory council.<sup>17</sup> The department did not, however, gain any serious supervisory powers, which would have resulted in standardised conditions for the children within the institutions. Indeed, the government was hesitant to adopt all of the supervisory recommendations put forward in the Preliminary Report on Child Care as they were still relying heavily on the voluntary sector. The bill did not go without criticism from the voluntary sector, with one opposition member noting that he had discussed it with

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<sup>11</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 18 November 1954, 1925 (Leslie Galvin, Chief Secretary).

<sup>12</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 18 November 1954, 1924.

<sup>13</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 153.

<sup>14</sup> See for example Victoria, *Parliamentary Debates*, Legislative Council, 9 November 1954, 2146 (William MacAulay); Children's Welfare Act 1954 s 16(k); *ibid.*, 158.

<sup>15</sup> *Ibid.*, 153.

<sup>16</sup> Victoria, *Parliamentary Debates*, Legislative Council, 25 November 1954, 2153 (William Slater, Attorney General).

<sup>17</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 153.

“lady welfare workers” who were “very disturbed about the Bill in its present form”, although he did not specify which aspects were of concern.<sup>18</sup>

Despite his approach on the issue of training and the fact that not all of the changes requested by the voluntary sector were adopted, Galvin framed the new act as forward-looking. The state narrative was overwhelmingly optimistic. As Galvin stated in his second reading speech:

It is hoped that, as the outcome of the passing of this Bill, the foundation will be laid of a system that will ensure the care and welfare for the next 50 years of children who have been less fortunate than those who have had the advantage of an upbringing in a normal and happy home.<sup>19</sup>

Therefore, the government presented the new act to the community as one that would bring long lasting and radical change, even though this was unlikely to be the case.

Despite the active lobbying of voluntary bodies such as the VCOSS and CWA, not all voluntary organisations involved in the sector agreed that professionalisation was desirable.<sup>20</sup> This was particularly true of Catholic and Salvation Army-run institutions –the key providers of Victoria’s reformatory services. These organisations had their own well-established policies and procedures embedded in a commitment to religious authority and structures. The government’s reliance on the voluntary sector meant that these institutions were able to resist change, and the department itself presented little effective opposition to such stasis. For example, during the RCIRCSA it was found that even following the passing of the new legislation, the Victorian government failed to inspect the Bayswater Boys Home with the frequency that was required of it.<sup>21</sup> Therefore, despite a rhetoric of professionalisation shaping the language of the new legislation, a divided sector and an under-resourced department significantly limited changes in practice in this period.

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<sup>18</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 November 1954, 1603 (George Knox).

<sup>19</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 September 1954, 762 (Leslie Galvin, Chief Secretary).

<sup>20</sup> Lane, "The Significance of Individual Contributions to the History of Kildonan Unitingcare," 196.

<sup>21</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No.33: The Response of the Salvation Army (Southern Territory) to Allegations of Child Sexual Abuse at Children’s Homes That It Operated," (Sydney: Commonwealth of Australia, 2016), 12.

## A Lack of Financial Commitment

Consistently, throughout their time in office, the Cain Government revealed a hesitancy to provide financial backing to realise their optimistic rhetoric. Central to this was the political climate of 1950s Australia. Prime Minister Robert Menzies appealed to the middle-class family in the development of social policy, promoting ideals of self-reliance and supporting 'lifters' not 'leaners'.<sup>22</sup> People were asked to shape their politics by their personal views, and conversely politics reflected the personal.<sup>23</sup> However, Menzies also supported the social welfare state that had initially been implemented by the former prime minister John Curtin in the early 1940s, exemplified by his extension of the child endowment to the first born.<sup>24</sup> Economic pressures were also evident. As Murphy writes, in the early 1950s the "hope of rising prosperity" was "dramatically undercut by economic crises, with their reminders of the Depression."<sup>25</sup> The resulting climate was therefore one that was both supportive of increased government involvement in issues of social welfare, yet also acutely aware of financial concerns and the ideology of personal culpability.

The introduction of the Tattersall's lottery provides an example of how the Cain Government's rhetoric about supporting investment in child welfare was not often matched with actual funding. In 1953 the Victorian government brought in this privately-run lottery to raise public funds.<sup>26</sup> The introducing bill stated in clause 6 that the lottery was to raise funds for "the purposes of (a) the Hospitals and Charities Fund, and (b) a new fund to be established and to be known as the Mental Hospitals Fund", yet throughout the debates on the bill the Labor party consistently implied that at least some of the money raised would go towards child welfare.<sup>27</sup> For example, right at the beginning of the second reading speech, Cain stated:

Honorable members will recollect that in my Budget speech I indicated that provision was being made for increased expenditure on education, child welfare, health, and mental hygiene services. I also stated that the increases were not as great as desirable, nor, indeed, as were essential to provide a significant improvement in standards.<sup>28</sup>

While his speech implied that the lottery would be rectifying the acknowledged shortfall, of the four matters listed above, the lottery only directly funded two of them: health and mental

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<sup>22</sup> John Murphy, *Imagining the Fifties* (Sydney, NSW: University of New South Wales Press Ltd, 2000), 82.

<sup>23</sup> Ibid.

<sup>24</sup> G. C. Bolton, "1939-51," in F. K. Crowley, ed., *A New History of Australia* (Melbourne: Heinemann, 1974), 498.

<sup>25</sup> John Murphy, *Imagining the Fifties*, 81.

<sup>26</sup> Wendy Selby, "Social Evil or Social Good: Lotteries and State Regulation in Australia and the United States," in *Gambling Cultures: Studies in History and Interpretation*, ed. Jan McMillen (London: Routledge, 1996), 71.

<sup>27</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 7 October 1953, 1396 (John Cain, Premier).

<sup>28</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 7 October 1953, 1390 (John Cain, Premier).

hygiene services. Similarly, just prior to the introduction of the lottery bill, opposition member William Leggatt opposed the introduction of an entertainment tax, stating that he would “have less to say if the money raised from this proposed tax were earmarked for the specific purposes of the Children's Welfare Department.”<sup>29</sup> William Barry, the minister for health, responded: “Then you will have no objection to the lottery, because that is where all the money from that source is to go.”<sup>30</sup> It is of course, possible, that the bill was amended immediately prior to its introduction, as Barry’s comment was on the 30 September and the bill was introduced on 7 October, however this is unlikely.

In the second reading debates, Premier John Cain again implied that child welfare would benefit from lottery funds, chastising for his opposition to the bill:

The honorable member for Rainbow stated in the Budget debate that insufficient funds were available for social services. He referred to the Children's Welfare Department, and to poverty and degradation in the community. But now, when he has an opportunity to support a measure that will enable funds to be raised to meet the desires and aspirations of unfortunate sections of the community, he proposes to reject it.<sup>31</sup>

Later on when the debates were continued, opposition member John Bloomfield made the point that:

The Premier also said that for the purposes of education, child welfare and mental hygiene services new and substantial sources of revenue must be obtained by the Government. As to that, may I make this earnest submission? Those services are fundamental obligations of a Government, and I think we are all agreed that they should not be neglected. We have had before us a Budget of £100,000,000. My submission is that if something is to be neglected and omitted from the Budget, it should not be those three services. They should come first and be provided for before other things that we could go without. If that is sound and sane, the idea that this lottery is being introduced for those specific purposes falls to the ground, because they should be provided for in any event.<sup>32</sup>

The rhetoric of the lottery was therefore very much that it would also be allocated to child welfare. That this was not spelled out in section 6 did not escape the attention of Dodgshun, who specifically called for this to be amended. He made the point that:

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<sup>29</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 September 1953, 1216 (William Leggatt).

<sup>30</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 September 1953, 1216 (William Barry, Minister of Health).

<sup>31</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 7 October 1953, 1397 (John Cain, Premier).

<sup>32</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 October 1953, 1579 (John Bloomfield).

The Minister of Health referred to the manner in which the revenue to be gained from this source would be applied, and when the Treasurer made his second-reading speech he stated more than once that the money would be used for the Hospitals and Charities Fund, the Mental Hygiene Authority, and the Children's Welfare Department.<sup>33</sup>

Whilst Dodgshun was right, the Chairman corrected him noting that "Children's welfare is not mentioned in clause 6."<sup>34</sup>

After further debate Galvin then clarified for Dodgshun that the Children's Welfare Department "would gain from the allocation" of funds from the Hospitals and Charities Fund, providing assurance that "I know that money has been made available from the Hospitals and Charities Fund for child welfare".<sup>35</sup> The Hospital and Charities Fund ledger in the Auditor-General's report reveals that it did allocated money to private children's institutions, and it is true that those same institutions held sizeable numbers of State Wards, but this was not the same thing as directly increasing funding to the Children's Welfare Department as had been implied during the debates.<sup>36</sup> What this episode demonstrates is that the government was comfortable with ambiguity, namely they were willing to discuss funding child welfare without ever legally committing to doing so.

Around the same time that the lottery was being introduced the government also achieved a budget surplus of £708,000.<sup>37</sup> Only a £35,000 surplus had been budgeted.<sup>38</sup> The excess was not allocated to child welfare, but instead to schools and level crossings, yet another example that spending money on child welfare was not genuinely at the top of their agenda.<sup>39</sup> Similarly, when the new *Children's Welfare Act* was introduced, it did not shift the financial burden of institutionalised children to the government.<sup>40</sup> This was to remain with the private institutions, although the government would continue to pay a flat rate per ward, to be determined by the Minister in conjunction with the advisory council.<sup>41</sup> One opposition member,

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<sup>33</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 27 October 1953, 1752 (Keith Dodgshun).

<sup>34</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 27 October 1953, 1752 (Chairman).

<sup>35</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 27 October 1953, 1753-54 (Leslie Galvin).

<sup>36</sup> See for example in the 1955-56 Treasurer's Statement the categories of institution that received funding included children's hostels, children's homes, rescue homes and foundling homes and refuges. The government run receiving depot was not amongst any of the institutions listed, nor were government departments a category. "Finance 1955-56: The Treasurer's Statement of the Receipts and Expenditure of the Consolidated Revenue and Other Moneys," ed. The Department of Treasury (Melbourne 1956), 59.

<sup>37</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 14 September October 1954, 650 (William Leggatt).

<sup>38</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 September October 1954, 650 (William Leggatt).

<sup>39</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 September October 1954, 596 (John Cain, Premier and Treasurer).

<sup>40</sup> Victoria, *Parliamentary Debates*, Legislative Council, 25 November 1954, 2152 (William Fulton); Father Eric Perkins in Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 154.

<sup>41</sup> Victoria, *Parliamentary Debates*, Legislative Council, 25 November 1954, 2152 (William Fulton); *Children's Welfare Act 1954* (Vic) s 29.

William Fulton, implored the government to take on this burden as had been done with “patients suffering from mental disabilities”.<sup>42</sup> He noted that between 1943 and 1953 the annual cost of each child under the care of the department had increased by £2 19s to £16 8s a week, whereas the maximum an institution could get from the government for each child was 27s. 6d. a week.<sup>43</sup>

This is not to say that money was not spent on child welfare, indeed in 1954 £55,000 pounds was spent on capital works at the Royal Park Depot and Winlaton (although £45,000 remained unspent of the £100,000 pounds that were allocated).<sup>44</sup> Similarly, earlier in the 1950s there was a significant increase in salaries for those working at the Royal Park Depot.<sup>45</sup> However, there was no other notable increase in spending on either public or voluntary-run institutions. The government’s fiscal policy clearly did not prioritise child welfare, and to the extent there were increases in funding these did not go towards conditions or programs inside of the institutions; changes that would genuinely impact detained children.

There was little hope that this policy would change, as even the opposition admitted that spending on child welfare should be limited. For example, Robert Wately – a member of the opposition but also a psychologist and a founding director for both the Victorian Vocational and Child Guidance Centre and Australian Youth Council – considered achievements in the field of child welfare “partly a matter of science and partly a matter of art” and that “even the provision of individual houses – the cottage system – for the care of unfortunate neglected

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<sup>42</sup> Victoria, *Parliamentary Debates*, Legislative Council, 25 November 1954, 2152 (William Fulton).

<sup>43</sup> Victoria, *Parliamentary Debates*, Legislative Council, 25 November 1954, 2152 (William Fulton).

<sup>44</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 December 1953, 2692 (Samuel Merrified, Minister of Public Works); Victoria, *Parliamentary Debates*, Legislative Assembly, 8 December 1954, 2672 (Horace Petty). In the 1952-53 financial year £100,000 was given as a Public Works Loan. However, in the 1953-54 year when the Department was allocated £250,000 from Public Works, the comment was made that, whilst there was not opposition to this amount being allocated, the parliament wanted assurance that it would actually be spent. This was because only £55,000 of the previously allocated £100,000 had been used the previous year. No reason is given for the lack of expenditure. According to the 1953 departmental Annual Report “substantial progress was made in the erection of a new section for senior delinquent girls in transit, and also in the renovation and extension of the nursery section”. The decision to build Winlaton was also solidified in this year. The Government was therefore either hesitant to spend more money on the Royal Park upgrades given the impending development of Winlaton or they simply did not want to spend the money. Children’s Welfare Department and Department for Reformatory Schools, “Report of the Secretary for the Year 1953,” (Melbourne, 1954), 5.

<sup>45</sup> Going from £52,936 pounds in 1951 to £103,858 in 1952. The annual reports do not make it clear why salaries increased so much, with the 1951-1952 report simply saying that the large increase that year – from £52,936 to £91,654 – was due to “advances of approximately £50,000 in the salaries bill of the Departmental staff at the Receiving Depot and Head Office.” Administrative salaries also increased by £11,266 that year (£44,129 up from £32,863). Children’s Welfare Department and Schools, “Report of the Secretary for the Year 1954,” 10.

children is not necessarily good, because it is expensive.”<sup>46</sup> Clarifying, he continued “the test of the institutions is how many children really achieve the ends of which they are capable”.<sup>47</sup> Effectively, he argued that only so much money should be spent because outcomes were to some degree inevitable. When put together, this shows that the *Children’s Welfare Act* was never going to result in broad reaching, positive reform because the government was never going to pay for it.

### The Nature of Juvenile Detention

The pre-existing tension around whether juvenile detention sat within the welfare field, or the penal field was not remedied by the introduction of the new act. The new act shifted control of reformatories to the Children’s Welfare Department and the Department for Reformatory Schools was abolished.<sup>48</sup> This change meant little practically because, as set out earlier, the departments were already being run together.<sup>49</sup> The sections of legislation pertaining to juvenile offenders were moved from the *Crimes Act 1928* (Vic) to the new act, and reformatories were renamed ‘juvenile schools’, although they were also referred to as juvenile training schools.<sup>50</sup> None of these amounted to substantive changes to the reformatory system.

The superficial nature of reforms was also evinced by the clear links between the child welfare system and the adult penal system. This trend resurfaces continuously throughout the post-war period and necessarily hindered reform efforts because institutions for children were viewed as sitting alongside adult institutions, and the adult penal system was – and still is – fundamentally carceral in nature. The theoretical underpinnings of incarceration and punishment has been a topic of much study.<sup>51</sup> In recent years scholars have argued against the very notion of incarceration, even for adults, however historically there has been a strong argument that incarceration is both necessary to protect society and punish the offender.<sup>52</sup>

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<sup>46</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 April 1953, 792 (Robert Wately); "Robert Kirkham Wately," Parliament of Victoria, <https://parliament.vic.gov.au/about/people-in-parliament/member/details/24/1649>.

<sup>47</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 April 1953, 792 (Robert Wately).

<sup>48</sup> Victoria, *Parliamentary Debates*, Legislative Assembly 22 September 1954, 754 (Leslie Galvin, Chief Secretary).

<sup>49</sup> For example one annual report was produced for both departments; Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 155.

<sup>50</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 September 1954, 754 (Leslie Galvin, Chief Secretary).

<sup>51</sup> See for example Jesper Ryberg, *The Oxford Handbook of the Philosophy of Punishment* (New York: Oxford University Press, 2025).

<sup>52</sup> See for example Marguerite Schinkel, "Punishment as Moral Communication: The Experiences of Long-Term Prisoners," *Punishment & society* 16, no. 5 (2014): 578-97; Rebecca Goldstein, "The Politics of Decarceration: Prisoners of Politics: Breaking the Cycle of Mass Incarceration," *The Yale law journal* 129, no. 2 (2019): 446; Todd R. Clear, "Decarceration Problems and Prospects," *Annual review of criminology* 4, no. 1 (2021): 239-60;

Indeed, this is the reality of the judicial system which has staged sentencing options, meaning that only those crimes deemed ‘bad enough’ by a judge warrant prison sentences.<sup>53</sup> What this means is that the very nature of carceral institutions is punitive. Interlinked with this, and as discussed at the beginning of the thesis, is that throughout its history the child welfare system more broadly has treated children as criminals.<sup>54</sup> The consequences of this are seen in the pipelines between institutions for non-offending children, juvenile detention institutions and adult prisons.<sup>55</sup>

That the difference between juvenile detention and adult prisons was tenuous is evinced by the fact that during this period reforms for children’s institutions were being enacted alongside of reforms to the adult prison system. Where Winlaton was being discussed for children, so was a new prison ward for adult women.<sup>56</sup> Indeed, Galvin admitted that girls in reformatories often progressed to be women in prisons.<sup>57</sup> Galvin may have positioned female offenders as in need of help and victims of society – discussed below – however the reality holds that he still wanted female offenders imprisoned and away from the community.<sup>58</sup> Similarly, the government proposed the same reforms for juvenile detention as they did prisons: namely, improved education offerings, increasing earnings and developing the probation system.<sup>59</sup>

The penal system also directly overlapped with the child welfare system because of the routine imprisonment of girls at Pentridge Prison. As was set out in Chapter 1, by the time the

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Jarrold Shanahan and Zhandarka Kurti, *States of Incarceration: Rebellion, Reform, and America's Punishment System* (London, England: Reaktion Books, 2022); Ryberg, *The Oxford Handbook of the Philosophy of Punishment*; Matthew C. Altman and Cynthia D. Coe, "Punishment Theory, Mass Incarceration, and the Overdetermination of Racialized Justice," *Criminal law and philosophy* 16, no. 3 (2022): 631-49.

<sup>53</sup> See for example Stuart Ross Arie Freiberg, David Tait, "Change and Stability in Sentencing: A Victorian Study," (Melbourne: The University of Melbourne, 1996).

<sup>54</sup> See Wilson, Musgrove, and McGinniss, "Care-Leaver Activism and Criminogenic Welfare: An Australian Case Study."

<sup>55</sup> See for example Dvorchak, "Closing the Justice Gap for Youth in the Foster Care to Prison Pipeline."

<sup>56</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 18 March 1953, 275 (Leslie Galvin, Chief Secretary).

<sup>57</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 18 March 1953, 275 (Leslie Galvin, Chief Secretary).

<sup>58</sup> "These women are not of the criminal type, but only social misfits; they are only the flotsam and jetsam of society. They are the women who as girls were retained in the institutions for juveniles. Unfortunately, they have not had the family and parental guidance which has been the good luck of those who have lived under more favourable circumstances. These people have not sinned so much against society as society has sinned against them." Victoria, *Parliamentary Debates*, Legislative Assembly, 18 March 1953, 275 (Leslie Galvin, Chief Secretary).

<sup>59</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 1 December 1953, 2442 (Leslie Galvin, Chief Secretary); Victoria, *Parliamentary Debates*, Legislative Assembly, 14 September 1954, 580 (Thomas Maltby). For example, the Catholic run Morning Star was supposedly considering the provision of night classes to boys beyond school age. Victoria, *Parliamentary Debates*, Legislative Council, 25 November 1954, 2148 (Roy Rawson); Victoria, *Parliamentary Debates*, Legislative Assembly, 15 September 1954, 652, 653 and 666.

Cain Government came into power there was a shortage of reformatories to house girls and in the state system the only available institution was the Royal Park Receiving Depot.<sup>60</sup> Girls were therefore sent to Pentridge Prison when there was insufficient space or facilities at the depot. This indicated, firstly, that administratively they were seen as interchangeable systems. It also meant that conditions between the two systems were not considered to be fundamentally different, nor was treatment deserving of the girls seen as inherently different to that given to adults. The practice did receive significant media attention and calls from reformers to end it.<sup>61</sup> Two years later, the government was criticised by a special magistrate at the Children's Court for holding children on remand at Pentridge Prison.<sup>62</sup> Despite promises to the contrary the Cain government continued to house girls in Pentridge Prison during their time in power.<sup>63</sup>

The confusion between the two systems was also evinced in the parliamentary debates as the Langi Kal Kal Training Farm – at this time under the control of the penal department and classified as a penal establishment – was discussed interchangeably with the voluntary boys' reformatories.<sup>64</sup> All of this is to say that although the government espoused reform and the better treatment of children in the welfare system, including those in reformatories, the continual links made to the adult penal system indicated that they were still considered a delinquent class, and that the rhetoric around their welfare did not result in genuine reform. Finally, both systems also suffered from the same tensions experienced by staff. As discussed above in Chapter 1, with the development of social work a clash developed between new expert staff and those already working within the system. Similarly, new reforms proposed to the prison system were met with resistance from pre-existing warders.<sup>65</sup> Ultimately, what all of this blurring meant was that reformatories could not be reformed in any serious way beyond the limits of the penal system.

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<sup>60</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 September 1954, 757 (Leslie Galvin, Chief Secretary).

<sup>61</sup> O'Neill, "'She Had Always Been a Difficult Case...': Jill's Short, Tragic Life in Victoria's Institutions, 1952-1955," 56.

<sup>62</sup> "Children Sent to Pentridge Prison," *The Argus*, 15 September 1954. Victoria, *Parliamentary Debates*, Legislative Assembly, 15 September 1954, 666 (Arthur Rylah).

<sup>63</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 March 1953, 198 (Thomas Mitchell).

<sup>64</sup> Victoria, *Parliamentary Debates*, Legislative Council, 25 November 1954, 2138 (Herbert Ludbrook).

<sup>65</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 14 September 1954, 575 (Thomas Holloway).

## The Influence of Moral Panics

Reform of the juvenile detention system was further complicated by the social panic that existed around juvenile delinquency in the early 1950s. At this time there was a global trend to see the new post-war youth subcultures as aggressive and resulting in delinquency.<sup>66</sup> In Australia this took the form of the bodgie and the widgie. It has been argued that the bodgies and the widgies – a prominent youth subculture in the post-war period – were seen as the ‘folk devils’ in Australian society and a threat to societal order.<sup>67</sup> Whilst bodgies and widgies were tied up closely with the development of consumer culture – and therefore necessarily were largely part of the middle class because the culture required money to participate – they nonetheless contributed to a societal panic about delinquency that projected its fears onto predominantly working-class youth.<sup>68</sup> There was therefore pressure on the government to ‘deal’ with the problem, although this pressure was accompanied by the idea that juvenile delinquents were deserving of only limited assistance.

Coupled with the increased fear of juvenile delinquency generally, was the increased focus on the female juvenile delinquent. This reflected a global trend, where countries such as England and New Zealand were also considering perceived increases in ‘promiscuous’ teenage girls.<sup>69</sup> In Victoria, this was clearly evinced by a series of articles run in the *Herald* by Laurence Turner in 1952. In his first article of eight, Laurence Turner warned readers the girls at Royal Park were “tough enough, even at 13” and that some, if given “half a chance... would spit in your eye, kick you in the stomach or even hurl a knife at you”.<sup>70</sup> Turner recorded the officers working at Royal Park as calling the inmates “little witches” and then described a series of violent acts the girls had committed at the institution.<sup>71</sup> Not once during his articles did Turner interview the girls themselves. He did, however, note: “not one of the girls, I was told, is beyond cure if only specialists could be given the job of supervising their daily routine with sympathy and understanding”.<sup>72</sup>

Turner’s articles also show that societal concern with delinquency was such that it blinded people from obvious signs of distress and conditions that were questionable, even at the time. For example, in one of Turner’s later articles he describes the conditions of the girls

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<sup>66</sup> Jon Stratton, "Bodgies and Widgies - Youth Cultures in the 1950s," *Journal of Australian studies* 8, no. 15 (1984): 12.

<sup>67</sup> *Ibid.*, 13.

<sup>68</sup> *Ibid.*, 15

<sup>69</sup> O.C. Mazengarb, "Report of the Special Committee on Moral Delinquency in Children and Adolescents," (New Zealand 1954), 1(2).

<sup>70</sup> Turner, "Black Eyes at Royal Park," 13.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

sent to the Elizabeth Fry retreat, including the practice of locking them in a dark cellar for days on end. The article was even accompanied with a photo of the wire mattress in the cellar. He interviewed the Matron who explained that “among her reasons for putting girls in the cellar, were their refusal to work in the Institution laundry, constant cheekiness, and their running away”.<sup>73</sup> He also noted that the girls worked for five days a week without pay.<sup>74</sup> Despite the grim picture he painted, his final reflection was that the “the institution carries on, losing money, doing its best to meet what should be a State responsibility”.<sup>75</sup> Little concern was shown by Turner for the welfare of the girls.

Comparatively, in his fourth article Turner explored the fate of boys sent to Bayswater. He described the institution as underfunded and noted that the boys had inadequate clothing and accommodation. However, what differed significantly, is how he described the boys themselves, writing:

What is their background? After talking to them for a while, you’d agree with the words I saw on a file describing one boy in particular as a “a poor little bastard.” And you’d begin to understand why five of them raided their school for a map and absconded the very week-end I was there. Apart from the illegitimates, most of them come from broken homes.<sup>76</sup>

He continued to provide examples of abuses the boys had suffered at home, very much positioning them as victims. This contrasted to the attitude he took towards the girls. The boys were given a voice through Turner’s interview, allowing the newspaper’s readers to empathise with them. Comparatively, by only interviewing those in charge of the girls, the girls were painted as difficult and deserving of punishment. Without underestimating the extent to which Turner’s reading of so-called delinquents was highly gendered, the underlying assumption about both boys and girls was that it was their lives before the institution, rather than the institution itself, that resulted in any difficult behaviour.

The gendered understanding of delinquency conveyed by Turner had been building since at least the interwar years, and Victoria’s child welfare legislation had a history of linking female promiscuity and criminality.<sup>77</sup> For example, in 1933 amendments to the *Child Welfare Act* included two new definitions of neglect that applied only to girls, namely being ‘found soliciting men for prostitution, or otherwise behaving in an indecent manner’ and ‘found

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<sup>73</sup> Laurence Turner, "They Want to Be Free - So They Play Up," *The Herald*, 28 October 1952, 5.

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.*

<sup>76</sup> Laurence Turner, "The Youthful Toll of Broken Homes," *The Herald* 1952.

<sup>77</sup> Musgrove, *The Scars Remain: A Long History of Forgotten Australians and Children's Institutions*, 56.

habitually wandering about a public place or public places at night without lawful cause'.<sup>78</sup> The Police Offences (Female Offenders) Bill, introduced in 1954, continued this pattern of conflating female sexuality and criminality, reflecting a of global trend of female sexuality being seen as an increasing social issue.<sup>79</sup>

The new bill extended the pre-existing powers within the *Police Offences Act 1928* (Vic), which allowed the court to send a woman to a "private charitable reformatory institution" with her consent, instead of penalising or imprisoning her.<sup>80</sup> Prior to the introduction of the 1954 bill this power could only be used for women who were charged with offences pertaining to drunkenness, prostitution and the use of obscene, threatening or abusive language or acting in such a manner.<sup>81</sup> Now this power could also be used when a woman was found to have "no lawful means of support or has insufficient lawful means of support".<sup>82</sup> The purpose of this was effectively to extend the prostitution charges, as Galvin said:

It should be realized that a girl who is leading a life of unemployment and therefore without visible lawful means of support is invariably on the path to prostitution, and it is thought that if she can be dealt with under section 29 there is a chance of her rehabilitation; likewise with girls suspected of offences arising out of prostitution and against whom no positive evidence is available, but who are obviously persons of insufficient lawful means of support. It is highly desirable, both in the interests of the girl and of the community, that she should be given every chance to lead a decent life, especially where she is a first offender.<sup>83</sup>

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<sup>78</sup> Ibid., 86-87.

<sup>79</sup> For example, the second reading debate discussed the Mazengarb Committee report. This was a report coming out of New Zealand discussing concerns of "sexual misconduct" amongst "children between the ages of fifteen and seventeen years". Of particular concern to the government was the conduct of girls recorded by the committee: In former times it was the custom for boys to take the initiative in seeking the company of girls. It was conventional for the girls to await any advances, but nowadays girls do not always wait for advances to be made to them, nor are they as reticent as they used to be in discussing intimate matters with the opposite sex. It is unfortunate that in many cases girls, by immodest conduct, have become the leaders in sexual misbehaviour and have in many cases corrupted boys." Victoria, *Parliamentary Debates*, Legislative Assembly, 3 November 1954, 1505 (Joseph O'Carroll).

<sup>80</sup> *Police Offences Act 1928* (Vic) s 29.

<sup>81</sup> Victoria, *Parliamentary Debates*, Legislative Council, 12 October 1954, 1057-1058 (John Galbally).

<sup>82</sup> Victoria, *Parliamentary Debates*, Legislative Council, 12 October 1954, 1058 (John Galbally); *Police Offences Act 1928* (Vic) s 70.

<sup>83</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 October 1954, 1188 (Leslie Galvin, Chief Secretary).

Whilst the act only applied to women over the age of 17, the use of the word ‘girl’ was used throughout the debates.<sup>84</sup> It was also positioned as tipping “the scale of justice a little in the direction of women”.<sup>85</sup>

John Galbally – who gave the second reading speech for the bill in the Legislative Council – described this change as representing “a constructive approach to the problem of moral delinquency among women and girls”.<sup>86</sup> He went on to describe further the purposes of the bill:

It must be recognized that in a large industrialized community such as ours, young girls are subject to the influences of wicked companions and the effects of degrading literature and amusements. This regrettable feature of our modern life has debased morally many young women and girls. This amending Bill, it is submitted, adopts a more charitable attitude towards these social and moral outcasts. It is well known, I feel, that most offences among women are of a social nature. Rarely is a woman sent to gaol for a crime such as violence or house-breaking, although convictions for theft among females are not altogether rare. Most classes of crime are the province of males rather than females. Usually, women who come before the courts are victims of some moral delinquency.<sup>87</sup>

Galbally commented further on the cause of delinquency, admitting that “the causes of their appearances in the court are not easy to define” but that “some of them may be traceable back to parental control or to broken homes, or, as I said earlier, to the industrial conditions under which we live and to the influences of older and wicked people”.<sup>88</sup>

Thomas Brennan – another Labor politician – went on to support the measure and provide an example of a 15 year old girl whose “obstinacy” to consent to institutional ‘care’ was “eventually overcome” and that “today, that person is happily married and is rearing a family in excellent circumstances”, with one factor of her rehabilitation being “the institution where there existed an atmosphere of decorum and reasonable restraint.”<sup>89</sup> The intention was that “these young women and girls will be given all the advantages of home care and attention

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<sup>84</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 3 November 1954, 1516 (Leslie Galvin, Chief Secretary).

<sup>85</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 3 November 1954, 1516 (Leslie Galvin, Chief Secretary).

<sup>86</sup> Victoria, *Parliamentary Debates*, Legislative Council, 12 October 1954, 1057 (John Galbally).

<sup>87</sup> Victoria, *Parliamentary Debates*, Legislative Council, 12 October 1954, 1057 (John Galbally).

<sup>88</sup> Victoria, *Parliamentary Debates*, Legislative Council, 12 October 1954, 1058 (John Galbally).

<sup>89</sup> Victoria, *Parliamentary Debates*, Legislative Council, 12 October 1954, 1059 (Thomas Brennan); 2019, "Thomas William Brennan," Parliament of Victoria, <https://parliament.vic.gov.au/about/people-in-parliament/re-member/details/24/1068>

so that the good in them may be brought out and that they will have a chance to rehabilitate themselves".<sup>90</sup> What is evident from this material is that women who committed crimes – all of which were social in nature – were considered in need of moral rehabilitation and that this could be achieved by altering the domestic environment. However, the concern for the women and girls and their moral rehabilitation was in rhetoric only because it was not coupled with increased funding. While a broad range of private institutions could be used to house girls given it was a pre-sentencing option, without further funds these institutions would struggle to house more girls.<sup>91</sup> Indeed, in his speech Galbally encouraged girls to get employment whilst being reformed.<sup>92</sup>

The parliamentary discussion of female delinquency was multitudinous, in a way even fetishised, and while there were moments when the loose notion of 'rehabilitation' was present, at other times the prevailing view seemed to be that girls in question were beyond help. For example, in response to the government not providing a clear list of the institutions that would be participating in the new regime, Thomas Mitchell of the Country Party, known for his eccentricity and verbose oratory, expressed frustration:

The honorable gentleman might at least inform the House which suburbs are to have these potential "hellcats" foisted upon them. I regret to say that they are not always the dear innocent darlings who are more sinned against than sinning... The Government is not setting up a mission but a procuring house. At the moment, if a girl is sentenced in a court for one of these offences she is put into gaol, whereas under this amending legislation it will be advertised in the press that she is not locked away behind high, unscaleable walls but is at a certain address and is going to be let out during the day to go to work or to the pictures at night. There will be a queue at the gate. Of course, there will be high priority places in that queue for members of the Labour party.<sup>93</sup>

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<sup>90</sup> Victoria, *Parliamentary Debates*, Legislative Council, 12 October 1954, 1058 (John Galbally).

<sup>91</sup> Galvin stated in his second reading speech for the legislative assembly, saying that "'Girls hostels such as "Myra House" and "The Harbour" (Salvation Army) have a particular sphere of usefulness in this direction, as, quite frequently, unhappy or otherwise unsuitable home environment is a definite factor in the delinquency." Victoria, *Parliamentary Debates*, Legislative Assembly, 19 October 1954, 1187 (Lesley Galvin, Chief Secretary).

<sup>92</sup> Victoria, *Parliamentary Debates*, Legislative Council, 12 October 1954, 1058 (John Galbally). What is also interesting to note is that although the 1950s is often associated with women being in the home, it was also a period that saw an increased trend in women working. John Murphy and Belinda Probert, "Never Done: The Working Mothers of the 1950s," in *Double Shift: Working Mothers and Social Change in Australia*, ed. Patricia Grimshaw, John Murphy, and Belinda Probert (Melbourne: Melbourne Publishing, 2005), 151.

<sup>93</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 3 November 1954, 1506-1507 (Thomas Mitchell); B.J. Coster, "Mitchell, Thomas Walter (Tom) (1906–1984)," Australian National University <http://adb.anu.edu.au/biography/mitchell-thomas-walter-tom-14976>.

He then went on espouse the benefits of corporal punishment for children.<sup>94</sup>

Even Galvin admitted doubt in the ability of these girls to be helped. In his second reading speech for the bill he stated: "I do not think that all the girls to whom I have referred can be saved, but if only some of them are this measure will have proved worthwhile."<sup>95</sup> The government was careful, however, to question the extent to which female delinquency plagued society:

There are many attacks made upon the morals of the girls and women of Victoria. In this State there are between 1,250,000 and 1,300,000 women, and there are fewer than 50 women in Pentridge. What a shocking moral community this is! What a shocking lot of women we have here! Actually their record is something we should be proud of. Our women are not quite as bad as number of people would paint them. It is easy for a man to make a mistake and be thought none the worse of. He can make two or three more mistakes and he is forgiven. This is a man's world; it is not a woman's world that we live in. Let a woman commit one act of indiscretion, and look at the viciousness with which she is followed... this is a man's world, with the scales of justice balanced in man's favour. In this present instance let us balance the scale of justice a little in the direction of women.<sup>96</sup>

This positioning was important, because it both protected the integrity of the government – effectively arguing that under their government crime was not increasing – and also giving justification for not seriously increasing funding. Therefore, the government both agreed with the societal panic because they introduced the bill, but were careful not to overplay the issue.

Tied up with all of this was also the development of Winlaton. This will be discussed in detail in Chapter 3 as the institution was only opened in 1956, after the Cain Government, however it was still subject to significant parliamentary debate during this period.<sup>97</sup> As discussed in Chapter 1, the previous government had also tried to get the institution built because it was required to close a gap and also satisfy public scrutiny. As with the new *Children's Welfare Act*, the rhetoric surrounding the opening of Winlaton was optimistic, with Galvin proffering that:

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<sup>94</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 3 November 1954, 1510 (Thomas Mitchell).

<sup>95</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 October 1954, 1189 (Leslie Galvin, Chief Secretary).

<sup>96</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 3 November 1954, 1516 (Leslie Galvin, Chief Secretary).

<sup>97</sup> Cate O'Neill, "Winlaton (1956-1991)," Find & Connect Web Resource Project for the Commonwealth of Australia, , <https://www.findandconnect.gov.au/ref/vic/biogs/E000192b.htm>.

It will be a juvenile school and serve as a training and rehabilitation centre for problem teenage girls. Winlaton has a future. I visualize the time when it will be the model school for child welfare in the Commonwealth.<sup>98</sup>

Yet there was also an awareness of the need to justify expenditure on its development, with Herbert Ludbrook – the superintendent of Ballarat Orphanage from 1925 to 1949 and Liberal and Country Party member – stating:

The establishment of Winlaton, where 45 girls will be accommodated, will pay handsome dividends to the State. I wish to warn the Government that it will cost much money to do the job properly. It will be dealing not with pounds of butter or motor-cars but with souls, and so the expenditure involved should not be taken into consideration.<sup>99</sup>

The debate surrounding Winlaton also indicated the blurred lines between reformatories and the penal system, discussed above, in the public eye. This was exemplified by Dodgshun's hesitancy to reveal the exact location of the institution as "when a mental institution or a penal institution is proposed in any part of the State there is an uproar."<sup>100</sup> Therefore, although it was meant to be a 'model school', it was accepted that the public might not see it that way.

## Conclusion

Throughout their reign the Cain government provided an optimistic narrative around reform and social progression in the space of child welfare. However, they failed to resolve a number of pre-existing tensions that ultimately meant the system was doomed to continue its historical mistakes. The introduction of the *Children's Welfare Act 1954* failed to seriously address the issue of professionalisation, a tension that existed both between the voluntary organisations and the government, and voluntary organisations themselves. Similarly, at no point did the government seriously address the nature of juvenile delinquency, or the structural and conceptual ties between the adult and juvenile detention systems. The inability to seriously engage with reform would lay the foundation for the rest of the post-war period. In the following decade the impact of moral panics on government policy would continue, as would budgetary indifference.

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<sup>98</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 September 1954, 757 (Leslie Galvin, Chief Secretary).

<sup>99</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 25 November 1954, 2139 (Herbert Ludbrook).

<sup>100</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 October 1953, 1364 (Keith Dodgshun).

### 3. 1956 – 1970: The rise of the expert

The focus of this chapter is the period following the election of the Bolte Government in 1955, until the end of the 44<sup>th</sup> government in March 1970. This period saw the consolidation of professionals – in particular social workers, psychologists, and psychiatrists – as the authoritative voices in matters of child welfare and juvenile justice practice. These professionals, and advocates influenced by their ways of thinking, argued that prevention was better than cure, and that ‘juvenile delinquents’ were ‘saveable’ through proper treatment. Yet, as this chapter argues, their rise to prominence was reflected more in shifting rhetoric than in practice. In part, this failure to transform practice was a consequence of the fact that despite positioning their expertise as objective, they were profoundly influenced by social constructions of class, gender and race. Furthermore, even to the extent that their visions truly represented a meaningful reformation of the system, the implementation of their ideas was hampered by structural changes to the system that reinforced the elision between so-called delinquency and criminality, and bolstered capacities for detention rather than prevention or support.

If debate about juvenile justice had been muted as compared to that over the system’s child welfare functions in the passing of the *Children’s Welfare Act 1954*, the same could not be said of the new Liberal government’s attempts to implement it. The government commissioned the Juvenile Delinquency Advisory Committee, chaired by Justice John V. Barry, with the following terms of reference:

Having regard to the existing state of expert knowledge about juvenile delinquency, what is the most satisfactory and expeditious method (including the necessary lines of enquiry) which should be adopted in order to investigate the causes and extent of juvenile delinquency in Victoria, so that the measures, legislative and administrative, which ought to be taken in the interest of the public and of the persons involved, may be determined?<sup>1</sup>

The Barry Report, as it became known, was presented to the then Chief Secretary, Arthur Rylah in July 1956, and it reinforced the view that professionally- and research-driven expertise should guide responses to juvenile delinquency. It argued that more expertise was required at all levels, “more trained magistrates, psychiatrists and psychologists, as well as qualified social

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<sup>1</sup> Juvenile Delinquency Advisory Committee, "Report of Juvenile Delinquency Advisory Committee," Introduction.

workers and probation officers”,<sup>2</sup> and called for a focus on prevention and not detention, and where detention was necessary it was to be state-run and for small groups.<sup>3</sup>

Ultimately, while the Barry Report marked a discursive turning point in setting the new voices of authority on an essentially age-old problem of ‘wayward youth’, financial restrictions limited the implementation of its vision. Indeed, the committee itself was a victim of cost cutting. It was originally envisaged that instead of creating a one-off report, this committee would be a permanent council that would periodically report on juvenile delinquency. Nonetheless, the new government only commissioned the single report and then denied that such a council had ever been promised, nor a fund allocated to it.<sup>4</sup> This act of budgetary constraint garnered criticism, with one Labor parliamentarian commenting that: “At present, we hear of ‘bodgies and ‘widgies’, but probably that cult will go out of fashion and a new one will appear. Unless there is constant research, the results of any inquiry will rapidly become out-dated.”<sup>5</sup> This set the scene for fifteen years of compromise.

This chapter will follow how during this period the ‘expert’ knowledge was widely accepted and seen as the answer to the problems of the sector. However, increased reliance on ‘expertise’ in fact hindered genuine reform, because the same discourse concealed social values and prejudices being reinforced by the system. Indeed, the structural changes made during this period – despite there being a rhetoric of prevention over institutionalisation – further solidified the ties between the juvenile detention system and the adult penal system and brought non-offending young people closer to the offending end of the system.

### **‘Curing’ the Sector’s Problems Through ‘Expert’ Knowledge**

The Barry Report reflected a widely accepted view of this period: that ‘modern experts’, in this case the social worker, the psychologist and the psychiatrist, possessed an objective way in which to assess the needs of so-called juvenile delinquents. Although the later sections of this chapter will illustrate that the practical impacts of the ideologies promoted by such professionals were limited, it is also important to note that the Social Welfare Department did indeed begin to professionalise itself, both by employing more trained social workers and increasing training for its other employees, in the period up to 1970. The state had a shortage of tertiary-trained social workers and, indeed, few programmes of study available for people to

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<sup>2</sup> Ibid., 84, 92.

<sup>3</sup> Ibid., 88.

<sup>4</sup> Victoria, *Parliamentary Debates*, Legislative Council, 29 August 1955, 749 (Henry Bolte).

<sup>5</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 1 December 1955, 2362 (Valentine Doube).

upskill themselves. These were logistical challenges to be overcome, but as the Barry Report's description of the problem of untrained probation officers, police officers, and magistrates illustrates, there was a prevailing confidence that if training could be provided, many of the sector's problems could be rectified:

Probation officers are not trained social workers, and it is unlikely the majority would be capable of reporting anything more than superficial factual information. Their services are sometimes used by way of pre-sentence investigation. There is a definite risk that, when they attempt to report on causative factors, they may represent a misleading assessment of the psychological and social aspects. A similar problem exists in relation to the Form 80, on which a police officer, untrained in psychology and social science, is asked to assess an offender's intellectual level, etiological factors, and the offender's social relationships. The anomalous situation thus exists that often magistrates, untrained in social science, are compelled to rely on advisers similarly unequipped.<sup>6</sup>

According to the Barry Report, this lack of training was "a serious obstacle to devising and carrying out proper programmes."<sup>7</sup>

In the same year as the Barry Report, a research paper entitled "Child Care Staffs in Institutions: Report on Survey Undertaken for the Children's Welfare Advisory Council to Determine the Need for Courses of Training" was presented by David Merritt (Merritt Report).<sup>8</sup> As the title suggests, the report relayed the findings of a survey undertaken of institutions that cared for children, including juvenile training schools, looking specifically at the training of the staff. The results were scathing. It found that a number of staff did not understand the needs of the children in their care, with Merritt reporting that his "own interviews with child care staff impressed upon the limited ability of many of them to see beyond the nuisance value of a child to his real needs."<sup>9</sup>

The welfare arm of the system was much larger than the juvenile justice one, and this is reflected in the extent to which the Merritt Report directly addressed juvenile justice, however it is clear that the problem of staff training was seen as equally bad in juvenile training schools as in other institutions. The report included an example of a boys' juvenile school where the focus was on work and retaining the boys within the walls of the institution, rather

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<sup>6</sup> Juvenile Delinquency Advisory Committee, "Report of Juvenile Delinquency Advisory Committee," 56.

<sup>7</sup> Ibid., 60.

<sup>8</sup> D. R. Merritt, "Child Care Staffs in Institutions," (Melbourne, 1957).

<sup>9</sup> Ibid., 27.

than reformation. At the same school officers were also reported as viewing delinquency as “something which cannot be changed, as they express it, ‘these things are passed down the third and fourth generation’.”<sup>10</sup> Overall, Merritt found, only 45% of staff caring for children had any kind of qualification, and the majority had not completed high school.<sup>11</sup>

Thus, the two key reports of this period – the Merritt Report and the Barry Report – agreed that more training was needed. Perhaps unsurprisingly, some staff were resistant to the idea of more training, yet the grounds on which they objected merely re-stated positions that had emerged even before the Second World War as the lines of division between professional social workers and those already working in the welfare field: some believed that hands-on experience was all that was required, and that “people who sit behind desks” and “book-learning” were to be avoided; religious staff argued, “We do this for the love of the child’s soul – therefore, we give the child more than any secular staff can”; and “perhaps the commonest criticism of the need for training was that ‘a woman’s instincts will teach her to care for children’ and, anyhow, ‘mothers do not need training to bring up their children in ordinary homes.’”<sup>12</sup> Merritt was scathing of this attitude, taking the view that “whether ‘commonsense will get you there’ seems to me to depend almost wholly on where you think you should get to” and noting that “with a distressingly slight degree of exaggeration it may be said that some staff would see little difference in practice between caring for a child and caring for a car”.<sup>13</sup>

The survey interviewed the director of the Children’s Welfare Department whose comments reflected both the department’s investment in the idea of the authority of the expert, as well as the practical reality of its reliance on voluntary institutions – it was not in a position to alienate the organisations who provided places for thousands of State Wards:

They [children and young people] have become wards either as delinquents, or because their parents were unable, unwilling or unfit to care for them. Whatever the cause, the effect has been to deprive of natural and normal parental care and affection, and the emotional disorders produced by this deprivation are frequently difficult to understand or remedy without special training for that purpose. I have a great respect for the institutional staffs at present caring for these children, but I feel that those under their

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<sup>10</sup> Ibid., 57.

<sup>11</sup> This number could have been even lower, because a number of staff did not complete the questionnaire due to the fear it was assessing them for their suitability for the role. Ibid., 30, 34.

<sup>12</sup> Scott and Swain, *Confronting Cruelty: Historical Perspectives on Child Abuse*, 112 ; Merritt, "Child Care Staffs in Institutions," 66.

<sup>13</sup> "Child Care Staffs in Institutions," 67.

care would benefit, and they themselves would be helped, were they able to supplement their qualities of mind and heart with a special training for their work.<sup>14</sup>

However, the department had not even been able to adequately address the issue of training within its own institutions, as was exemplified at Turana (as the Royal Park Receiving Depot as renamed in 1955).<sup>15</sup> A psychologist working at the receiving depot identified a range of problems the staff exhibited. These included having unreasonable expectations, not knowing how to meet children's needs, viewing teenagers as inherently "bad" and controlling by physical means.<sup>16</sup> The Turana psychologist also identified the clash that could occur between employees on the ground and experts in the field, noting that an issue was staff misunderstanding the "functions and objectives" of experts such as "social workers, psychiatrists [and] psychologists".<sup>17</sup>

Merritt called for the establishment of an Independent Training Council with a training course that would run for 12-14 months, as was in place in the United Kingdom, including training in specialisations, such as juvenile delinquency.<sup>18</sup> As part of the new *Social Welfare Act 1960* (Vic) – discussed further below – the government did introduce a training arm to the Social Welfare Department. In 1962 the Social Welfare Department Annual Report stated that they had begun training "for all employees of the Family Welfare, Youth Welfare, and Prisons Division."<sup>19</sup> The influence of this division continued throughout the 1960s and appeared in the annual reports in a very positive manner. For example, the 1965 report states: "The diversification of the Training Division's activities is most unusual, even in Australia. Indeed, in the sphere of social welfare training in Victoria, the influence of this Division is widespread."<sup>20</sup>

The fortunes of the Training Division fluctuated. The department's 1965 annual report discussed the importance of bursaries provided to support people to become students of its courses: in that year a private foundation provided £15,000, the state £3,000, and the Youth Welfare Division provided a scholarship for one male Youth Officer,<sup>21</sup> and the Social Welfare (Cadetships) Bill 1965 (Vic) also allowed the department to employ cadets "for the purpose of

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<sup>14</sup> Ibid., 71.

<sup>15</sup> Cate O'Neill, "Turana (1955-1993)," Find & Connect Web Resource Project for the Commonwealth of Australia, , <https://www.findandconnect.gov.au/ref/vic/biogs/E000626b.htm>.

<sup>16</sup> Merritt, "Child Care Staffs in Institutions," 70.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid., 89.

<sup>19</sup> Social Welfare Department, "Annual Report Year Ended June 30 1962," (Melbourne, 1963), 67.

<sup>20</sup> "Annual Report Year Ended June 30 1965," (Melbourne, 1966), 38.

<sup>21</sup> Ibid., 39.

undergoing courses of training in social studies at a university in the State of Victoria".<sup>22</sup> Yet, in 1966, the government did not fund any bursaries.<sup>23</sup> This situation was remedied in 1967 and by 1968 the Commonwealth Technical Scholarship scheme was extended to cover the Diploma of Youth Leadership.<sup>24</sup> Then, in 1969, the division suffered staff shortages which meant some courses were suspended.<sup>25</sup>

Despite the optimism of the reports, a scepticism for expertise still existed. For example when the *Children's Court Act 1956* (Vic) was brought in, Liberal Party member Roberts Dunstan expressed concerns about the role of psychologists and psychiatrists in the court's assessment processes, as he did "not share the confidence – and I wish to make this opinion clear – that psychologists and psychiatrists have in their theories."<sup>26</sup> In 1962 vocal opposition member Denis Lovegrove argued against "letting one particular theory of sociology, which has not yet been proved, be taken to the extremes", arguing that "the present state of Committee affairs encourages rather than deters a trend which should be ended as soon as the government can conveniently do so."<sup>27</sup> Such resistance remained even amongst some staff who had received additional training. As Shurlee Swain wrote of the inspectors working at the Victorian Society for the Prevention of Cruelty to Children:

Although the child and guidance and mental hygiene clinics...were developing new ways of understanding such behaviour in children and adolescents, these did not penetrate the thinking of inspectors; nor did the new ways of seeing and responding to deeply troubled families being disseminated by medical officers and social work academics and practitioners.<sup>28</sup>

Despite the rise of 'expertise' and increased levels of training, old-fashioned treatment persisted. Furthermore, as the following section explores, professional expertise was often blind to the ways in which its ideas about 'normal' and 'acceptable' behaviour reinforced negative classed, gendered, and racialised social attitudes.

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<sup>22</sup> *Social Welfare (Cadetships) Bill 1965* (Vic) s 2.

<sup>23</sup> Social Welfare Department, "Annual Report Year Ended June 30 1965," 47.

<sup>24</sup> "Annual Report for the Year Ended June 30 1968," (Melbourne, 1969), 54.

<sup>25</sup> "Annual Report for the Year Ended June 30 1969," (Melbourne, 1970), 54.

<sup>26</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 8 October 1956, 5038 (Roberts Dunstan).

<sup>27</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 April 1962, 2841 (Denis Lovegrove).

<sup>28</sup> Scott and Swain, *Confronting Cruelty: Historical Perspectives on Child Abuse*, 112.

## The Costs of Discursive Invisibility

International ideas about juvenile delinquency in this period were embracing the authority of the expert, especially a discursive shift away “from penal to ‘psy’ approaches”.<sup>29</sup> The influence of this in Victoria is evident in the Barry Report’s view of sociologists, psychiatrists and social workers as increasingly important in understanding juvenile delinquency, and in the introduction of group therapy into government-run juvenile welfare institutions.<sup>30</sup> Another important international trend was increasing attention to the importance of collaboration between disciplines. In 1959 the Second United Nations Congress on the Prevention of Crime and Treatment of Offenders found that:

past conflicts between psychiatrists, criminologists, sociologists, and other experts had been replaced by a more peaceful co-existence and cooperation. In [the author’s] view, social psychology constituted the new connecting tissue in the various approaches to juvenile delinquency, offering a more balanced consideration of the social, biological and psychological dimensions of the phenomenon under study.<sup>31</sup>

The most notable impact of this thinking in Victoria was the uptake of psycho-social case work, which brought together separate expert fields by considering a child’s social environment as intrinsic to any psychiatric problems they were experiencing.<sup>32</sup>

The tools provided by psycho-social case work gave the appearance of objectivity. However, the reality is that this ‘expertise’ was developed and applied by those who had always traditionally policed the working class and as such was influenced by their social views and biases. As Janet McCalman writes:

And while not denying the necessity for a welfare net for those unable to work, the Welfare State has effected a drastic invasion of working-class life by middle-class experts. Teachers, doctors, health workers and social workers, however dedicated and caring, have stripped the working-class family and its community of many of the life skills that were the foundations of self-esteem and independence. While the Welfare State barely pays the rent and the bills, it contains dissent and delivers the poor into the hands of middle-class social managers.<sup>33</sup>

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<sup>29</sup> Avdela, *When Juvenile Delinquency Became an International Post-War Concern: The United Nations, the Council of Europe and the Place of Greece*, 11.

<sup>30</sup> Juvenile Delinquency Advisory Committee, "Report of Juvenile Delinquency Advisory Committee," 29; Damousi, *Freud in the Antipodes*, 251; Social Welfare Department, "Annual Report Year Ended June 30 1965," 28.

<sup>31</sup> Lucien Bovet quoted in Avdela, *When Juvenile Delinquency Became an International Post-War Concern: The United Nations, the Council of Europe and the Place of Greece*, 20-22.

<sup>32</sup> Margaret L. Newcomb, "Psychiatric Social Work," *Review of psychiatric progress*, (1960): 638-40.

<sup>33</sup> McCalman, *Struggletown: Portrait of an Australian Working-Class Community*, 494-95.

“If in the lifetime of this generation,” McCalman writes when discussing the 1950s and 1960s, “we have seen the worst of material poverty abolished, we have done nothing to remove class stigma. We may shrink from the nineteenth century terms of deserving and undeserving poor, but such notions remain embedded in our social consciousness.”<sup>34</sup>

The impact of classed constructions of juvenile delinquency on the thinking of supposedly objective experts in this period cannot be dismissed. The period’s increased moral panic surrounding juvenile delinquency was emblematic of middle-class fears that working-class values were infecting their children.<sup>35</sup> This was reflective of both national and international trends.<sup>36</sup> In Australia this was exemplified by the bodgie and the widgie. As one psychologist noted in his 1958 study entitled *The Bodgie: A Study in Psychological Abnormality*, “delinquency was not confined to the working classes: his subjects had come from varied backgrounds and did not lack intelligence”.<sup>37</sup>

The public obsession with juvenile delinquency remained strong throughout the 1950s and 1960s. In the early 1950s the Melbourne *Sun* averaged “approximately eight articles per month” on juvenile delinquency.<sup>38</sup> From May 1955 there were “almost daily reports for the next three months”.<sup>39</sup> Media obsession was also aided by the academic study of juvenile delinquency because it gave journalists professional categories and language in which to depict the problem.<sup>40</sup> Excessive mentions in the parliamentary debates also exemplified the moral panic that existed around juvenile delinquency. Parliamentarians brought up juvenile delinquency even when it was not directly relevant to the debate at hand. For example, when legislation was proposed to increase store hours, one opponent countered: “Furthermore, I am afraid that, if the hours of the small shops are extended, the government will encourage and foster something that has caused considerable concern in recent weeks, namely, the problem of juvenile delinquency.”<sup>41</sup> Even allowing automatic petrol pumps prompted the comment: “that trouble might be caused by the vandalism of juvenile delinquents if these petrol pumps were brought into general use.”<sup>42</sup>

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<sup>34</sup> Ibid., 494.

<sup>35</sup> Arrow, *Friday on Our Minds: Popular Culture in Australia since 1945*, 51.

<sup>36</sup> Avdela, *When Juvenile Delinquency Became an International Post-War Concern: The United Nations, the Council of Europe and the Place of Greece*, 18-19.

<sup>37</sup> Arrow, *Friday on Our Minds: Popular Culture in Australia since 1945*, 51.

<sup>38</sup> Lisa Featherstone, *Let's Talk About Sex: Histories of Sexuality in Australia from Federation to the Pill* (Newcastle: Cambridge Scholars Pub., 2011), 278.

<sup>39</sup> Ibid.

<sup>40</sup> Bessant and Watts, “Public Administration, Habermas and the Crisis of Legitimacy in the Youth Justice System: An Australian Case Study.”

<sup>41</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 November 1955, 2253 (Roy Schintler).

<sup>42</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 November 1955, 2236 (Herbert Hyland).

This panic was grounded in broad ideas on notions of ‘good’ and ‘bad’ behaviour, rather than genuine evidence-based concerns. This was made clear by the Barry Report which admitted that:

From information in the possession of the police and of the Department of Justice it appeared that the extent of the evil was in fact not so alarming as one might be induced to believe by a perusal of the reports in the newspapers; there was, however, plenty of evidence to suggest that misconduct amongst adolescents was increasing and that this aspect of the matter was one for grave concern.<sup>43</sup>

The committee considered the issue to be cyclical and one that was difficult to gain “a proper understanding of...by reason of the emotional reactions which they set off, and the influence of the preconceptions with which they are approached.”<sup>44</sup> Nonetheless, Justice Barry appealed to those kept up at night by the thought of out of control youths, noting that “changes in traditional forms of social organization and in the structure of communities and their habits and customs have altered the character of family life of a considerable and increasing section, and there has been a general lessening of respect for authority in its various forms.”<sup>45</sup>

Again, this was consistent with international trends, which recognised that social panics did not necessarily reflect reality. In 1959 the United Nations recommended a study into juvenile delinquency, which was presented in 1960 to the Second United Nations Congress on the Prevention of Crime and Treatment of Offenders.<sup>46</sup> The report argued that there was no increase in juvenile delinquency, that is was simply that “adults view it with more alarm than they used to”, and that criminal behaviour such as borrowing cars and loud behaviour should be viewed as “ritualized opportunities for free expression” and that “real delinquency...‘arose, according to clinical experience, in much the same way today as yesterday, from serious deprivation and major disorders of family life.”<sup>47</sup> As Efi Avdela argues, this view separated “public anxieties of the moment from what they considered ‘real’ juvenile delinquency”—that is, the ‘scientifically’ treatable “socially maladjusted behavior” that it argued was not increasing, as opposed to public “alarm over ‘antisocial’ youth.”<sup>48</sup>

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<sup>43</sup> Juvenile Delinquency Advisory Committee, "Report of Juvenile Delinquency Advisory Committee," 11.

<sup>44</sup> *Ibid.*, 41-42.

<sup>45</sup> *Ibid.*, 11. It is also worth noting that Barry was a ‘committed eugenicist’ and as such believed there to be a hereditary aspect to juvenile delinquency, see Sant and Watts, "Public Administration, Habermas and the Crisis of Legitimacy in the Youth Justice System: An Australian Case Study," 23.

<sup>46</sup> Avdela, *When Juvenile Delinquency Became an International Post-War Concern: The United Nations, the Council of Europe and the Place of Greece*, 19-20.

<sup>47</sup> *Ibid.*, 23.

<sup>48</sup> *Ibid.*

However, in this respect there was a difference in Victoria. The Barry Report supported the idea that delinquency was on the rise, albeit not to the extent suggested by popular sentiment. Concerns about rising juvenile delinquency also featured in parliamentary debates. For example, in 1963 concern was expressed by parliamentarians around the government closing Camp Pell, an emergency housing camp for families in crisis that had originally been built to house American soldiers during the Second World War.<sup>49</sup> Camp Pell had an “infamous reputation” where “children roamed with relative autonomy”, where boys were “considered to be violent, criminal and ‘looking for trouble’”, and girls “sexually provocative, precocious and promiscuous”.<sup>50</sup> It was argued in parliament that juvenile delinquency would increase because the government did not introduce any plans for the young people that were living there before closing it down.<sup>51</sup> Whilst it is fair to question what would become of the young people without any supports or services, what is telling is that the rhetorical focus was on the risk to society and not the young people’s wellbeing.

Despite a public perception that juvenile delinquency was on the rise, there was no clear evidence of a serious increase in rates of juvenile offending in Victoria, nor any coherent sense of what might be causing the claimed rise. The Victorian Children’s Court surmised that working mothers “must inevitably result in an increase in juvenile delinquency” and the Barry Report thought it a relevant consideration when looking at methods of prevention.<sup>52</sup> Denis Lovegrove, a member of the opposition, provided an apt example of this rhetoric in the context of discussing juvenile delinquency:

What kind of family life can there be when women, many of them living in Housing Commission estates, claim that, although their husbands earn from £18 to £22 a week, they must go out to work in order to keep the family and pay off the car, refrigerator, washing machine, mix- master, radiogram, television and transistor set? As I said to members of caucus in the party room the other day, persons of that type feel that wherever they go throughout Victoria they must not be out of touch with Johnny O’Keefe or some other rock-and-roll artist.<sup>53</sup>

In a single statement Lovegrove blames class, consumerism, modern culture, and female vapidty for juvenile delinquency. Perception rather than reality fuelled support for

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<sup>49</sup> Nell Musgrove, "Defining and Defying the Image of Camp Pell," *Parity* 19, no. 10 (2006): 9.

<sup>50</sup> *Ibid.*

<sup>51</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 October 1963, 1112-1113 (Eugene Ring).

<sup>52</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 1 December 1955, 2361. Juvenile Delinquency Advisory Committee, "Report of Juvenile Delinquency Advisory Committee," 26-27.

<sup>53</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 April 1962, 2841 (Denis Lovegrove).

intervention, and the tools of policing and welfare surveillance were classed. As McCalman writes: “part of a middle-class boy’s growing up was to realize that the police were his protectors, even his servants; and that middle-class crimes were peccadilloes, while working-class peccadilloes were crimes.”<sup>54</sup> Thus it was predominantly working-class young people that found themselves locked up in juvenile detention centres and viewed as the modern ‘undeserving poor’; a delinquent class.

Delinquency public discourse also had strongly gendered dimensions. Indeed, despite the fact that the majority of young people charged as juvenile offenders were male, much for attention was given to the urgency of policing female juvenile delinquency.<sup>55</sup> For a girl to be deemed ‘delinquent’ spoke to her character. Where a boy committed a crime the delinquency was attached to the act (with the exception of homosexuality which will be discussed further in Chapter 4); where a girl committed a crime, it was seen as evidence of a deeper, personal problem. As the Youth Advisory Council reported:

With so few girls being paroled from youth training centres, it is a matter of some concern that, in spite of early and regular contact with those girls during their institutional placement, and close supervision on parole, our efforts to rehabilitate them have not been very successful to date. It is recognized that committal of girls to youth training centres is a last resort of the Children's Court when all other sanctions have failed. Perhaps it is naive to expect that a period of training in a multi-purpose maximum security institution such as “Winlaton” is likely to benefit, significantly, girls suffering from long-standing behaviour disorders, whose family relations in most instances have been marked by disharmony and emotional insecurity or deprivation.<sup>56</sup>

Whilst this description is not necessarily accurate – a number of girls were sent to Winlaton without having been charged with an offence or it being the ‘last resort’ – it is evidence of the broader attitude that these girls were fundamentally ‘tainted’.

Part of this ‘taint’ was the view – sometimes implicit and sometimes explicit – that female delinquency was synonymous with promiscuity. Female promiscuity was viewed socially as a blight upon society and a danger to the community. This is exemplified by the

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<sup>54</sup> McCalman, *Journeyings: The Biography of a Middle-Class Generation 1920-1990*, 202.

<sup>55</sup> It should be noted that whilst at no point during this period did the parliamentarians discuss the youth training centres designed for boys, for which there were several by the end of the 1960s, they did not entirely ignore male juvenile delinquency. It was talked about in a general fashion but never with the fervour that surrounded issues of uncontrolled female sexuality. For example, in 1955 the penalty for stealing a car was increased. Car theft was seen as a youthful crime and therefore necessarily a matter of juvenile delinquency. Victoria, *Parliamentary Debates*, Legislative Assembly, 9 November 1955, 1530 (Valentine Doube).

<sup>56</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 13 October 1964, 802 (Clyde Holding).

passing of the *Prostitution Act 1961* (Vic). The purpose of the *Prostitution Act* was to decrease the use of sex workers amongst new, largely male, migrant groups. On the face of it this act was motivated by a xenophobic moral panic; its introduction was prompted by concerns that an imbalance was occurring between men and women in “large migrant groups” which “has resulted in the congregation in our larger cities in national groups of a preponderance of young men in proportion to young women”.<sup>57</sup> However, at its core was a concern around female promiscuity. There was no evidence that there had been an increase in the number of sex workers, just that there had been an increase in prosecutions; evidence of growing social concern.<sup>58</sup> Yet in the parliamentary debates the spectre of prostitution was evoked when discussion turned to “emerging in the community a young female delinquent who is presenting grave problems for the community”.<sup>59</sup>

A more harmful element of the discourse around female sexuality and delinquency was its elision of young women who were willing and capable of consenting to sexual activity and others who are better understood as victims of rape, predation, exploitation and other forms of abuse. Comments made by Labor member, Galbally, typify this problem:

Figures show that in the law courts the number of young girls from twelve years of age onwards and who subsequently appear in court indulge in sexual promiscuity, is alarming. Although I do not think it ought to be said that all of those girls ply for hire; nevertheless, it is certain that they do indiscriminately consort with men. That aspect of the matter, which may be regarded as a form of juvenile delinquency, has very serious consequences for the community.<sup>60</sup>

Another debate in parliament conflated concerns about the ability to rehabilitate ‘delinquent’ girls with an increase in carnal knowledge cases.<sup>61</sup> As the Royal Commission into Institutional Responses to Child Sexual Abuse found, rape victims were often cast as the *femme fatale* who had seduced their perpetrators, deemed a risk to society, and consequently locked up.<sup>62</sup>

The conflation of sexuality and delinquency amongst girls played a major role in the sexual stigmatisation of girls sent to Winlaton, the government-run facility that functioned as the main institutions for ‘delinquent’ and ‘pre-delinquent’ girls. In the 1960s complaints started

<sup>57</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 14 March 1961, 2196 (Arthur Rylah).

<sup>58</sup> J. E. Hall Williams, "The Street Offences Act, 1959," *Modern law review* 23, no. 2 (1960): 174.

<sup>59</sup> Victoria, *Parliamentary Debates*, Legislative Council, 11 April 1961, 3035 (John Galbally).

<sup>60</sup> Victoria, *Parliamentary Debates*, Legislative Council, 11 April 1961, 3035 (John Galbally).

<sup>61</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 13 October 1964, 803 (Clyde Holding).

<sup>62</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse,," (Sydney: Commonwealth of Australia, 2016).

to surface.<sup>63</sup> These complaints pertained to the rehabilitative failings of Winlaton. In 1964 the government was informed that the training received at Winlaton was “entirely inadequate”, being “only two or three hours’ instruction at the most each day” with girls not having “adequate access to literature, and were instead reading comics, and that they had taken to tattooing each other.”<sup>64</sup> The government admitted that “Winlaton is not justifying its purpose” and proposed that by upgrading the administrative position in charge of the institution the situation would be rectified.<sup>65</sup> Money was of course identified as an issue of concern; they wished to attract “a really first-class person” to “take charge of the institution” but “such people are available, probably at a price”.<sup>66</sup>

In 1966 the government again heard criticism of the institution, this time through William Divers, the Labor party member for Footscray. This time the complaint related to the conditions at the institution, but it was more concerned with what happens to ‘good’ girls when they end up in a place populated by ‘bad’ girls. First, he criticised the practice of classifying all inmates as ‘high security’ on admission.<sup>67</sup> He further criticised the administrative approach for its lack of segregation: “I saw young prostitutes and lesbians amongst other eighteen-year olds incarcerated in the close security section with fourteen-year old kiddies”.<sup>68</sup> The member made a particular point to call the girls who had talked to him, 14 and 15, children. He also argued that the girls be provided with “some type of occupation like the operation of a sewing machine, artcraft or needlework of some sort under the supervision of a wardress.”<sup>69</sup> His concerns reflected the sexual moral panic; he did not want girls perceived as ‘sexually deviant’ to ‘infect’ the other girls. However, the issue that disturbed Divers the most was that of tattooing. The practise of tattooing had also attracted media attention, with the head of the Social Welfare Department stating that it was no more an issue at Winlaton than at other institutions.<sup>70</sup> Divers disagreed with this, arguing more supervision would fix it. He was concerned that the tattooing had hindered the girls’ ability to get employment and that it was only after “they were able to get the tattoo marks removed and obtain employment” that they could lead “good, clean lives”.<sup>71</sup> Perhaps also concerning Divers was that tattooing represented

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<sup>63</sup> Victoria, *Parliamentary Debates*, Legislative Council, 5 December 1957, 3574 (Roy Rawson).

<sup>64</sup> Victoria, *Parliamentary Debates*, Legislative Council, 22 September 1964, 302-303 (Michael Clarke).

<sup>65</sup> Victoria, *Parliamentary Debates*, Legislative Council, 22 September 1964, 304 (Rupert Hamer).

<sup>66</sup> Victoria, *Parliamentary Debates*, Legislative Council, 22 September 1964, 304 (Rupert Hamer).

<sup>67</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 April 1966, 3485 (William Divers).

<sup>68</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 April 1966, 3486 (William Divers).

<sup>69</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 April 1966, 3486 (William Divers).

<sup>70</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 April 1966, 3486 (William Divers) discussing an article in the *Truth* newspaper on 19<sup>th</sup> February 1966.

<sup>71</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 April 1966, 3487 (William Divers).

a form of resistance, again further evidence that the girls were not being appropriately 'rehabilitated'. Nothing resulted from this complaint.

Blame being placed on a 'bad' group of girls was also reflected by the Youth Welfare Division, which admitted in its 1965 report that "the treatment programme at 'Winlaton' needs improvement" and that "it can never be satisfactory enough until a separate centre is provided for the most sophisticated and difficult girls who constitute a disrupting influence".<sup>72</sup> The Youth Welfare Division was quick to discuss 'problem inmates' but not the fact that children as young as 12 being were being sent to Winlaton or why there was systemic inmate abuse.<sup>73</sup> Therefore at both the executive and legislative level blame was being placed on inmates, therefore deflecting the need to fund proper programmes.

Whilst survivor testimony does describe groups of girls who appeared threatening to younger inmates, for example the "Goonyah girls...they had tattoos all over them and butch haircuts," and physical and sexual abuses committed by inmates, this was "a factual and logical extension of some of the girls' own victimisation."<sup>74</sup> Inmate abuse is therefore properly characterised as the fault of the system, and not the cause of the faults. What the government also never discussed was the routine strip searches and invasive internal examinations performed by a doctor from a venereal disease clinic; nick named Dr Finger by the inmates due to the abusive nature of the examinations.<sup>75</sup> The doctor conducted these examinations irrespective of the sexual experience of the inmates.<sup>76</sup> Because the girls at Winlaton were perceived to be sexual dangers to society, the government was either unwilling or incapable to view them as the victims that they truly were and appropriately take care of them.

International scholarship has noted the racialized dimension of delinquency discourse in this period. This has been – and is – particularly the case in settler-colonial societies such as Canada and the USA.<sup>77</sup> Given the long history of institutionalisation and criminalisation of Aboriginal people, it is important to note that their very existence was absent from parliamentary debate about delinquency, despite the widespread removal of Aboriginal children from their families across the 1950s and the 1960s, as evinced by the "Bringing them

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<sup>72</sup> Social Welfare Department, "Annual Report Year Ended June 30 1965," 19.

<sup>73</sup> Name withheld, "Inquiry into Children in Institutional Care Submission 279 " (2004).

<sup>74</sup> Martine Marich, "Submissions of Bdc (Winlaton)," in *Royal Commission into Institutional Responses to Child Sexual Abuse*, (Melbourne, 2015), p. 8.

<sup>75</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, *Public Hearing - Case Study 30 (Day C088)*, 19 August 2015, 9098.

<sup>76</sup> Martine Marich, "Submissions of Bdc (Winlaton)," p. 14(c).

<sup>77</sup> See for example Myers, *Youth Squad: Policing Children in the Twentieth Century*, 20; Dougherty, "Mapping the Contours of Black Juvenile Delinquency: The Journal of Negro Education, 1945-1975," 995-1014.

Home” report.<sup>78</sup> The institutionalisation of Aboriginal children also meant that they were earmarked by the police. Uncle Larry Walsh recalls from the 1960s:

In the eyes of the police in them days, someone marked as a ward of the state meant that they were a troublemaker. At the age of 10 or 11 the police pulled up and threw me in the divvy van and dragged me to the police station, because I had a file, which I didn't know I had. From then on we had an ongoing misunderstanding. I reckoned they were beating me up for nothing so I started to do things. I was 14 in Turana and the referendum had happened. I was in doing a little bit of time for just minor trouble[.]<sup>79</sup>

As Chapter 4 will explore, serious discussion within the department and the parliament about Aboriginal children and young people in the system did not commence until the late 1970s when the Social Welfare Department created an Aboriginal Youth Support Unit. This unit published an internal paper titled *Aboriginal Juvenile Delinquency in Victoria* in 1977, showing that the discursive silence about race in the public debate of the 1950s and 60s, did not reflect the actual absence of Aboriginal youth from juvenile detention. The archival and oral history research required to reveal a picture of Aboriginal young people's lived experiences of encounters with juvenile justice is beyond the scope of this thesis, but it is essential to emphasise that the silence on this topic within the parliamentary debate must not be read as a lack of racialised violence.<sup>80</sup>

## Structural Changes

The structural changes made to juvenile detention during this period brought juvenile detention closer to the adult penal system, and simultaneously brought non-offending children closer to the juvenile justice arm of the system. This was irrespective of the psy-informed rhetoric of the time which favoured prevention. Unlike likening juvenile delinquents with adult criminals, prevention was only a discursive feature of this period. This was contrary to the international

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<sup>78</sup> National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, "Bringing Them Home." Diane Barwick also reported that in 1956 approximately 10% of the Aboriginal children under the control of the Board (about 150) were in institutions under the guise of "being in need of care and protection". Cora Gilsean also recalled running a Christmas party for around 28 Indigenous children at the Ballart Orphanage in 1955. Indeed, one Aboriginal activist recalled that the Aboriginal Welfare Board "was an adoption agency. They didn't admit it but they were". To the extent there was media attention about this it was to discuss the 'good deeds' being done by white families. Broome, *Aboriginal Victorians: A History since 1800*, 328, 30.

<sup>79</sup> Uncle Larry Walsh, "Uncle Larry Walsh," [https://www.deadlystory.com/page/aboriginal-country-map/Aboriginal\\_Country\\_Completed/taungurung/Taungurung\\_Elders\\_Role\\_Models/larry-walsh](https://www.deadlystory.com/page/aboriginal-country-map/Aboriginal_Country_Completed/taungurung/Taungurung_Elders_Role_Models/larry-walsh)

<sup>80</sup> Marsden, "Tally Ho Boys' Training Farm, Aboriginal Children and the Intersection of School, Welfare and Justice Systems, 1950s–1960s," 167.

trend where prevention was a feature of managing juvenile delinquency.<sup>81</sup> Whilst the Barry report advocated for prevention as opposed to institutionalisation and the *Social Welfare Act 1960* (Vic) promoted preventative methods, these were never funded. The Barry Report argued that: “the urgent problem which at present confronts the community is one of preventive measures rather than of committal to institutions”.<sup>82</sup> If a child were to be institutionalised they were to be subjected to expert attention, namely through “thorough medical and psychiatric examinations,” and cared for in a small group by “properly-trained, emotionally-mature cottage parents”.<sup>83</sup> Barry did not consider Victoria’s current system to be up to the task: “the lack of proper institutions constitutes a grave defect in the Victorian system, and precludes effective action in cases where committal is the only course which is reasonably open.”<sup>84</sup> In other words, serious money had to be spent in order to get the system functioning. However, they were not willing to provide funding to stop children being institutionalised nor were they prepared to spend money on fundamentally changing how institutions were operated.

The argument for prevention was raised in the debate over the *Social Welfare Act 1960*. On the matter of finance, the opposition pointed that there was no financial provision for “preventative case work” with regards to “normal and delinquency aspects of the problem”.<sup>85</sup> There is no evidence to suggest that funds were ever made available for preventative work.<sup>86</sup> Indeed, the annual reports prepared by the Social Welfare Department clearly state that no such funds were available. The annual report for the year 1968 explicitly states that:

The best and cheapest of the alternatives is prevention and it may be due to a lack of conviction about the effectiveness of preventive work that for the seventh year in succession no financial resources and no staff have been made available for this primary

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<sup>81</sup> Avdela, *When Juvenile Delinquency Became an International Post-War Concern: The United Nations, the Council of Europe and the Place of Greece*, 18-19, 26. Although it was ultimately recognised that prevention methods had the risk of expanding the definition of pre-delinquent and there was no evidence that preventative youth work reduced delinquency rates.

<sup>82</sup> It also favoured probation, on the proviso that there was an adequate number of paid probation officers. Juvenile Delinquency Advisory Committee, "Report of Juvenile Delinquency Advisory Committee," 32, 47.

<sup>83</sup> *Ibid.*, 33-34.

<sup>84</sup> *Ibid.*, 47.

<sup>85</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 27 April 1960, 2595 (Denis Lovegrove). During this debate, Labor member Valentine Doube even questioned the whole idea behind measures to prevent delinquency, instead arguing for “a more positive approach”, advocating for education and not just preventative measures: “Is the idea behind the teaching of children to read and gain knowledge of a wide variety of subjects purely a negative one in the hope that they will not find themselves on the wrong side of the law?” Victoria, *Parliamentary Debates*, Legislative Assembly, 17 May 1960, 2964 (Valentine Doube).

<sup>86</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 7 December 1965, 2456 (Denis Lovegrove).

function of the Youth Welfare Division. However, hopes have been raised that a start may be made in 1968-69.<sup>87</sup>

This was despite the government's pledge in 1961 that "emphasis is now being given to preventative work at the earliest possible stages".<sup>88</sup> The annual report for 1968 indicates that some preventive work had begun, but that it needed to be "accelerated" to deal with the increase in juvenile crime due to "dynamic social and technological change which is beginning to have a shattering effect on traditional mores and cultural patterns of life."<sup>89</sup> Due to this increase the Youth Welfare Division – the departmental division in charge of juvenile detention at this time – was also concerned that "harsher punishments" would be called for and "more enlightened treatment methods will come under attack".<sup>90</sup> After listing a number of requirements the Division believed needed to be developed, they noted:

Perhaps the most difficult of all requirements is that of awakening the community to its responsibility for sharing the work of prevention and rehabilitation. Even understanding and encouragement would help.<sup>91</sup>

Therefore, going into the 1970s the Youth Division was poised for an increase in offending, open to a change in approach and desperately needing an increase in funds. They were calling on the middle class to put aside their moral panic and genuinely consider how young people could be helped.

One recommendation the government did take on from the Barry Report was increasing funding to youth clubs, which was arguably a form of prevention.<sup>92</sup> Indeed, this was an approach being taken internationally in an attempt to reduce offending.<sup>93</sup> As such, in 1956 the Youth Organizations Assistance Bill 1956 (Vic) was introduced.<sup>94</sup> When the *Social Welfare Act* came in youth clubs were again positioned as a means of prevention. Interestingly, the youth clubs pointed out that they did not believe their purpose was to reduce delinquency, but that the Youth Division nonetheless was a good way to get funding.<sup>95</sup> However, again the government failed to appropriately fund the clubs.<sup>96</sup>

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<sup>87</sup> Social Welfare Department, "Annual Report for the Year Ended June 30 1968," 24.

<sup>88</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 26 December 1961, 169 (Henry Bolte).

<sup>89</sup> Social Welfare Department, "Annual Report for the Year Ended June 30 1969," 25.

<sup>90</sup> *Ibid.*, 24.

<sup>91</sup> *Ibid.*, 25.

<sup>92</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 2 October 1956, 4440 (Keith Sutton).

<sup>93</sup> Myers, *Youth Squad: Policing Children in the Twentieth Century*.

<sup>94</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 2 October 1956, 4440 (Keith Sutton).

<sup>95</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 27 April 1960, 2599 (Denis Lovegrove).

<sup>96</sup> In 1963 Lovegrove went so far as to set out the exact figures spent on youth clubs, including the amounts requested (totalling £28,338) and the amounts actually paid out (totalling £3,800). When further pressed on this Lovegrove even set out the exact figures requested by each individual youth club. Members of the Legislative

In 1964 the opposition again brought up penny pinching, with the government being criticised for not taking into account inflation when granting money to the Youth Organizations Assistance Fund.<sup>97</sup> In 1966, however, the government was careful to point out that over the past 5 years \$700,000 had been paid out to youth clubs “in assistance of this nature”.<sup>98</sup> What is interesting to note with all of this is that as mentioned above youth clubs did not consider themselves preventers of juvenile delinquency. Therefore, the only form of prevention that the government was funding, and even then, not much, was arguably not a means for prevention at all. Youth clubs also had the benefit of providing a salve to the moral panic of delinquency because they gave young people a place to socialise; thereby removing them from visible public spaces.

Even something such as probation was not taken seriously by the government. For example, following the publication of the Merrit and the Barry Reports, the government brought in the *Children’s Court Act 1956* (Vic). It provided for paid probation officers and a chief probation officer, reflecting the adult penal system.<sup>99</sup> The honorary officer positions remained. The Act required, on request, for probation officers “to inquire and furnish the Court with a report and information as to the child’s antecedents, home environment, companions, habits, recreations, character, disposition, medical history and physical or mental defects.”<sup>100</sup> Indeed, their powers were so broad they were likened to *amicus curae*.<sup>101</sup> Therefore, despite the concerns raised by the Barry Report, untrained probation officers would still be required to make an assessment into the child, effectively guaranteeing the continued influence of moral social views.

Similarly many of the justices in the Children’s Court were honorary positions, meaning no specific legal training was necessary. One member was concerned that “the knowledge held

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Council brought up the lack of funding on youth clubs, including one member who was also the district commissioner for the Scouts. Another argued that the government had shut Camp Pell but not done anything for the young people who were living there. Another requested that money be given to help establish youth clubs, and not just to already established ones. It should be pointed out, however, that it was also counterargued that money was also not being spent on “hospitals and other projects”. Victoria, *Parliamentary Debates*, Legislative Council, 26 November 1963, 2427 (Arthur Smith), Victoria, *Parliamentary Debates*, Legislative Assembly, 15 October 1963, 1117 (Kenneth Wheeler), Victoria, *Parliamentary Debates*, Legislative Assembly, 15 October 1963, 1112-1113 (Eugene Ring), Victoria, *Parliamentary Debates*, Legislative Assembly, 15 October 1963, 1141 (Denis Lovegrove), Victoria, *Parliamentary Debates*, Legislative Assembly, 15 October 1963, 1112-1113 (Eugene Ring), Victoria, *Parliamentary Debates*, Legislative Assembly, 15 October 1963, 1117 (Kenneth Wheeler), Victoria, *Parliamentary Debates*, Legislative Council, 26 November 1963, 2428 (Gilbert Chandler).

<sup>97</sup> Victoria, *Parliamentary Debates*, Legislative Council, 26 November 1964, 1851 (John Tripovich).

<sup>98</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 25 October 1966, 1228.

<sup>99</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 October 1956, 5365 (Arthur Rylah).

<sup>100</sup> *Children’s Court Act 1956* (Vic) s 12(1)(b).

<sup>101</sup> Victoria, *Parliamentary Debates*, Legislative Council, 8 November 1956, 5717 (Thomas Brennan).

by many justices about the welfare of children is questionable.”<sup>102</sup> Along the same lines, parliamentarians argued that the Children’s Court should be centralised. The government also disagreed with modernising language, even though this had been done in the UK.<sup>103</sup> The opposition argued that the words “sentence”, “conviction” and “imprisonment” no longer be used.<sup>104</sup> However the response was such:

under this legislation a child is either discharged or convicted, and it seems to be of little importance to invent some other word carrying the same meaning. The child does not remain a convicted person, nor is it so described after three years.<sup>105</sup>

The act therefore brought in minimal changes, indeed the changes served to increase the power given to untrained probation officers. The changes also required little financial commitment.

What can be said is that the government clearly favoured traditional methods of treatment over more progressive considerations. Part of this was likely to be path dependency. Despite serious administrative change the same individuals would have been employed by the new department. Indeed, the new head of the Social Welfare Department had been the head of the Penal Department and therefore no doubt more comfortable with methods of institutionalisation rather than prevention. When considering the issue of class, it is also clear why institutionalisation would have been favoured. Whilst juvenile delinquency was being cast as a classless issue during this period, the reality is that those being institutionalised were working-class children. In the debate of helping the individual versus protecting society, it is the latter that would have won out for the middle-class decision makers.

Influenced by the emerging social and professional discourses, there was also significant structural change at a departmental level during this time. In 1960 the Victorian government combined the Penal Department with the Children’s Welfare Department; bureaucratically enshrining the link between the two systems.<sup>106</sup> The newly named Social Welfare Branch also included a Youth Welfare Division, which dealt with any child over the age of 14.<sup>107</sup> By separating children by age rather than reason for committal, the new structure

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<sup>102</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 18 October 1956, 5018 (Campbell Turnbull).

<sup>103</sup> Victoria, *Parliamentary Debates*, Legislative Council, 8 November 1956, 5712 (Roy Rawson).

<sup>104</sup> Victoria, *Parliamentary Debates*, Legislative Council, 8 November 1956, 5712 (Roy Rawson).

<sup>105</sup> Victoria, *Parliamentary Debates*, Legislative Council, 8 November 1956, 5719 (Gordon McArthur).

<sup>106</sup> Cate O’Neill, “Social Welfare Branch (1960-1970),” Find & Connect Web Resource Project for the Commonwealth of Australia, , <https://www.findandconnect.gov.au/ref/vic/biogs/E000130b.htm>.

<sup>107</sup> Ibid. The Act restructured the Children’s Welfare Department and created a new Social Welfare Branch in the Chief Secretary’s Department. Under the Social Welfare branch sat the Family Welfare Division, Youth Welfare Division, Prisons Division and Parole Division. The legislation also created sections to deal with training and statistics. Victoria, *Parliamentary Debates*, Legislative Assembly, 6 April 1960, 2390, 2395 (Arthur Rylah),

enshrined the notion of pre-delinquent behaviour, a standard open to abuse as it sat outside of the criminal justice system and well-established rules of evidence. Instead it was a category formed by social views at the time.<sup>108</sup> It also meant the co-mingling of offending children and neglected children. Juvenile training schools were also renamed, this time to youth training centres. They were recast as offering “positive and dynamic programmes” with “skilled guidance and supervision”.<sup>109</sup> No genuine reforms were introduced to change the institutions, other than the names.

The Barry Report had recommended policing “those whose behaviour gives reasonable ground for believing that in the natural course of events they will be guilty of conduct which in an older person would amount to a breach of the criminal law”; but it did not recommend doing so by an arbitrary age split.<sup>110</sup> It is worth noting that this view reflected that of Mary Carpenter discussed in Chapter 1; it was simply parroting views that had been held for decades. Therefore, instead of being a progressive change, the restructure further enshrined the idea that it was the inability to perform middle-class values (the values of those doing the policing) that required a young person to be detained, not criminal behaviour. This idea was also inherently gendered as it was girls that were disproportionately detained for status crimes.

Indeed, the Barry Report recommended strict controls be put in place around policing pre-delinquent behaviour due to the subjective nature of such a categorisation. It quoted heavily from a submission from the Parliamentary Draftsman, JJ. Lynch, in which he called for courts powers to be limited to sentencing a child to detention when they committed a crime.<sup>111</sup> He specifically referred to detention as punishment, and not rehabilitation:

It is said that the function of the Children’s Court is reformatory and not penal, and this is in great measure true, but the emphasis which is rightly placed on the reformatory and corrective aspects of punishment does not justify long detentions and restrictions which are not consonant with the gravity of the offence.<sup>112</sup>

Lynch also discussed the confusion that arose between punishment and reformation, as well as the overlap between child offenders and those considered neglected.

In relation to children there is a tendency to think of detention in terms of the time necessary for reformation and to regard the punishment of child offenders as precisely

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<sup>108</sup> This has been well documented by scholars. See for example Myers, *Youth Squad: Policing Children in the Twentieth Century*.

<sup>109</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 April 1960, 2397 (Arthur Rylah).

<sup>110</sup> Juvenile Delinquency Advisory Committee, “Report of Juvenile Delinquency Advisory Committee,” 16.

<sup>111</sup> *Ibid.*, 74.

<sup>112</sup> *Ibid.*

the same thing as the correction and education of delinquent or neglected children. There is a similar tendency to confuse child offenders themselves with neglected children.<sup>113</sup>

The committee agreed with Lynch. Therefore, whilst they were open to policing pre-delinquent behaviour, they also recognised the importance of strict controls. No such controls were evident in the new *Social Welfare Act 1960*.

Not only did the restructure enshrine pre-delinquent behaviour, it also equated juvenile delinquency with adult criminality by combining the Penal Department with the Children's Welfare Department; thereby running children's institutions alongside prisons. This combination was again evidence that juvenile detention was a working-class issue; if middle-class children were genuinely being detained, they would not have been so closely associated with the adult criminal system. Prior to the legislation's introduction, the Barry Report had already recognised this historical issue. It positioned juvenile delinquency as a penal issue, whilst still recognising a clear overlap with matters of child welfare. The report also recognised the international trend of equating juvenile delinquency with adult criminality, as evinced by its discussion of the First United Nations *Congress on the Prevention of Crime and the Treatment of Offenders* held in Geneva in 1955, which had also reported on matters of juvenile delinquency.<sup>114</sup> The overlap was also the contemporaneous reality of the system, with children still being kept at Pentridge and Langi Kal Kal (at that time a penal institution for those under 21 serving indeterminate sentences).<sup>115</sup> However, despite linking juvenile delinquency with adult criminality throughout the report, a clear distinction was made between juvenile detention facilities and prisons with the report specifically stating that:

Institutions for children and young people should not be administered by the same authority which has control of the penal system, but by an agency specially charged with the care of children and youths. Furthermore, they should not be part of institutions where adult offenders are detained.<sup>116</sup>

Instead, the report considered the lives of young people to be influenced by those in four different areas, namely the Education Department, Health Department, Chief Secretary's Office and the voluntary sector (including youth clubs).<sup>117</sup> However, as with pre-delinquent

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<sup>113</sup> Ibid., 75.

<sup>114</sup> Ibid., 35.

<sup>115</sup> Ibid., 61.

<sup>116</sup> Ibid., 34.

<sup>117</sup> Ibid., 68.

behaviour, this nuance was not evinced in the *Social Welfare Act*.<sup>118</sup> Again, further evidence that the rhetoric did not match the reality and that broad moral views as they pertained to delinquency remained a dominant factor.

The government tried to argue that the combination would be good for youth offenders as it would see them “removed from the penal field and brought into the youth field”.<sup>119</sup> Rylah also argued that the penal system had shifted its focus to “rehabilitation, probation, parole and training” and that this “very successful system” could be applied “to the youth field and to the child field where it may well be more important than it is in the case of the adult offender”.<sup>120</sup> These statements are best viewed as positive rhetoric only. The reality was that children’s institutions were now to be run officially alongside prisons and as established earlier, this necessarily limited then extent to which juvenile detention centres could be reformed to genuinely care for children. Indeed, the new head of department was to be given to Alexander Russel Whatmore – the then head of the Penal Department – and there were to be no other applications received for the position.<sup>121</sup> It is also worth noting that it was Whatmore who had presented the plan to the government, and the plan was approved by an American criminologist, Professor Sheldon Glueck, who supported combining juvenile detention with adult prisons because it softened the treatment for adults.<sup>122</sup> Therefore the decision to run children’s institutions alongside prisons was done for the benefit of adults, not children. It is also further evidence that the push towards ‘expertise’ was largely for show, because the head of the department did not himself have expert training.

Notably the ability remained to send children to gaol if they misbehaved in a training school. One member, not convinced of this power, discussed the practice of sending girls from Winlaton to the female prison, Fairlea:

I have never been in one of those places except as a visitor, but I can well imagine that to be in a detention home and then to be moved to the strong discipline of a gaol must have a shattering effect possibly the effect that the people in charge are looking for. It

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<sup>118</sup> Nonetheless, when the time came Justice Barry supported the merging of the Penal Department with the Child Welfare Department. Victoria, *Parliamentary Debates*, Legislative Assembly, 27 April 1960, 2595 (Denis Lovegrove).

<sup>119</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 May 1960, 2960 (Arthur Rylah).

<sup>120</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 May 1960, 2960 (Arthur Rylah).

<sup>121</sup> The parliament queried whether Whatmore had sufficient experience for the role. Rylah defended the appointment of Whatmore, by pointing out that he had experience with children, gained when he wrote his report on the penal system and when he had been an inspector of reformatory schools. Victoria, *Parliamentary Debates*, Legislative Assembly, 27 April 1960, 2615 (Valentine Doube), Victoria, *Parliamentary Debates*, Legislative Assembly, 27 April 1960, 2607 (Keith Sutton), Victoria, *Parliamentary Debates*, Legislative Assembly, 19 May 1960, 3062 (Arthur Rylah)..

<sup>122</sup> Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, 172.

could make the person concerned realize that if he is not prepared to behave himself there are places to which he can be sent and made to behave.<sup>123</sup>

It was also pointed out that if the government had wanted to combine departments, it should have considered combining education or housing with child welfare, as was discussed in the Barry Report.<sup>124</sup> Ultimately what this shows is that despite shrouding these changes in ‘expert advice’, the government was not concerned with meaningful reform, and in many respects went backwards. They made the overlap between child welfare and prisons a clear reality. Throughout their time in power, the government also generally evinced an inability to spend money meaningfully on the juvenile detention system. In as early as 1955 more money was being called to be spent on juvenile training schools and prisons. The voluntary school Bayswater needed more money to provide training for inmates and Pentridge was underfunded in the budget.<sup>125</sup> In one instance the Legislative Assembly was adjourned in order to discuss “the failure of the Government to proceed with the establishment of a fund for the prevention of mental ill health and examination into its causes, particularly juvenile delinquency.”<sup>126</sup> Indeed they were openly criticised as favouring money over juvenile delinquency, with one Council Member pointing out that: “When requests were made as to proposals to cover juvenile delinquency, the Government was silent. However, because members of the Stock Exchange come forward and make suggestions, we are requested to grant all they desire.”<sup>127</sup>

During the *Social Welfare Act* debate the government were also generally criticised for their lack of spending on the field of child welfare, and their inappropriate allocation of funds when they actually did spend money on child welfare.<sup>128</sup> The ex-Chief Secretary pointed out that:

Each time a request has been made for increased subsidies for voluntary institutions, it has been refused on the ground that there is no money available. If no money is available for that purpose, what is the good of bringing forward a Bill of this character?

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<sup>123</sup> Victoria, *Parliamentary Debates*, Legislative Council, 26 May 1960, 3503 (Buckley Manchin).

<sup>124</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 27 April 1960, 2609 (Thomas Darcy).

<sup>125</sup> Victoria, *Parliamentary Debates*, Legislative Council, 21 September 1955, 547 (Roy Rawson); Victoria, *Parliamentary Debates*, Legislative Assembly, 20 September 1955, 496 (James MacDonald).

<sup>126</sup> A departmental file also showed that under the Labor government Mr. Barry, the then Treasurer, had agreed to provide £75,000 from Tattersall’s to investigate the increase in mental health problems. However, the Liberal government did not make this money available. This is even though at the time of that debate there was £400,000 in Tattersall’s not spent. Victoria, *Parliamentary Debates*, Legislative Assembly, 4 October 1955, 745, 746 (Valentine Doube).

<sup>127</sup> Victoria, *Parliamentary Debates*, Legislative Council, 24 November 1955, 1995 (John Galbally).

<sup>128</sup> Examples included spending £57,000 on a dining room at Ballarat Orphanage, purchasing a home ‘Lara’ but not providing staff to look after the children there, and refusing increased subsidies to voluntary organisations. Victoria, *Parliamentary Debates*, Legislative Assembly, 4 May 1960, 2755 (William Galvin).

All that it will do will be to create new positions for people who, I believe, are not fitted to carry out the duties involved.<sup>129</sup>

The bill was also specifically criticised by the opposition for not setting out how the new division would be funded.<sup>130</sup> At one stage it was estimated that the introduction of the Social Welfare Bill would only cost £48,000. The former Chief Secretary, Galvin, opposed the bill on the ground that all the allocated money would be spent on salaries due to the administration changes and “the children will not get a ‘cracker’ out of that amount.”<sup>131</sup> The opposition also argued that allocating only £48,000 was misleading due to the “broad principles” in discussion. Instead, Galvin wanted the government to be upfront about the required spending: “If last week we could talk about providing £30,000,000 for an underground railway, surely this week we can speak of spending £20,000,000 on social welfare and be honest about it.”<sup>132</sup>

By not setting out more detailed financial allocations the opposition argued that “this Bill can promise nothing but chaos” and “authorities agree that the existing legislation would be adequate for the purpose if sufficient money were made available.”<sup>133</sup> Lovegrove argued that:

Instead of the honorable member for Essendon informing us how many additional parole officers were to be employed under the new set-up, we could have been informed with advantage what additional financial concentration was to be placed upon child care, youth welfare and the normal functions of preventive case work to which I understand the new organization is eventually to be dedicated.<sup>134</sup>

He also pointed out that they would need “some revolutionary financial reallocation and completely fresh thinking...if the normal requirements of child care and youth welfare are to be catered for” due to the disparity in staff ratios.<sup>135</sup> Therefore, whilst the new bill carried with it the promise of change, it was clear from the outset that no serious funds were going to accompany its implementation.

Finally, while the 1960s did see the development of state-run youth training centres, as foreshadowed by the introduction of the *Children’s Welfare Act 1954*, this did not result in

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<sup>129</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 May 1960, 2755 (William Galvin).

<sup>130</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 27 April 1960, 2590-2591 (Denis Lovegrove).

<sup>131</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 May 1960, 2755 (William Galvin).

<sup>132</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 May 1960, 2759-2760 (James Manson).

<sup>133</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 May 1960, 2756 (William Galvin).

<sup>134</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 May 1960, 2961 (Denis Lovegrove).

<sup>135</sup> He pointed out that in the Penal Department 485 people looked after 1500 prisoners. Comparatively, in the Child Welfare Department, 432 staff looked after “3,951 wards, 4,445 assisted children, and 100 children in subsidized hostels.” Victoria, *Parliamentary Debates*, Legislative Assembly, 17 May 1960, 2962 (Denis Lovegrove).

improved conditions because the institutions were not developed with genuine reform in mind. During the 1960s the state-run system was expanded to include three new training centres for boys, in addition to Winlaton for girls. Turana also continued to have a detention function.<sup>136</sup> The intention was that moving juvenile delinquents to state-run ‘care’ would reduce the comingling of children – with neglected children still being largely the purview of voluntary organisations – however as set out above, by structuring the departments by age meant comingling would continue. Being state-run also meant that youth training schools suffered bureaucratic path dependency.<sup>137</sup>

Central to the development of the state-run institutions was the physical ability to remove delinquent children from society, evinced by the direction of government spending. Despite the Bolte Government’s tight attitude towards money, they were prepared to spend on the development of these institutions; even being criticised for “the delinquent youth of the country...being poured into these expensive institutions”.<sup>138</sup> However, being from public works, the funding was for bricks and mortar developments, not to develop programs, fund research or in any way change the way in which inmates were treated once in detention. And even then, inadequate funds were provided.<sup>139</sup> Evidently, the government was even willing to drop funding when adequate accommodation was not provided, with Lovegrove criticising the funding drops in 1959 because Turana was “grossly overcrowded and is administered in a way which is not in the best interests of the children” and that it “is costing the Government more money than would be necessary if adequate accommodation were provided.”<sup>140</sup> The rest of the 1960s would follow this trend, namely spending on building projects but no commensurate amount to develop programmes to help children inside those institutions.<sup>141</sup>

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<sup>136</sup> O’Neill, “Turana (1955-1993)”.

<sup>137</sup> Murphy, *A Decent Provision: Australian Welfare Policy, 1870 to 1949*, 4.

<sup>138</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 7 December 1965, 2456 (Denis Lovegrove).

<sup>139</sup> For example, in 1957 £150,000 was provided to the Children’s Welfare Department by way of a public works loan to extend Turana, Winlaton and Sutton Grange. Similarly in 1958 £100,000 was provided. Similarly, to cover a broad range of expenses, including a new reception centre, improvements at Turana, Winlaton and Sutton Grange (a child welfare institution), as well as “the erection of an establishment for difficult school-age boys, who are not acceptable by voluntary children’s homes, and a secure juvenile school for lads who cannot be placed at other juvenile schools.” In 1959 the amount allocated dropped by £50,000, from £100,000 to £50,000.<sup>139</sup> Comparatively, police funding increased from the previous year, up to £400,000. Again, in 1960 only £50,000 was provided. Victoria, *Parliamentary Debates*, Legislative Assembly, 12 November 1957, 2771-2772 (Thomas Maltby), Victoria, *Parliamentary Debates*, Legislative Assembly, 12 November 1958, 1568 (Thomas Maltby), Victoria, *Parliamentary Debates*, Legislative Assembly, 19 November 1959, 1396 (Denis Lovegrove), Victoria, *Parliamentary Debates*, Legislative Assembly, 16 November 1960, 1194 (Thomas Maltby).

<sup>140</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 November 1959, 1396 (Denis Lovegrove).

<sup>141</sup> In 1964 £450,000 was provided as a public works loan to the Youth Welfare Division. In 1965 a further £450,000 was provided to the Social Welfare Youth Division as a Public Works loan. In 1966 \$900,000 was allocated to the Youth Welfare Division. In 1967 the State government again provided \$900,000 to the Youth

Intertwined with this was that institutionalisation continued to be favoured by the government. In 1961, with the creation of the new Social Welfare Branch, a loan was provided by the government of £450,000.<sup>142</sup> Whilst criticised for not being clear what, exactly, the money was being spent on it was broadly to show “the government is taking positive action to provide adequate facilities for the welfare of children in the care of the State” and included funding the development of Malmsbury Youth Training Centre.<sup>143</sup> Construction for Malmsbury – on the Malmsbury racecourse in Kyneton – commenced in 1962.<sup>144</sup> It was to be a youth training centre for boys between fourteen and seventeen.<sup>145</sup>

Therefore, whilst the government had been criticised by the opposition for not providing general funding under the new Act – including funding preventative activities – they were willing to fund the traditional method of controlling children, namely institutionalisation. Indeed, in 1962 the building of Malmsbury commenced, estimated to cost a total of £600,000.<sup>146</sup> It was to accommodate up to 128 boys, aged between 14 and 17 years.<sup>147</sup> It was “to give particular emphasis to facilities for educational, vocational and character training” and was self-described as a “dynamic and positive treatment programme.”<sup>148</sup> Notably, no details were actually given on what this meant. Nearing completion in 1967, it was lauded that:

the training facilities at Malmsbury will allow the youths to be taught trades including woodwork, motor mechanics, welding, bricklaying, painting, arts and crafts. Ordinary class-rooms are also provided, and planning is in hand for an administration block, gymnasium and additional residences for staff.<sup>149</sup>

The government had succeeded in providing a building in which young people could be detained and taught ‘useful skills’; however again no funding was discussed on how to fund

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Welfare Division. For the year ended 30 June 1968 the government was again allocated \$900,000 although it proposed to only spend \$621,000 of the allocation (they had also underspent the allocation in 1966 and 1967). The same amount was again allocated in 1969, with a smaller figure of \$615,000 proposed for actual spend. Victoria, *Parliamentary Debates*, Legislative Assembly, 6 October 1964, 657 (Murray Porter), Victoria, *Parliamentary Debates*, Legislative Assembly, 29 September 1965, 384 (James Balfour), Victoria, *Parliamentary Debates*, Legislative Assembly, 25 October 1966, 1223 (Murray Porter), Victoria, *Parliamentary Debates*, Legislative Assembly, 7 October 1967, 941 (Murray Porter), Victoria, *Parliamentary Debates*, Legislative Assembly, 15 November 1968, 1742-1743 (John Wilton); Victoria, *Parliamentary Debates*, Legislative Assembly, 1 November 1967, 1638 (Denis Lovegrove), Victoria, *Parliamentary Debates*, Legislative Assembly, 24 September 1969, 382 (Murray Porter).

<sup>142</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 October 1961, 755 (Horace Petty).

<sup>143</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 October 1961, 755 (Horace Petty); Victoria, *Parliamentary Debates*, Legislative Assembly, 6 December 1961, 2016 (Denis Lovegrove).

<sup>144</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 November 1960, 1590 (Clive Stoneham).

<sup>145</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 November 1960, 1386 (Keith Turnbull).

<sup>146</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 September 1962, 68.

<sup>147</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 September 1962, 68.

<sup>148</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 September 1962, 68.

<sup>149</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 8 December 1966, 2847 (Samuel Merrifield).

the running of the inmate training. Similarly, the Youth Division obtained Langi Kal Kal in 1965 from the Prisons Division.<sup>150</sup> It had been being used as a low security reformatory prison for under 21s.<sup>151</sup> However, in 1965 it was transferred from the Prisons Division to the Youth Division and the building of an education centre was commenced. Money was provided to build an education centre, but there was no equivalent spending provision for services designed to help inmates.<sup>152</sup> Work was continued on the education block into the 1970s.<sup>153</sup>

Buxton youth camp also continued to be developed during the 1960s.<sup>154</sup> This was to become Acheron, a youth adventure camp for boys in youth training centres where some children were also sent to learn building and groundskeeping.<sup>155</sup> However, it should be noted that whilst the Public Works Department was planning building for Buxton, “the actual construction work is carried out by the boys themselves under the supervision of trade instructors”; the government was thus openly using unpaid labour to assist in its building works.<sup>156</sup> Finally, money was periodically spent on Winlaton to improve facilities.<sup>157</sup> What all of this shows is that to the extent the government was willing to spend money, it was on bricks and mortar changes and not meaningful reforms to the system. This was, again, consistent with the underlying motivation to implement these changes; namely moral panic.

## Conclusion

The 1960s saw the open acceptance of professionals and ‘expert’ knowledge as it related to juvenile justice. Psycho-social case work was developed and the Social Welfare Department actively engaged in training programs for its employees, a marked change from the early 1950s. However, in embracing the authority of the expert, social prejudices were simply rendered invisible under the appearance of ‘objectivity’. Those in control were still influenced by middle-class values and the public obsession with delinquency remained strong. The burgeoning youth culture fuelled a class based moral panic. Where juvenile delinquency had once been considered a blight of the working class, the middle class now feared that it was

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<sup>150</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 September 1965, 84.

<sup>151</sup> Juvenile Delinquency Advisory Committee, "Report of Juvenile Delinquency Advisory Committee," 6.

<sup>152</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 September 1965, 84.

<sup>153</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 September 1969, 382 (Murray Porter).

<sup>154</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 25 October 1966, 1223 (Murray Porter).

<sup>155</sup> Cate O'Neill, "Acheron Youth Training Centre (C. 1966-2008)," Find & Connect Web Resource Project for the Commonwealth of Australia, , <https://www.findandconnect.gov.au/ref/vic/biogs/E000238b.htm>.

<sup>156</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 7 October 1967, 941 (Murray Porter).

<sup>157</sup> For example, in 1969 funding was provided to Winlaton to “include the conversion of some existing buildings to provide educational facilities, the completion of alterations to administrative facilities, and the provision of heating and roadworks.” Victoria, *Parliamentary Debates*, Legislative Assembly, 24 September 1969, 382 (Murray Porter).

infecting those amongst them. Whilst this was not actually true, it served to increase social concern with what to do with the so-called 'problem youth'. Policing female sexuality also continued to be a matter for moral panic, as it had in decades previously. Reform pressures were therefore based on broad, unformed ideas of 'problem' youth, the result being that no meaningful reform was introduced. The departmental restructure that resulted from the *Social Welfare Act 1960* did not result in fundamental positive change. It enshrined the governing of pre-delinquent behaviour and more explicitly equated juvenile offending with adult offending. Institutionalisation was favoured with money being poured into new institutions, but without any money being spent on programmes inside of them. With the rhetoric of prevention being ignored, this was simply another decade in which the system remained fundamentally unchanged.

## **4. 1970 – 1982: The visibility of youth and the rise of the ‘hardcore’**

The 1970s marked a turn in the social conscience of Australia. The idea of youth was politicised and the problems young people faced were increasingly understood as ‘symptoms’ of broader social problems. However, irrespective of this those who found themselves in the juvenile detention system continued to be treated (and punished) as individuals that had ‘failed’ and were ‘dangerous’. Therefore, to the extent that the juvenile justice system changed during this decade, it tended to make life harsher, not better, for those in detention. Although Victoria was led by a series of Liberal governments during the 1970s, just as it had been during the previous decade, the 1970s can be differentiated examine how youth became a political issue during the 1970s, and show how increased political discussion about young people revealed biases still held towards children sent to juvenile detention centres. Whilst the explanations for the causes of delinquency were shifting towards social factors, there was still a strong argument for individual punishment. Indeed, the government’s actions as they related to juvenile justice – such as departmental restructure, development of alternate sentencing and staffing concerns – in fact pushed the children’s system closer to the adult system and embedded juvenile detention centres as ‘hardcore’. The evidence shows that during the 1970s the conditions within Victoria’s juvenile detention system continued to see inmates suffer.

### **The Rise of ‘Youth’ as a Political Problem**

During the 1970s ‘youth’ more generally became a topic of concern for politicians. Whilst this brought issues impacting young people – such as unemployment – into the public sphere, it also revealed the biases held towards children in juvenile detention.<sup>1</sup> The rising visibility of youth in the parliamentary debates provides important illustrations of both how the ‘youth problem’ was perceived and how this overlapped with views surrounding juvenile justice. Behaviours resulting in ‘delinquency’ were increasingly being viewed as a symptom of broader societal problems, instead of due to inherent moral failings. For

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<sup>1</sup> Jan Kociumbas, *Australian Childhood: A History* (St Leonards, NSW: Allen & Unwin, 1997), 230.

example, during the 1970s debate of the new *Social Welfare Act 1970* (Vic) (discussed in more detail below) the Labor Party position was that:

social welfare is basically a matter of income. If a family has sufficient income it will have no problems with social welfare. That is fundamental. Pressures are applied in society today to keep the wage earner on a minimum income so that the costs of industry may be kept as low as possible.<sup>2</sup>

Similarly, when the debate moved to the Legislative Council it was argued that: “Crime is not a matter of heredity. One has only to look at the history of Australia to establish that. If it were, a lot of people would not be here today.”<sup>3</sup> The result was that to some extent there was a more sympathetic attitude towards youth crime. This was exemplified by the impassioned response of Athol Guy in 1973, a member of the Liberal party, when increasing rates of youth crime (as a result of increasing youth population) become a topic of discussion:

The young people in today's community have never been more misunderstood, more misrepresented, or more manipulated. There is no such thing as a generation gap. However, chasms of confusion are heaped upon these young people by those who would manipulate them in their youth. I refer to the advertising industry and bandwagon politicians who seek to use the youth of the country as a vehicle for their own ends. The young people of this country have sometimes been accused of losing their sense of humour.<sup>4</sup>

It was even said by one member that “in full sincerity I consider that [the young people of today] are better behaved, generally speaking, than the young people of years gone by. They are also better educated and adopt a far more responsible attitude.”<sup>5</sup> Even in 1974 when one parliamentarian was arguing youth crime was increasing in violence, it was countered that “I do not believe there is a lesser moral standard amongst the younger generation. They are the descendants of people who believed in violence, and counter violence by the state as punishment.”<sup>6</sup> At one point the Minister for Social Welfare was even criticised by the Labor government for believing in “the imposition of rigid standards of discipline” as a response to an increase in youth crime, a belief that was contrary to the Malmsbury Youth Training Centre whose policy stated that: “internal

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<sup>2</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3294 (James Simmonds).

<sup>3</sup> Victoria, *Parliamentary Debates*, Legislative Council, 16 December 1970, 3657 (John Galbally).

<sup>4</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 September 1973, 53 (Athol Guy).

<sup>5</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 November 1972, 2472 (Neil Trezise).

<sup>6</sup> Victoria, *Parliamentary Debates*, Legislative Council, 23 October 1974, 1412 (Daniel Kent).

changes cannot be forced but can grow through sympathetic (empathetic) intervention of, and interaction with mature adults.”<sup>7</sup> The Minister rejected these claims.

However, the sympathetic attitude taken towards young people were still very much influenced by class dynamics. This was evident in the debates surrounding the 1972 Youth, Sport and Recreation Bill. The bill sought to develop youth clubs to increase community involvement of young people.<sup>8</sup> As discussed in the earlier chapter, youth clubs were often seen as a preventative measure for youthful offending, even if not expressly stated as such. Indeed, during the debate the bill was seen as a chance to address the international trend of young people experiencing “strong pressures...which force youth to opt out of society and become segregated”.<sup>9</sup> Quoting the Canadian report on Youth “It’s your turn”, David Bornstein implored the government to “take heed” of the message that: “For all its uncertainty and confusion, the message of youth is an honest and humanistic cry against a society which places technological advancement and bureaucratic efficiency before the needs of its citizens.”<sup>10</sup>

However, the bill was openly criticised by the opposition for only dealing with middle-class interests. During the Legislative Council debate Galbally dismissed the bill as something more attune to the “Ministry of Propaganda” because it did not specifically provide for children of lower socio-economic areas. He made the point that it was designed to facilitate recreation for children that already had access to facilities:

Once a person gets into a football team, he is looked after, but how does a boy get into a football team from the top of a high-risk building in Carlton? It is not those who are playing games, whether football, cricket, tennis, golf or swimming, who need assistance from a Government propaganda machine. They are the fortunate ones who have been able – I say this deliberately – to take advantage of facilities provided for them by voluntary organizations, not by Governments.<sup>11</sup>

Galbally linked inner-city conditions with delinquency and a future life of crime, a problem he thought could be solved by taking children “out of the slums and high-rise prisons and given life, air, playgrounds and facilities.”<sup>12</sup> He did not agree that this bill would achieve that. What Galbally identified was a bill that would make it easier to develop facilities for those who were already benefiting from them: the middle class.

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<sup>7</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1972, 2595 (David Bornstein).

<sup>8</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 November 1972, 2479 (Brian Dixon).

<sup>9</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1972, 2592-93 (David Bornstein).

<sup>10</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1972, 2596 (David Bornstein).

<sup>11</sup> Victoria, *Parliamentary Debates*, Legislative Council, 5 December 1972, 2853 (John Galbally).

<sup>12</sup> Victoria, *Parliamentary Debates*, Legislative Council, 5 December 1972, 2850-1 (John Galbally).

While the blame of delinquency was shifting away from the individual and towards the societal, there was still a strong argument being run for individual punishment. This undercurrent would contribute to the treatment of so called 'hard' cases, namely those that remained within the juvenile detention system, whereas welfarist programmes would benefit those in prevention or alternate sentencing arrangements (which will be explored more below). Evidence of this punitive undercurrent was also evinced in the parliamentary debates. Incidents of criminal behaviour were brought up periodically during the parliamentary debates, coupled with comments such as "many of our youth today have come through a system where a teacher who inflicts corporal punishment takes the risk of being brought before the court, which accounts in some part for the wave of violence within the community."<sup>13</sup> Another such example was when one politician was unhappy that only 12 months' imprisonment was given to "carloads of youths [that] break into parties at the homes of respectable people and assault and batter persons present."<sup>14</sup> Parliamentarians also argued that apartment blocks caused delinquency as "people cannot control their children if they are out of sight half the time".<sup>15</sup>

The tension between these two views was perhaps best exemplified in 1971 when the Liberal party increased the penalty for stealing a car, a known "crime of youth".<sup>16</sup> Significantly, the bill resulted in offenders having their drivers licence removed, thereby inhibiting their ability to satisfy probation requirements. Therefore, practically a child who had stolen a car could not participate in alternate sentencing options, necessarily resulting in institutionalisation even for a non-violent crime. The Labor party argued that "this measure is a retrograde step and its only effect will be to put more young offenders between the ages of fifteen and nineteen years into gaol despite the fact that there has been no proof that a gaol sentence is a deterrent."<sup>17</sup>

Finally, a major government report of the decade discussed the existence of these two opposing views. The "Report of the Committee of Enquiry into Child Care Services in Victoria" (Norgard Report) was produced in the 1970s and its aim was to look at child welfare facilities, what preventative services could be offered, what should be voluntary and what state-run and also how finance ought to be obtained.<sup>18</sup> In total 300 people

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<sup>13</sup> Victoria, *Parliamentary Debates*, Legislative Council, 21 April 1971, 4944 (William Fry).

<sup>14</sup> Victoria, *Parliamentary Debates*, Legislative Council, 7 September 1971, 151 (Murray Hamilton).

<sup>15</sup> Victoria, *Parliamentary Debates*, Legislative Council, 13 October 1971, 1315 (Geoffrey O'Connell).

<sup>16</sup> Victoria, *Parliamentary Debates*, Legislative Council, 4 May 1972, 5948 (Murray Hamilton).

<sup>17</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 May 1971, 6016 (Valentine Doube).

<sup>18</sup> J. D. Norgard, "Report of the Committee of Enquiry into Child Care Services in Victoria," (Melbourne, 1976), 3.

appeared before the committee, either by invitation or personal initiation.<sup>19</sup> The report focused on children under the age of 15 and specifically saw “the field of the offending adolescent as a specialist one somewhat outside our charter”.<sup>20</sup> In the appendices the committee also noted that whilst there was a general trend of Victorian child welfare towards rehabilitation instead of punishment, “the general attitude of the community to delinquent youth, to large scale vandalism, etc. support the existence of values associated with punishment.”<sup>21</sup> They also noted that “although welfare personnel working with children generally adopt the values of rehabilitation rather than punishment, there is some difference of emphasis between the legal and welfare professions in this regard”.<sup>22</sup> Notably, witness testimony discussed further below clearly shows that welfare personnel also favoured punishment. The committee may have believed what they were told, but this was not the reality.

When discussing institutional conditions, ‘difficult’ young people were identified as suffering from lack of appropriate care. The committee found that:

that placements for ‘difficult’ young adolescents are seldom available after the middle of each year that those who cannot be placed frequently spend a period in Reception Centres and are then released. Neither welfare nor justice is served when a substantial number of children are admitted to State care on the ground that their behaviour requires modification, are given little, if any, help with their problems and are released largely because appropriate accommodation is unavailable. We are aware that questions posed by juvenile misbehaviour are not easily answered, but consider the State has paid insufficient attention to the issues raised by ‘difficult’ behaviour in young adolescents.<sup>23</sup>

They recommended that ‘difficult’ children be cared for in groups of 7-8 children and that more focus be given on providing psychiatric and psychological assistance. The committee also recommended alternate sentencing where possible and “the development of community-based remedial facilities for children who offend or misbehave.”<sup>24</sup>

Therefore, whilst the report did not officially apply to children in youth training centres, as they fell outside of the age bracket under consideration, the findings were nonetheless relevant. It clearly indicated that youth training centres needed to be investigated and improved. However, as is set out below, whilst the government were

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<sup>19</sup> Ibid., 5.

<sup>20</sup> Ibid., 10.

<sup>21</sup> Ibid., Appendix 5.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid., 39.

<sup>24</sup> Ibid., 86.

willing to develop community services in line with the recommendations, little effort was taken to improve services and programmes within the institutions themselves. This decision placated the tension discussed above, because more welfare services were provided which in turn reduced institutional numbers; but it also meant that those inside the institutions were punished as it was deemed appropriate to do.

Another important influence during this period was the rise of women's liberation. It was argued that it was the collapse of the family unit that resulted in delinquency. It is well documented that the 1970s saw a fundamental shift in how women and their role were viewed in Australian society.<sup>25</sup> It was the decade that saw the Royal Commission on Human Relationships and the rise of second-wave feminism.<sup>26</sup> However, this shift towards women's liberation and acceptance of alternate family arrangements – outside of the nuclear family unit – also brought about strong critique. Again, the argument arose that women were no longer fulfilling their proper role as 'mother', and as such children were becoming delinquent. This was exemplified in the parliamentary debates. Roy Ward of the Liberal party argued that "it is not only children from poorer families who are revealing traces of delinquency", linking this to "more women...working" and "in some ways or other these women are seeking to establish a degree of independence which was previously unknown."<sup>27</sup> However, welfarism could also solve for this as the Social Welfare Department was "to provide for the education of adults as well as young people" as "while women continue to go to work there will be problems concerning children who do not have mothers to talk to".<sup>28</sup> Whilst it does not appear that the Social Welfare Department ever provided such services, this rhetoric signalled the Liberal party's belief that it was also the role of the state to control the direction of families and to the extent possible persuade women to stay in the home. What this social discourse revealed was that whilst women were more liberated, there was still a conservative undercurrent which placed delinquency as the fault of individuals, even if those individuals were the children's mother.

The 1970s were the first decade in which official statistics were captured on the overrepresentation of Indigenous children in youth training centres. In 1973 the Department of Aboriginal Affairs funded an Aboriginal youth support service in

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<sup>25</sup> See for example Michelle Arrow et al., *Everyday Revolutions: Remaking Gender, Sexuality and Culture in 1970s Australia* (Acton, Australian Capital Territory: Australian National University Press, 2019); Susan Magarey, *Dangerous Ideas: Women's Liberation - Women's Studies - around the World* (Adelaide: The University of Adelaide Press, 2014).

<sup>26</sup> Arrow et al., *Everyday Revolutions: Remaking Gender, Sexuality and Culture in 1970s Australia*, 1.

<sup>27</sup> Victoria, *Parliamentary Debates*, Legislative Council, 16 December 1970, 3664-5 (Roy Ward).

<sup>28</sup> Victoria, *Parliamentary Debates*, Legislative Council, 16 December 1970, 3665 (Roy Ward).

Brunswick.<sup>29</sup> By 1976 this had become the Aboriginal Support Unit under the Social Welfare Department.<sup>30</sup> Then in 1977 the Commonwealth Department of Aboriginal Affairs led a symposium “on the care and treatment of Indigenous young people in detention centres”, one aim being to determine the extent of overrepresentation of young Indigenous people in youth training centres.<sup>31</sup> The discussion pertaining to this overrepresentation once again evinced the tensions between the welfarist view to delinquency and the idea that certain ‘hardcore’ individuals needed institutionalisation.

Earlier in 1976, Elizabeth Eggleston released a detailed study on the relationship between the criminal justice system and Indigenous people, and how this resulted in overrepresentation.<sup>32</sup> Whilst this study focused on the prison system, given the dual-track system that existed in Victoria (young people could be sentenced to either prison or a youth training centre) this trend also applied to the youth training centre population. Writing in 1978, Elizabeth Sommerlad – an academic at Australian National University – noted:

The disproportionate number of Aboriginal juveniles in state corrective institutions is a matter of serious concern to Aboriginals, policy-makers and administrators alike. Although it is difficult to obtain accurate statistical information in this area, and hence to fully comprehend the nature and complexity of the problem, what data we do have suggest that juvenile delinquency and ensuing institutionalisation is reaching crisis proportions.<sup>33</sup>

Sommerlad went on to point out that compared to non-Indigenous children, “Aboriginal juveniles are more likely to be charged with an offence, to be convicted, and to be committed to a corrective institution.”<sup>34</sup> She also identified the close relationship between child welfare and juvenile detention, with a significant number of Aboriginal children being “transferred to institutions or permanent foster care as wards of the State” on release from youth training centres.<sup>35</sup>

However, contrary to the state’s rhetorical shift towards preventative services, the 1977 symposium focused on how institutional ‘care’ could be modified to be “more

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<sup>29</sup> James Jenkinson Consulting, "Volume One Agency Descriptions," in *Guide To Out-of-home Care Services 1940-2000* (Melbourne, 2001), 31.

<sup>30</sup> *Ibid.*

<sup>31</sup> National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, "Bringing Them Home," 442.

<sup>32</sup> Roy Wagner, "Ethnology," *American anthropologist* 78 (1976).

<sup>33</sup> Elizabeth Sommerlad, "Aboriginal Juveniles in Custody — New Community and Institutional Approaches," *Children Australia* 3, no. 3-4 (1978): 43.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

responsive to the special needs and interests of Aboriginal juveniles”.<sup>36</sup> Yet, the symposium also discussed preventative measures and the conclusion was that misdemeanours be treated with alternate sentencing options that did not remove the child from their community wherever possible. Nonetheless the focus on institutionalisation indicated that perceptively Indigenous young people were ‘hardcore’ cases that required institutionalisation.

Sommerlad discussed this tension and links it to varying attitudes on the “nature of Aboriginal juvenile delinquency”.<sup>37</sup> She noted that some participants considered delinquency to be an individual issue requiring rehabilitation, whilst others argued it arose from society’s narrow definition of acceptable behaviour.<sup>38</sup> The other view she said was “forcefully expressed” at the symposium was that delinquency was “structurally embedded in the inequalities of society” – the rhetorical shift discussed above – and that:

The interrelationships between juvenile delinquency and dispossession of land, social disintegration, high unemployment, lack of recreational facilities, inadequate housing, poor health, discrimination and other factors which distinguish Aboriginals as the most disadvantaged group in society, were underlined.<sup>39</sup>

The symposium participants that held this view considered legislative changes to decriminalise ‘deviant’ behaviour or to introduce welfare to assist – the approach taken by the Victorian government for juvenile delinquents generally – were only short-term approaches.

Sommerlad also considered the experience of Indigenous children in youth training centres to be particularly negative due to the cultural differences experienced within the institution and the lack of recognition of these differences by the institution. The symposium also recommended that Aboriginal children in institutions be given special consideration and be provided additional supports, such as access to their kinship networks.<sup>40</sup> Interestingly, the question then also arose as whether separate institutions should be provided for Aboriginal children. The answer was that this was happening already because the states were moving towards community based care. Victoria was used as an example where a hostel for young Aboriginal offenders had recently been opened.<sup>41</sup> The discussion was therefore complicated. One on hand, it was recognised that more

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<sup>36</sup> Ibid.

<sup>37</sup> Ibid., 44.

<sup>38</sup> Ibid., 44-5.

<sup>39</sup> Ibid., 45.

<sup>40</sup> Ibid., 47.

<sup>41</sup> Ibid.

welfare services would assist Indigenous children, yet at the same time there was a resignation that Indigenous children would ultimately end up being institutionalised without societal change and at the very least institutional conditions should be improved. However, what we will see below is that the rhetoric supporting preventative measures and alternate sentencing ultimately contributed to stagnating institutional conditions.

### **Embedding the Institution as ‘Hardcore’**

Despite the emerging recognition that delinquency could be a symptom of broader societal concerns, ultimately the government’s actions as they pertained to juvenile justice embedded the juvenile detention institution as ‘hardcore’ and further conflated the children’s system with the adult. As such, there was no significant change in institutional conditions. This section will explore the different methods implemented by the government in order to deal with juvenile offenders, and show that in fact they did little for those inside the institutions.

In 1970 the Victorian government created a separate Minister for Social Welfare – instead of sitting matters of social welfare with the Chief Secretary – and introduced the *Social Welfare Act 1970* (Vic). The value of a separate ministry had been debated in the 1960s, and from 1971 it was to become a reality as “a recognition of the changing times”.<sup>42</sup> However, the content of the legislation did not substantially change, which did not go unnoticed nor without criticism. As Labor politician David Bornstein – who was vocal in matters of social welfare – stated:

If the honorable member for Bennettswood peruses those pages he will see an extraordinary emphasis on institutionalization, incarceration and corrective principles. The Bill is designed to look after a certain segment of the population from the cradle to the grave, but it looks after people in a certain manner only.<sup>43</sup>

Bornstein also said that: “The Bill now before the House certainly reads as though it has come from the last century. It embodies philosophies that go back as far as some of the old legislation.”<sup>44</sup> Even the new Minister for Social Welfare recognised that the new Act did not take on a lot of the recommendations put forward by the voluntary organisations to detail new functions that would be taken on by the department:

I express the Government’s thanks for the assistance which has been given by some 40 or more voluntary organizations which were given the opportunity to

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<sup>42</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 25 November 1970, 2487 (Peter Ross-Edwards).

<sup>43</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3254 (David Bornstein).

<sup>44</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3255 (David Bornstein).

examine this Bill in rough form. We appreciate their co-operation and the views that they have expressed. I am sure that, although many of the views have not been incorporated in the Bill for the reasons stated, they will provide a valuable charter, as it were, for the new Minister.<sup>45</sup>

Whilst the preamble of the act referred to preventative services, the legislation itself did not provide any additional powers to the new department to provide such services, however neither did it stop it from doing so. The only relevant change was that “new youth welfare services for the treatment of children and young persons” could be made a probation requirement.<sup>46</sup> The government's institutional powers therefore remained unchanged; foreshadowing the reality of the lived experience of inmates during the 1970s.

As explored in the previous chapter, the only limitation the department had previously suffered from in providing preventative services was funding. Again, this did not go unnoticed by members of the opposition, as stated by Murray Byrne:

In explaining the Bill to the House, the Chief Secretary said that the Social Welfare Branch provides adequate services, or has adequate aims; that its development has been hindered purely by lack of finance; and that finance is still a problem. Where do we go from there? We are back at square "A", because the Government's obvious intention is to fall back on the old excuse that it cannot do certain things and cannot introduce a specific programme, commendable as it may be, because of a shortage of finance.<sup>47</sup>

Similarly, despite the creation of the new ministry, the government estimated that its spending would only increase by \$805,504, the smallest increase in five years.<sup>48</sup> The lack of funding was viewed by the opposition as cause for “a great deal of pessimism [for] the measure now before the House” and the Country party considered it “one of the major problems confronting the department”.<sup>49</sup> As Milton Whiting from the Country party pointed out: “It is the continuing story of this Government when it is endeavouring to cope with a large number of problems - insufficient finance is available for the prevention of many difficulties.”<sup>50</sup> The government argued that the lack of funding was due to tensions arising between state and commonwealth responsibilities and that moving services regionally – a change they were also looking at implementing – meant that

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<sup>45</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 October 1970, 1439 (Arthur Rylah).

<sup>46</sup> Victoria, *Parliamentary Debates*, Legislative Council, 15 December 1970, 3447 (Murray Byrne).

<sup>47</sup> Victoria, *Parliamentary Debates*, Legislative Council, 15 December 1970, 3256 (Murray Byrne).

<sup>48</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3258 (David Bornstein).

<sup>49</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3258 (David Bornstein); Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3269 (Milton Whiting).

<sup>50</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3270 (Milton Whiting).

money could be “be spent well and wisely”.<sup>51</sup> By arguing that regionalisation could solve financial woes, Doyle was also suggesting that nothing would be done to fix financial woes of institutions that continued to be centralised.

Given the government’s inaction in the 60s, the opposition met the legislation with scepticism. The opposition was “doubtful whether action will be initiated under the new legislation”.<sup>52</sup> At one stage the debate got so heated that words such as “dirty little Tory” were exchanged.<sup>53</sup> It is interesting to note, however, that the debate was barely attended. At one stage there were only six opposition members present, and at another time only two government members.<sup>54</sup> Whilst the debate did go through the night, this does suggest that the functions of the Social Welfare Department were not of broad interest to the parliament.

Whilst legislation was not strictly required to instigate change – the department already had these powers – the rhetoric surrounding the introduction of the legislation indicated the government’s intention. They were willing to change the function of the department to focus more on preventative measures, but they were only willing to do so as funds became available. Their silence on youth training centres also shows that they were not willing to seriously reconsider their function. Again, this signalled what would be the trend for the rest of the 70s, community services were to become the rhetorical and financial focus of the government at the expense of inmates in youth training centres.

Central to the idea of prevention was also the notion that young people needed places to socialise.<sup>55</sup> However, instead of empowering the Social Welfare Department to provide for these kinds of youth services, at the end of 1972 the government created the Ministry of Youth, Sport and Recreation. It was believed that:

greater consideration of the needs of youth and the family group will prove to be an important preventive measure. It believes that it is appropriate to link with this the provision of additional opportunities to improve physical fitness and mental health through sport and recreation.<sup>56</sup>

The intention was that this ministry would give support to “Victorian youth organizations for the establishment and maintenance of leadership training courses and facilities, and the training of youth workers and leaders now undertaken by the Social Welfare

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<sup>51</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3276 (Julian Doyle).

<sup>52</sup> Victoria, *Parliamentary Debates*, Legislative Council, 16 December 1970, 3650 (Douglas Elliot).

<sup>53</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3283 (Clyde Holding).

<sup>54</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3288 (Clyde Holding).

<sup>55</sup> Victoria, *Parliamentary Debates*, Legislative Council, 17 October 1972, 917 (Roy Ward).

<sup>56</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 2 November 1972, 1805, (Ian Smith).

Department”.<sup>57</sup> The government also created a State Youth Council to replace the previous Youth Advisory Council to advise the Ministry on youth matters.

Therefore, the responsibility of youth policy was to be divided between the two new ministries, with “correctional and remedial aspects of youth work...being retained by the Youth Welfare Division of the Social Welfare Department”, with “close consultation on preventive work between the new department and the Social Welfare Department whose job it is to develop the more specific preventive services.”<sup>58</sup> Whilst superficially the new ministries and divisions of labour had the appearance of a proactive interest in youth matters, the reality was that the lines of responsibility were blurred, and it was easy for certain groups to fall between the cracks. In the middle of this were children sent to youth training centres.<sup>59</sup> Throughout the extended debate on both legislative reforms, at no point were children in youth training centres discussed in any depth. The government’s interest was now focused on preventative services, meaning those children in institutions were ignored and forgotten. The same trend was evident when the department undertook a restructure in the 1970s. During the 1970s the Social Welfare Department undertook a number of structural changes, all of which ensured that youth training centres were deprioritised and ignored. The move away from the welfare model to the justice model – discussed in the next chapter and evident in the 1980s – was beginning.

In 1977 the department was split into new divisions. Where divisions had previously been split by the age of the children being cared for by the state, the divisions were now to do with services. Youth training centres and youth services more generally were bundled into the broad Division of Family and Adolescent Services. The new structure reflected the commitment made to regionalisation and community services. This aligned with the rhetorical shift discussed above because it meant that more services were being provided at a local level. However, the new focus on regionalisation did not apply to institutions. Control of the institutions was to remain the responsibility of the centralised division whose role was to “essentially undertake the responsibility for the management of institutions for children and young persons because of the difficulty of absorbing the management of these services within the regional structure at the present time.”<sup>60</sup>

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<sup>57</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 2 November 1972, 1805, (Ian Smith).

<sup>58</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 2 November 1972, 1805, (Ian Smith).

<sup>59</sup> See for example in 1974 when Bornstein was discussing a Malmesbury Youth Training Centre policy document with the Minister for Youth, Sport and Recreation. (Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1971, 2594).

<sup>60</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 21 April 1977, 7876 (Brian Dixon).

Even where residential facilities were provided on a regional basis they were to be managed out of the Division of Family and Adolescent services.<sup>61</sup> Therefore, inbuilt into the structure of the department was separating institutionalised children from those receiving community based services, further isolating them and seeing them as the ‘other’ and untreatable. Later in 1977 when the Community Welfare Services Bill was first introduced (it would be introduced again in 1978) the Social Welfare Department was renamed the Department of Community Welfare. Only a few minor changes were made, again none of which directly pertained to youth training centres. This set the scene for the remainder of the century – namely little discussion on youth training centres – and continued the trend from previous decades because no real change was implemented. Therefore, whilst the government introduced new legislation and significant department change, this only served to isolate those within juvenile detention institutions.

Central to providing more community services was also providing alternate sentencing options to institutionalisation. Victoria’s regime to move children from youth training centres in the 1970s has generally been considered successful.<sup>62</sup> As discussed in Chapter 3, moves were being made towards preventative services and alternate sentencing internationally. In Victoria the move away from institutionalisation reduced the number of children in youth training centres.<sup>63</sup> However, alternate sentencing arrangements did not impact the reality experienced by children inside youth training centres.

In 1970, following the “tremendous increase in the number of young people in prison and in youth training institutions” – there was a 17% increase for boys in youth training centres and a 50% increase for girls – the department established its first Youth Welfare Service (YWS) in Melbourne.<sup>64</sup> The intention of the YWS was to “replace institutional confinement with non-residential intensive supervision and psychologically oriented therapy.”<sup>65</sup> The programme involved regular contact with parents, “nightly group discussions, group therapy and individual therapy.”<sup>66</sup> The young people were also required to complete “work projects such as repairing kindergarten furniture, or making

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<sup>61</sup> Social Welfare Department, "Annual Report of the Social Welfare Department for the Year Ended 30 June 1978," (Melbourne, 1980), 22.

<sup>62</sup> Muncie, "The Deinstitutionalization of Juvenile and Young Offenders in Victoria, Australia."

<sup>63</sup> Muncie; Compare with the UK where despite efforts to deinstitutionalise the number of children in the borstal system actually increased as portion of the population (ibid., 235.)

<sup>64</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 November 1971, 2392 (Ian Smith); Social Welfare Department, "Annual Report Year Ended June 1970," (Melbourne, 1970), 24.

<sup>65</sup> Muncie, "The Deinstitutionalization of Juvenile and Young Offenders in Victoria, Australia," 235.

<sup>66</sup> Victoria, *Parliamentary Debates*, Legislative Council, 3 August 1971, 20 (Charles Hider).

toys for children.”<sup>67</sup> It was also the intention that the use of YWSs would decrease expenses because it would give an alternate sentencing option away from detention in youth training centres.<sup>68</sup>

However, although the aim was to move away from the institutional model, the extent to which this genuinely occurred varied. In the following five years another four YWSs were developed. The standards across the YWSs were inconsistent. As John Muncie notes: “some YWSs acted more as mini-institutions emphasizing security and control (such as Windsor YW for girls); some included education facilities, others not; some ran therapeutic and behaviour modification programmes, others relied on more activities-based developmental approach.”<sup>69</sup> Therefore, whilst rhetorically they were discussed as an alternative to institutionalisation, and in the case of Windsor the residential programme was paradoxically designed to assist girls prepare for living outside of an institutionalised environment, institutional conditions still remained to a degree.<sup>70</sup>

What is also interesting was that even though the introduction of YWSs did reduce the number of young people in youth training centres, they notably did not reduce the number of offenders in youth training centres. As discussed in previous chapters, the population of youth training centres consisted of children who had been sentenced for a crime and children that were in the protective custody of the state. In this way ‘pre-delinquent’ behaviour had attracted detention in a youth training centre without any actual criminal offence and children with two different legal statuses were sent to the same place. The majority of children attending YWSs were on probation.<sup>71</sup> Therefore, YWSs were used for the latter class of child, signalling a growing divide between children deemed ‘guilty’ and those that were not. Therefore, whilst pre-delinquent behaviour was still subject to sentencing arrangements, the shift was moving towards alternate sentencing instead of institutionalisation.

This growing divide was clearly evident for boys. Between 1970 and 1975 the weekly average of boys between 14 and 16 held in a youth training centre who were there

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<sup>67</sup> Victoria, *Parliamentary Debates*, Legislative Council, 3 August 1971, 20 (Charles Hider).

<sup>68</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 November 1971, 2392 (Ian Smith). It had also been argued more generally that the move away from institutionalisation was an economic one (Scull quoted in Muncie, “The Deinstitutionalization of Juvenile and Young Offenders in Victoria, Australia,” 230.)

<sup>69</sup> *Ibid.*, 236.

<sup>70</sup> Cate O’Neill, “Windsor Youth Welfare Service,” Find & Connect Web Resource Project for the Commonwealth of Australia, , <https://www.findandconnect.gov.au/ref/vic/biogs/E000521b.htm>.

<sup>71</sup> Muncie, “The Deinstitutionalization of Juvenile and Young Offenders in Victoria, Australia,” 236.

but not as offenders dropped from 130 to 80.<sup>72</sup> Children there as offenders only dropped from 185 to 165. There was no drop in young people between 17 and 21 who were attending youth training centres, the weekly average remaining around 220.<sup>73</sup> In 1975 the Catholic young training centre for boys, Morningstar, closed.<sup>74</sup> Plans to build another state-run youth training centres for boys were also abandoned.<sup>75</sup> However, Bayswater, Malmsbury, Langi Kal Kal and Turana continued to operate. Therefore, boys charged with a crime continued to be institutionalised, clearly separating them out as 'guilty', again signalling a move away from the welfare model to the justice model and embedding the idea of a 'hardcore' class of child that was not deemed appropriate for community options.

For girls the differentiation between classes of children continued to be blurred. Between 1970 and 1975 the female population also reduced from 110 to 60, although there was no equivalent breakdown between offenders and those that were only as state Wards because the majority continued to be the latter; institutionalised girls were largely only guilty of status offences.<sup>76</sup> The two Catholic youth training centres for girls, Abbotsford and Oakleigh, also closed in 1973 and 1979 respectfully. In 1973 the Female Youth Parole Board was also disbanded because it only dealt with a small number of girls; there were no girls released on parole in 1972-73, who could instead be dealt with by the main Youth Parole Board.<sup>77</sup> However, the drop in the female inmate population was less linked to alternate sentencing provisions and more linked to changing social perceptions around female sexuality. As discussed above, during the 1970s there were notable shifts in public perception around female sexuality. Feminist activism became widespread, and women's rights moved from the private to the public domain.<sup>78</sup> Whilst this did not necessarily remove the link between visible female sexuality and delinquency in people's perceptions of girls, it did mean that there was less public acceptance of incarcerating girls for sexual behaviour. Nonetheless, girls continued to be incarcerated as State Wards, and as such also on indeterminate sentences.<sup>79</sup>

However, whilst it was not necessarily the intention of the shift, the result was that those who were sent to institutions were now deemed to be the 'hardcore' cases

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<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid., 237.

<sup>75</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 16 March 1971, 4049 (Ian Smith).

<sup>76</sup> Muncie, "The Deinstitutionalization of Juvenile and Young Offenders in Victoria, Australia," 243.

<sup>77</sup> Victoria, *Parliamentary Debates*, Legislative Council, 23 November 1973, 1206 (Vasey Houghton).

<sup>78</sup> Michelle Arrow and Angela Woollacott, "How the Personal Became Political: The Gender and Sexuality Revolutions in 1970s Australia," *Australian feminist studies* 33, no. 95 (2018).

<sup>79</sup> Muncie, "The Deinstitutionalization of Juvenile and Young Offenders in Victoria, Australia," 243.

because they were seen as beyond community based options. This was even if the offences did not support this labelling.<sup>80</sup> Necessarily, therefore, alternate sentencing did not impact the conditions of those who did find themselves in youth training centres. Similarly, by favouring alternate sentencing arrangements the government revealed that central to its providing of services was spending concerns. This was evinced in the Norgard Report. As part of the report the committee were required to financially justify its recommendations:

Whilst the present economic climate may not be the most propitious for recommendations which require large amounts of funding, we believe that our recommendations, whilst initially calling for extra funds and services, should in the long run prove more economical than the existing system. Furthermore, the types of changes we envisage are aimed at keeping people out of the State guardianship and residential care system. Children who come into the State's child care system often tend to enter institutions as young people and even as adults continue to be a charge against the State. We see great social and financial advantages in preventing them from entering it in the first place or helping them leave it as soon as possible.<sup>81</sup>

The committee was required to provide specific costings. They estimated that two community based centres for 10–14-year-old children would cost a total of \$120,000.<sup>82</sup> Three residential facilities for “young adolescents with behaviour problems” was estimated to cost \$200,000. Therefore, inherently tied up with the welfare of young people was the government's willingness to spend money.

To the extent youth training centres attracted funding, as with the 1960s this funding went to buildings and not programmes. For example, in 1970 a sum of \$145 000 was to be put towards extending Malmsbury to have an additional 40 beds and 4 living units, as “all accommodation for adult court trainees in the Youth Welfare Division is full at present and this extension is urgently needed.”<sup>83</sup> Turana was also to get a new kitchen, swimming pool, laundry and heating, whilst Langi Kal Kal received funding for an education block and boiler.<sup>84</sup> Winlaton was also allocated \$10,000 to start “an extension to the existing remand centre, Winbirra, for an additional twenty trainees.”<sup>85</sup> Again, later in 1971 money was allocated from the Works and Services Account to fund “additional

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<sup>80</sup> Ibid., 242.

<sup>81</sup> J. D. Norgard, "Report of the Committee of Enquiry into Child Care Services in Victoria," 113-4.

<sup>82</sup> Ibid., 119.

<sup>83</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 November 1970, 1703.

<sup>84</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 November 1970, 1703.

<sup>85</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 November 1970, 1703.

accommodation at Winlaton and Malmsbury youth training centres, new kitchen facilities at Turana and extensions of education facilities at Langi Kal Kal".<sup>86</sup> A sum of \$3.3 million was also allocated to the Social Welfare Department, but as the Opposition cynically pointed out, "most of the balance... will go to meet salary and wage increases ... the social welfare system in this State can expect very little more help than it had last year."<sup>87</sup>

However, as the decade progressed the government's spending rhetoric continued to shift towards community services to the detriment of youth training centres. There was little discussion of youth training centres in 1972 and 1973. By 1974 the focus had explicitly shifted to "the development of community facilities for adolescents who require supervision, instead of relying solely on institutional care."<sup>88</sup> 1975 did see some funding provided for "dormitory ventilation and the provision of more training facilities" at Langi Kal Kal and "more works" at Malmsbury.<sup>89</sup> However, in 1976 there was no mention of youth training centres, other than answers given to specific questions about funding the school at Turana.<sup>90</sup> 1977 and 1978 also saw no specific discussion on funding youth training centres. They were all but forgotten. In 1978 a white paper entitled the Future of Social Welfare in Victoria was also published.<sup>91</sup> It did not discuss youth training institutions in any great detail, other than to support diverting funds from them and moving towards preventative services.

There was also evidence that the government actively redirected funds from youth training centres and cut programmes. This had rhetorically been the case for some time, in 1980 Jona openly admitted to:

ensuring that funds currently available to institutional care are now redirected when and wherever possible to alternative programmes. However, it is recognized that even allowing for maximum reallocation of funds from institutional care to other alternative family and adolescent programmes, that substantial additional funds over a period of time will be required to reach our overall objectives.<sup>92</sup>

This was also supported by the "Report on the Future of Social Welfare in Victoria", overseen by Brian Dixon. This white paper set out the direction social welfare was to take into the 1980s, including shutting down larger institutions in favour of cheaper

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<sup>86</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 1 September 1971, 92.

<sup>87</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 14 September 1971, 423, (Frank Wilkes).

<sup>88</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 25 September 1974, 609.

<sup>89</sup> Victoria, *Parliamentary Debates*, Legislative Council, 20 November 1975, 8943.

<sup>90</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 November 1976, 4243-4.

<sup>91</sup> Victorian Government, "Report on the Future of Social Welfare in Victoria," (Melbourne 1978).

<sup>92</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 September 1980, 312 (Walter Jona).

programmes and facilities.<sup>93</sup> Later in 1980 the government also reduced funding for training programme materials for prisons and youth training centres. Henry Miller of the opposition criticised the funding cut: “There is a great need to increase the availability of materials, and I am reinforced by my own observations of the Malmsbury Youth Training Centre where supervisors had to scrounge materials to enable metal fabrication to take place for trusses for the local community.”<sup>94</sup> Another opposition member, James Simmonds, also pointed out that adequate materials were required to fund trade programmes.<sup>95</sup> Jona simply countered that the argument was irrelevant because the budget amount Miller and Simmonds were debating related to correctional services.<sup>96</sup> By redirecting funds the government were guaranteeing that institutional conditions would not improve.

At the same time, the government was continuing to associate inmates of youth training centres with inmates of adult prisons. For example, in 1971 Liberal party member Ian Smith was asked whether prisons and youth training centres were adequately accessible by public transport. His answer was that the majority were “accessible only by road and there are very limited bus facilities for most of the way”, conflating the two different types of institution.<sup>97</sup> Similarly, when asked whether a census was going to be conducted of prisoners, the answer was no but they were “planning a census on the population in youth training centres”.<sup>98</sup> At one stage a senior officer of the Youth Welfare Division even covered for the Acting Director of Prisons because he was “the most suitable person” for the job.<sup>99</sup> In 1980 prisons and youth training centres explicitly conflated when the Correctional Services Council of Victoria was given terms of reference to review “policy development and the implementation of prisoners in our prison system, on remand and those detained in youth training centres.”<sup>100</sup> Indeed, in 1981 Walter Jona of the Liberal party suggested that the programmes at youth training centres needed to be reviewed because of the “changed composition of the youth now coming in our training centres since the original programmes were devised.”<sup>101</sup> Essentially he was

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<sup>93</sup> Kate Gaffney, “The Best of Intentions: Winlaton Youth Training Centre: 1956-1993” (Master of Arts (History), Monash University, 1998), 77.

<sup>94</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 November 1980, 2444 (Henry Miller).

<sup>95</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 November 1980, 2445 (James Simmonds).

<sup>96</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 November 1980, 2445 (Walter Jona).

<sup>97</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 November 1971, 2378 (Ian Smith).

<sup>98</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 16 November 1971, 2563 (Ian Smith).

<sup>99</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 1 March 1972, 3840 (Ian Smith).

<sup>100</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 September 1980, 862 (Walter Jona).

<sup>101</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 September 1981, 411 (Walter Jona).

arguing that those in the centres were now ‘hardcore’ and therefore should be treated more seriously than they had been previously.

During the 1970s the parliament also increasingly discussed the link between having attended a youth training centre and subsequently going to gaol. When asked in 1975, “on what basis is a prisoner designated as high risk?”, the answer included “the prisoner’s history of escapes from prison, the police or youth training centre.”<sup>102</sup> Similarly, when an amendment was made to the *Social Welfare Act*, it was pointed out that “about 80 percent of young offenders in prison have served a sentence in a youth training centre” and “that many of those persons commence their life of sin or crime, or whatever honorable members like to call it, by having taken the first step into one of the State institutions”.<sup>103</sup> The punitive nature of youth training centres was exemplified when in 1977 a boy who escaped from Langi Kal Kal youth training centre was arrested 5 years later. He was required to return to the youth training centre as a man. As one parliamentary member said:

As I said, he escaped from the youth training centre; the system wrongly allowed him to get away. Now he has been found. What can be done with a married man after five years of freedom, even though he has done something that is wrong? He made the effort to pull up his socks. Our method is to put him back in gaol, and make him feel like a fool. There is a good chance that this may possibly ruin his life.<sup>104</sup>

The blurring of prisons and youth training centres did not go unnoticed. In 1977, the then Minister for Youth, Sport and Recreation and Minister of Social Welfare Brian Dixon criticised the opposition for calling Langi Kal Kal inmates ‘prisoners’: “I have been at some pains to correct the way in which these young people are described. I hope a successful differentiation can be made between youth training centres and gaols and between youths and prisoners.”<sup>105</sup> The context was that a young person on weekend leave had been involved in the theft of a car and subsequent car accident, the suggestion being that he should not have been given leave (the opposition also thought the incident involved three inmates, and not just one).<sup>106</sup> The undertone to all of this was not that the conditions of the youth training centre were such that children never received help, more that the children themselves were ‘inherently’ criminal and destined for a life of crime.

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<sup>102</sup> Victoria, *Parliamentary Debates*, Legislative Council, 5 May 1975, 5923.

<sup>103</sup> Victoria, *Parliamentary Debates*, Legislative Council, 16 April 1975, 5022 (John Walton).

<sup>104</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 31 April 1977, 7100-1 (Peter Collins).

<sup>105</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 April 1977, 7662 (Brian Dixon).

<sup>106</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 April 1977, 7662 (Maxwell Crellin).

Children also continued to be sent to the adult prison. In 1978 it was revealed that two 13-year-old boys were in J Ward at Ararat. The government argued it was necessary to have them there because “there would always be a small proportion of adolescents who would need maximum security facilities and that these two boys represented what was the accepted proportion in a state population of 3.6 million.”<sup>107</sup> One boy had attempted to push another person under a car and the second had attempted robbery and “the soliciting of males for money”.<sup>108</sup> That a child was deemed in need of maximum security facilities for male prostitution is again evidence of prevailing middle class views; that society needed protection from homosexuality. All of this meant that those inside institutions were increasingly viewed as ‘hardcore’ and deemed to fall outside of the idea that they could be saved by the provision of more welfare.

Whilst not necessarily new to the 1970s, another tool that the government used to manage juvenile delinquency was the increased reliance on trained professionals. However, the use of these professionals was limited due to staff shortages and, as with the 1960s, by the inability to recognise that these experts were not as removed from the issues that caused delinquency as they appeared. Although by the 1970s the use of psychology and psychiatry was commonplace for youth training centre inmates, and it was widely accepted that social workers were an important part of the Social Welfare Department, this did not serve to improve conditions in youth training centres. One reason for this was continued understaffing. All throughout the 1970s the opposition criticised the government for understaffing the Social Welfare Department. As early as 1970 when the government was introducing the new ministry, the Social Welfare Department suffered from a lack of social workers.<sup>109</sup> The opposition put this down to a “lack of confidence of the professional social workers in the Government’s administration of social welfare activities” and they did not think this would change unless “the Government abandons the ideas it now holds and changes its philosophy to encompass a wider range of activities in the welfare field.”<sup>110</sup> The opposition implored the government to take action as it had three years ago when it “radically revise[d] its ideas of administration of Aboriginal affairs in this State.”<sup>111</sup>

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<sup>107</sup> Victoria, *Parliamentary Debates*, Legislative Council, 10 May 1978, 2656 (Vasey Houghton).

<sup>108</sup> Victoria, *Parliamentary Debates*, Legislative Council, 10 May 1978, 2656 (Vasey Houghton).

<sup>109</sup> Indeed, the new department was seeking 189 new positions but by October 1970 had only received funding for 26 of them. Victoria, *Parliamentary Debates*, Legislative Assembly, 21 October 1970, 1094 (David Bornstein), Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3259 (David Bornstein).

<sup>110</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3259-60 (David Bornstein).

<sup>111</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 December 1970, 3260 (David Bornstein).

In 1971 the department still had a shortage of 12 social workers.<sup>112</sup> Following budget cuts in 1971, the opposition criticised the government for rejecting:

offers made for the subsidization of social workers in his department, because he cannot get them. The reason he cannot get them is that he will not pay them a proper salary and they can earn more money outside the Public Service than within it. No one would be worse off in Victoria today if the State did not have a Minister for Social Welfare.<sup>113</sup>

The shortage meant that “caseloads of 103 persons in the department must be almost doubled.”<sup>114</sup> Similarly, in early 1971, blaming the Federal government, the state government once again struck financial constraints, which saw building works at Winlaton to accommodate an additional 28 girls paused, loans were deferred and personnel were cut.<sup>115</sup> Allocated expenditure was to be cut by \$402,000; with the caveat that they would only reduce expenditure “where the effects will not unduly disrupt services”.<sup>116</sup> Vacancies were not filled and visits were reduced.<sup>117</sup>

Again in 1972 there were 25 vacancies for social workers.<sup>118</sup> In 1973 they were required to recruit social workers from overseas, 20 from the United States and 3 from England.<sup>119</sup> Whilst understaffing applied to the department generally, and not just youth training centres, it would have impacted youth training centres simply because of the number of employees required to operate the institutions and the number of social workers required for the inmates. It was also indicative more broadly of the government’s rhetoric not matching the reality; they understood that expertise was important but were not able to ensure that positions requiring expertise were filled.

By moving towards regionalisation and preventative services, the Social Welfare Department also needed to employ more people. Given these services were the new focus for the department and the government was actively looking to funnel funds away from youth training centres, it follows that inmates in youth training centres would have been deprioritised by the staff the department did have. The department did, however, provide more funding for training for its existing employees.<sup>120</sup> However, the debates do not

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<sup>112</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 12 December 1971, 1229 (Henry Bolte).

<sup>113</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 14 September 1971, 420 (Frank Wilkes).

<sup>114</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 13 October 1971, 1355 (Frank Wilkes).

<sup>115</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 March 1971, 4218, 4312 (Ian Smith).

<sup>116</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 1971, 4218 (Ian Smith); Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 1971, 4218.

<sup>117</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 March 1971, 4405 (Ian Smith).

<sup>118</sup> Victoria, *Parliamentary Debates*, Legislative Council, 17 October 1972, 891.

<sup>119</sup> Victoria, *Parliamentary Debates*, Legislative Council, 30 October 1973, 1635 (Ian Smith).

<sup>120</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 25 September 1974, 609.

discuss youth training centre staff specifically and there is doubt whether this training would have trickled down to staff in youth training centres in any material way and indeed in witness testimony provided to RCIRCSA (discussed further below) staff reported receiving little to no extra training. In the Norgard Report the committee recognised generally the importance of training, but were concerned in some cases that it could be a hindrance to attracting staff.<sup>121</sup> Talking generally about employees in the child care field, there is little doubt that this observation would have been the case for youth training centre staff as these had not historically been attractive jobs.

In 1981 staff from youth training centres went on strike because they wanted a 25% increase in their salary.<sup>122</sup> Organisers threatened for the strike to go for 48 hours and the main concern was the risk this would pose to the community, in the fear that inmates escaped.<sup>123</sup> In the debates a cursory mention was given to the safety of the inmates themselves.<sup>124</sup> Following the strike the youth officer staff at Turana wrote a letter asking Jona to step down, alleging that Jona:

publicly slandered staff at Turana. You stated that we are "bloody minded" and "irresponsible", you publicly labelled our clients (some as young as fourteen years old) as "hardened criminals". The efforts of dedicated staff at Turana have achieved some improvement in conditions for our clients. Youth Officers took the initiative in seeking these improvements. You were prepared to sit back, do nothing and pretend that nothing was wrong.<sup>125</sup>

This letter was presented by Pauline Toner in Parliament, who also criticised the government: "In recent months there has been a grave decline in the ability of these institutions to maintain adequate standards of care, and a danger of their becoming unmanageable."<sup>126</sup> The reality was that while the government agreed in theory that training was good, in youth training centres staff training was insufficient and they were underpaid. This was, again, an example where the rhetoric did not match the reality.

Similarly, whilst children were being sent to psychologists and psychiatrists, this did not mean a new enlightened approach was evident. Psychologists and psychiatrists were still subject to their own middle-class biases, as was evinced by the 'treatments' proposed for inmates of youth training centres which involved group therapy aimed at placing blame on the victims, and aversion therapy for a victim of rape. These particularly

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<sup>121</sup> J. D. Norgard, "Report of the Committee of Enquiry into Child Care Services in Victoria," 99.

<sup>122</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 November 1981, 3427 (Walter Jona).

<sup>123</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 November 1981, 3427 (Walter Jona).

<sup>124</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 November 1981, 3427 (Walter Jona).

<sup>125</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 26 November 1981, 3800.

<sup>126</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 26 November 1981, 3800 (Pauline Toner).

instances will be discussed further below. Psychiatric drugs were also commonplace within institutions. In 1974 the Minister for Social Welfare was asked what ‘psycho-depressant drugs’ children were provided in institutions. The Minister was dismissive: “such drugs are used only after consultation with a qualified medical practitioner or psychiatrist and only at his or her direction.”<sup>127</sup> However, six years later, in 1980, the Minister was asked the same thing. The answer was more forthcoming. He admitted that drugs were administered at youth training centres and a list of 40 drugs (not just psycho-depressants) was provided. He also clarified that “drugs are administered to children and young persons where their illness, including psychiatric illnesses, are deemed by qualified medical staff to require drug treatment.”<sup>128</sup>

The use of drugs was also evident at Winlaton where girls were regularly given depo provera, a contraceptive, injections. Depo provera was not available for general use in Victoria until 1991, yet it was routinely given to Winlaton inmates during the 1970s.<sup>129</sup> In 1977 Dixon was questioned about this. He replied:

It is true that for some five years the drug depo-provera has been used at Winlaton as a contraceptive, with the consent of the parents concerned, and under medical supervision. To date this year it has been used by 47 of the girls. Rather than being associated with cancer-inducing properties, the drug is usually used to attempt to cure cancer in human beings.<sup>130</sup>

No consent forms were found by the RCIRCSA. Therefore, inmates were either being sent to medical professionals that judged them or, were simply drugged and injected without consent. Therefore, again whilst fields of psychology and psychiatry were more influential in the 1970s than they had been in previous decades, inmates in youth training centres did not benefit from this.

Finally, the discussion on alternate sentencing options for Indigenous children also revealed the limitations posed by biases held by professionals. The symposium discussed above recommended that the Indigenous community be involved in any policies pertaining to Indigenous young people, whilst recognising that “there is a real danger, however, that Aboriginal involvement becomes nothing more than consultation,

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<sup>127</sup> Victoria, *Parliamentary Debates*, Legislative Council, 28 November 1974 (Vasey Houghton).

<sup>128</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 November 1980, 2192 (Walter Jona).

<sup>129</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse.," 79.

<sup>130</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 November 1977, 11357 (Brian Dixon).

with real authority and responsibility continuing to rest with the white bureaucracy.”<sup>131</sup> Indeed, Sommerlad noted that at the symposium:

The discussions, for the most part, reflected a recognition on the part of whites that despite their professional qualifications and competencies, they were unable to meet many of the needs of Aboriginal juveniles and that Aboriginal involvement was a crucial adjunct to their professional services. There was, however, a reluctance to admit the central relevance and importance of Aboriginal expertise and experience and that these qualifications might better equip Aboriginal organisations to take full responsibility for the care and treatment of Aboriginal juveniles.

Again, Victoria was used as a positive example in this respect as the Victorian Aboriginal Child Care Agency was “responding to the needs of Aboriginal families in crisis situations and of Aboriginal juveniles who have been committed to care.”<sup>132</sup>

The Norgard Report mirrored the recommendations made by the symposium. The committee discussed the special disadvantage suffered by Aboriginal children:

Families belonging to Aboriginal and other ethnic groups are disadvantaged at all stages in official child welfare proceedings when special, relevant, cultural factors are not fully appreciated by decision-makers. Representatives of appropriate groups should be consulted whenever major decisions are made about children who belong to their groups. Court hearing and placement meetings are examples. Improved interpreting services should be made available when important discussions take place between welfare organisations and non-English speaking clients.<sup>133</sup>

The committee also recommended “that aboriginals [sic] and other ethnic groups be given a voice when major decisions are made about children of their own groups. Any special, relevant, cultural factors should be considered when decisions are made.”<sup>134</sup> They also specifically recommended that “that ethnic groups be represented on important committees and advisory councils in the child and family welfare field” and “that improved interpreter services should be made available when non-English speaking clients are dealing with welfare organisations.”<sup>135</sup> This is also interesting to note because it recognised that other

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<sup>131</sup> Sommerlad, "Aboriginal Juveniles in Custody — New Community and Institutional Approaches," 48.

<sup>132</sup> Ibid., 49.

<sup>133</sup> J. D. Norgard, "Report of the Committee of Enquiry into Child Care Services in Victoria," 84.

<sup>134</sup> Ibid., 89.

<sup>135</sup> Ibid., 136.

ethnic groups were also disadvantaged, but this would not be seen in parliamentary rhetoric until the 1990s.

However, whilst the government was now willing to accept that Indigenous children were overrepresented in youth training centres and that they should receive additional support, it is unlikely that this fed down to the reality of lived experiences within youth training centres. As the symposium identified, this was an issue at a societal level. Overrepresentation of Indigenous young people continued to be a theme of reports throughout the remainder of the century, therefore suggesting that just as was the case with juvenile detention generally, the rhetoric of reform was not matched with reality.

### **Conditions at the Institutions**

Although conditions at juvenile detention centres were mentioned by the parliament in passing, the government was generally determined to put a positive spin on conditions and outcomes of the system. This was often left unchallenged, with the exception of the opposition member, Pauline Toner. Toner had been made the shadow minister for community welfare services in 1979, after being elected in a 1977 bi-election.<sup>136</sup> Prior to this she had been a teacher and lecturer in education.<sup>137</sup> In 1979 Pauline Toner criticised the government for underfunding social welfare: “the Government has performed a confidence trick and the new perspectives of regionalization are not matched by necessary resources.”<sup>138</sup> Toner argued that there was “an enormous backlog of building maintenance” and insufficient funds to deal with it.<sup>139</sup> She blamed the lack of funding as the cause of an incident at Turana reported in a recent Ombudsman report where “a boy was exposed to the horrifying experience of a homosexual pack rape.”<sup>140</sup> Toner appealed to the government: “Can the community wait for that to happen again? Is it expected to wait for adequate provision of the appropriate accommodation to protect people who are supposed to be in the care of the State?” Subsequently that year the government agreed to allocate funds to “replacement dormitories at the Turana with improved accommodation for young inmates.”<sup>141</sup> There was no mention of improved services, programmes or the general wellbeing of inmates.

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<sup>136</sup> Kim Torney, "Toner, Pauline Therese (1935–1989)," <https://adb.anu.edu.au/biography/toner-pauline-therese-15814>.

<sup>137</sup> Ibid.

<sup>138</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 June 1979, 403 (Pauline Toner).

<sup>139</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 June 1979, 403 (Pauline Toner).

<sup>140</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 June 1979, 403 (Pauline Toner).

<sup>141</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 26 September 1979, 2896.

Whilst Toner continued to actively criticise the government on matters of social welfare, there is no evidence to suggest this genuinely altered any conditions in youth training centres. She criticised the government for not matching salary increases for employees within the Family and Adolescent Services Division (the replacement of the Youth Division) and the Training Division with inflation.<sup>142</sup> Toner also pointed out that for Family and Adolescent services there had been “a decline of \$23,000 for postal and telephone expenses, yet there is an increase of \$36 000 for motor vehicle purchase and running expenses”.<sup>143</sup> She wanted an explanation, given “the Department of Community Welfare Services already takes four to five months to answer a letter or return a telephone call.”<sup>144</sup> She also queried the “doubling of the allocation for rail travel for parents visiting youth training centres and rail travel for parents and siblings visiting wards in institutions” and “either the amount provided last year was grossly inadequate or the Government anticipates there might be a vast increase in the number of young people in training centres as epitomized by the cutbacks in the probation system.”<sup>145</sup> Later in 1979 she was again critical of the government’s funding of Turana. She was concerned that building works were not being completed fast enough and that “this means that the same situation will prevail at Turana as has prevailed for some time, and only the strongest, biggest and toughest kids survive in that situation”.<sup>146</sup> Whilst the proposed redevelopments to Turana were extensive – they included replacing group dormitories with bedrooms and generally updating facilities costing at estimated \$500,000 – only \$90,000 was allocated to 79-80.<sup>147</sup> Toner argued that:

the implementation of support and supervision programmes against a philosophy of care and concern is made very difficult in such a physical environment. It is of concern that the redevelopment work so urgently needed is limited by a lack of funds.<sup>148</sup>

Toner saw the consequence of this that “in future years more people will be sent to gaol”.<sup>149</sup>

Nonetheless, the government’s response to Toner’s complaints was simply to state that the planned response was commendable and that “we need to encourage groups and organizations to take greater care in community services for young people who are

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<sup>142</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 November 1979, 3608 (Pauline Toner).

<sup>143</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 November 1979, 4681 (Pauline Toner).

<sup>144</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 November 1979, 4681 (Pauline Toner).

<sup>145</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 November 1979, 4681 (Pauline Toner).

<sup>146</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1979, 5209-10 (Pauline Toner).

<sup>147</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1979, 5209-10 (Pauline Toner).

<sup>148</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1979, 5209-10 (Pauline Toner).

<sup>149</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1979, 5209-10 (Pauline Toner).

otherwise in need of supervision, and to relate to the various institutions and services.”<sup>150</sup> They were putting the responsibility on parties outside of the government, as had been the case with voluntary organisations in earlier decades. Later in 1979 funding limitations again meant that staff were limited and positions at youth training centres remained unfilled.<sup>151</sup> Turana was eventually renovated and again further bricks and mortar changes were funded for Winlaton and Langi Kal Kal.<sup>152</sup> However, there were no discussions on updating programmes. By 1981 Toner was criticising the government for generally inadequately funding youth services:

during a crucial economic period, young people will not be provided with the necessary assistance. Therefore, the number of young people attending youth training centres will increase and alternative programmes will not be provided with the necessary assistance... The Government is prepared to write off the interests of young people and, instead, provide together security in the State’s gaols, which represent the other end of the welfare system.<sup>153</sup>

Therefore, Toner simply provided a voice of opposition, the government did not change its attitude of indifference towards genuinely changing conditions in youth training centres.

In 1980 when Toner implied that conditions at youth training centres left inmates wanting, Donald Mackinnon – a Liberal MP – was quick to jump to the defence of Winlaton. He admitted that “it is typical of a number of establishments of this nature. It is not all that one would desire”, but nonetheless he wanted to “congratulate the staff on their constructive approach and on their work. I have no doubt that many of the girls who have passed through that institution have moved on into the world that much better for it.” He went on to say that:

I should not like the good work done there to go unnoticed. I am very impressed with the work that is carried out at Winlaton, and it is good to see that something is being done and that the girls are not being treated as if nothing can be done for them. Winlaton is a very caring institution, and the girls who go there are not treated as complete dropouts in this world but, as one would expect, they are

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<sup>150</sup> Victoria, *Parliamentary Debates*, Legislative Council, 11 December 1979, 6021 (Donald Saltmarsh).

<sup>151</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 March 1980, 6729 (Walter Jona).

<sup>152</sup> Victoria, *Parliamentary Debates*, Legislative Council, 11 December 1979 (Donald Saltmarsh), Victoria, *Parliamentary Debates*, Legislative Assembly, 7 May 1980, 9453-4, Victoria, *Parliamentary Debates*, Legislative Assembly, 17 September 1980, 537.

<sup>153</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 October 1981, 1872 (Pauline Toner).

treated as human beings. More than that, the confidence that they need is worked on.<sup>154</sup>

He concluded:

Community welfare services is one area that, for many years, has been swept under the carpet, but this has not been the attitude of the present Government. A great deal has been done to update the services, and the Government is to be congratulated for that. On that note, I am happy to conclude my remarks.<sup>155</sup>

Similarly, in 1981 Liberal party member Donald Mackinnon complimented the “radical change” that occurred at Winlaton over the past 5 years.<sup>156</sup> He said that it had changed from being “run-down” and “deplorable” to “conditions that are the equal of anything of their kind in Australia and any parent would be happy – indeed, almost proud – to have their daughters living in those conditions.”<sup>157</sup> The member was “pleased that a further \$46000” was to be allocated to building works. He also described an open day he attended at Winlaton that involved a number of parents and community members. He also described the superintendent, Eileen Slack, as “an outstanding public servant and her contribution will be recognized for many years. Through her guidance, many young women will have new opportunities for life and will be able to re-direct their lives in a way much more profitable to themselves and the community.”<sup>158</sup>

However, there is demonstrable evidence that inmates continued to suffer abuses as they had in previous decades. MacKinnon’s recollection did not reflect the reality. Case study 30 of the RCIRCSA detailed extensively the abuses suffered by inmates at Winlaton and Turana during the 1970s. Rapes by other inmates were systemic, with one witness “stating that sexual abuse ‘was everywhere’”.<sup>159</sup> It was also reported that this abuse would occur in front of Winlaton staff and they failed to act on it.<sup>160</sup> Another witness reported being raped by her social worker whilst at Winlaton.<sup>161</sup> Similarly,

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<sup>154</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 21 October 1980, 1378 (Donald Mackinnon).

<sup>155</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 21 October 1980, 1378 (Donald Mackinnon).

<sup>156</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 November 1981, 3510 (Donald Mackinnon).

<sup>157</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 November 1981, 3510 (Donald Mackinnon).

<sup>158</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 November 1981, 3510 (Donald Mackinnon).

<sup>159</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse.," 34. See also Katie Wright and Shurlee Swain, "Speaking the Unspeakable, Naming the Unnameable: The Royal Commission into Institutional Responses to Child Sexual Abuse," *Journal of Australian studies* 42, no. 2 (2018).

<sup>160</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse.," 35.

<sup>161</sup> *Ibid.*, 34.

another witness to the Commission reported being raped when he was first sent to Turana in 1971. On reporting the abuse he “was labelled a homosexual” and “two officers then ‘frog marched’ him to the Royal Park Hospital, where he received ‘aversion therapy’ treatment.”<sup>162</sup> When other inmates discovered this they labelled him a ‘bum boy’ and they perpetrated more rapes.<sup>163</sup>

As previously discussed, crimes committed by boys were usually viewed as a single incident and not indicative of an inherent fault, unlike the case with girls. The exception to this was homosexuality. Mr Cummings, who provided witness testimony to RCIRCSA, reported that although he was the victim of rape, an officer at Turana told him that “it’s only happening because of your homosexuality... This is your fault. You need to be cured.”<sup>164</sup> He was required to attend 12 sessions of aversion therapy, which saw him placed on a chair with electrodes attached to his ankles. A slide-show was played to him showing half-naked pictures of women and men. When the pictures of men came up, he was given ‘a really massive jolt of sharp pain’ by way of an electric shock.<sup>165</sup> The treatment was administered by a psychologist at the Parkville Psychiatric Unit.<sup>166</sup> The ‘expert treatment’ experienced by Cummings was both physically cruel and shrouded in subjective middle-class values, namely homophobia.

Due to the ‘inherent’ nature of their crimes, all Winlaton girls were also required to undergo therapy. This was conducted by way of group therapy called ‘triad therapy’.<sup>167</sup> As the report writes:

Triad therapy was premised on ‘the person with the problem now’ acknowledging and accepting responsibility for their problems. [The then superintendent] Dr Slack said that ‘taking responsibility meant understanding what it was that started you into that path which led to many persons’ self-destruction’.<sup>168</sup>

The result was that inmates felt “‘at fault for what was happening’, and that ‘the bottom line was that, whatever had happened, was your fault’.”<sup>169</sup> An example of this was the case of Katherine X. Katherine was at Winlaton in 1979 and was a survivor of rape by her father. During her time at Winlaton a senior psychiatric nurse also saw her at the Children’s Court Clinic, also meeting with her mother and grandparents. During the 70s

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<sup>162</sup> Ibid., 32.

<sup>163</sup> Ibid.

<sup>164</sup> Ibid., 61.

<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

<sup>167</sup> Ibid., 63.

<sup>168</sup> Ibid., 64.

<sup>169</sup> Ibid.; Keating Tom, "Heroes of Victoria's Juvenile Justice Reform," *Eureka street* 25, no. 22 (2015): 30.

and 80s “there was an emphasis on therapeutic intervention rather than reporting matters of incest to police.”<sup>170</sup> Staff even sent a letter to her father setting out that Katherine wanted their relationship to change.<sup>171</sup> Staff members at Winlaton were also aware of the abuse and did nothing about it. Indeed, Katherine’s father was allowed to visit her at Winlaton and when she went home on weekend visits.<sup>172</sup> Katherine was also given depo provera shots as a contraceptive. Ultimately, Katherine was shifted to a non-government hostel where her father started raping her again.<sup>173</sup> Eventually in 2008 – after 6 pregnancies by her father – she felt able to report her father to the police.<sup>174</sup>

As well as sexual abuse, inmates also suffered physical abuse and deprivation of simple liberties.<sup>175</sup> Girls at Winlaton were forced to show dirty sanitary pads to staff to get new ones.<sup>176</sup> Some girls were also required to get depo provera shots before being allowed on weekend leave.<sup>177</sup> Punishments were cruel, with solitary confinement being commonplace. Inmates at Winlaton reported being placed in solitary confinement for extended periods of time, one woman reporting that she was in solitary confinement for several weeks after attempting to abscond.<sup>178</sup> Past superintendents of Winlaton reported to the RCIRCSA that during their time at Winlaton “they were concerned about lockup being used as a means of punishment rather than as a way of dealing with an immediate crisis”.<sup>179</sup> Yet nothing was done.

Even though the government rhetoric had shifted towards the welfare model, punishments that emphasised control were also commonplace. At Turana boys were given menial tasks such as polishing floors and regularly threatened with being sent to ‘Poplar House’. This was contrary to Turana policy which stated that “punishment is to be minimised and officers must not make threats to any boy.”<sup>180</sup> The RCIRCSA was “satisfied that these forms of punishment were a feature of the institution; they were not

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<sup>170</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse.," 73.

<sup>171</sup> Ibid., 81.

<sup>172</sup> Ibid., 77.

<sup>173</sup> Ibid., 80.

<sup>174</sup> Ibid., 83.

<sup>175</sup> Ibid., 36; Shurlee Swain, "Giving Voice to Narratives of Institutional Sex Abuse," *The Australian feminist law journal* 41, no. 2 (2015): 289-304.

<sup>176</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse.," 37.

<sup>177</sup> Ibid., 79; Daly, "Conceptualising Responses to Institutional Abuse of Children," 78.

<sup>178</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse.," 36.

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

mandated by formal policies or procedures.”<sup>181</sup> The RCIRCSA concluded that “the punishment and methods of control that some staff members used were cruel, dehumanising and degrading.”<sup>182</sup> However, again with no interest from the government this behaviour remained unchecked.

Girls at Winlaton were still subject to strip searches and invasive internal examinations. Again, the RCIRCSA found that “there was no formal procedures or policies on how strip searches at Winlaton were to be conducted and no oversight by senior staff of strip searches.”<sup>183</sup> There was a similar finding with internal examinations, with the Commission finding:

We are satisfied that residents were not told why the examinations were being conducted and that on some occasions the examinations occurred in a questionable manner and without the residents’ consent. We accept that the residents experienced these internal examinations as sexually abusive. We consider that there are doubts that many of these examinations were necessary.<sup>184</sup> Allegations of this nature were actually brought before the parliament in the 1970s and were brought up in 1979 during the parliamentary debates. However, the government’s response was: “No girl who is admitted to Winlaton, or any other institution under the control of my department, is automatically subjected to any internal medical examination as a normal procedure prior to admission to that institution.”<sup>185</sup> Jona then went on to discuss that at times there were medical indications or “background circumstances” that would indicate an examination would be “desirable” but that would never occur without the consent of the girl.<sup>186</sup> Therefore, again the reality of the inmates was dismissed and ignored.

To compound the abuses further, these children were also considered liars or the perpetrators of the abuse when they reported it. As one witness reported, when she told an officer at Winlaton that she been abused by her social worker she was slapped across the face and told:

How dare you make up such dirty lies about one of my staff members. You are nothing but a dirty little lying bitch. Girls like you are why we have places like this, because you need to be taught to tell the truth.<sup>187</sup>

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<sup>181</sup> Ibid.

<sup>182</sup> Ibid., 38.

<sup>183</sup> Ibid.

<sup>184</sup> Ibid., 39.

<sup>185</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1979, 5159.

<sup>186</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 November 1979, 5159.

<sup>187</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and

She was also locked in solitary confinement with nothing but a blanket for reporting the abuse.<sup>188</sup> Dr Owen, the Superintendent at Winlaton between 1974 and 78 reported that in the 1970s the environment at Winlaton was “containing, controlling and putting things on hold until [the residents] grew up and hopefully grew out of it, or found some other way of coping” and that “the way in which things were delivered down the system, they were the people who were often given up on or not given access or excluded, rather than staying with them and their issues, which is often very, very difficult in order to see them through to the degree that we need to see them through.”<sup>189</sup>

Staff also received inadequate training. For example, at Turana “during the 1960s and 1970s the staff recruited at Turana were big men; ex-army and ex-policemen”, with the RCIRCSA ultimately finding that “there were no checks to ensure that staff members were not only equipped to care for children but also not a risk to the children.”<sup>190</sup> Former staff members reported to the commission “that that they did not participate in any training provided by the Department and the Department did not encourage them to attend training during their employment.”<sup>191</sup> This is again further evidence that the government was not concerned with institutional conditions because this was no different to previous decades.

Whilst Malmsbury and Langi Kal Kal were not subject to review by the RCIRCSA, the Royal Commission found that widespread abuse was endemic to the whole system.<sup>192</sup> Therefore there is no reason to believe that conditions would have been markedly different to those at Winlaton and Turana. Indeed, in 1977 two boys died at Langi Kal Kal for drinking “methyl salicylate” after a soccer match.<sup>193</sup> Therefore, while conditions at youth training centres were largely ignored by the government, inmates

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Human Services Victoria to Allegations of Child Sexual Abuse.,” 41-2. Silencing mechanisms more generally are discussed in Swain, “Giving Voice to Narratives of Institutional Sex Abuse,” 299.

<sup>188</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, “Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse.,” 42.

<sup>189</sup> Ibid., 46-7.

<sup>190</sup> Ibid., 51.

<sup>191</sup> Ibid., 52.

<sup>192</sup> This has been recognised by scholars, see for example Kathleen Daly and Juliet Davis, “Unravelling Redress for Institutional Abuse of Children in Australia,” *University of New South Wales law journal* 42, no. 4 (2019); Daly, “Conceptualising Responses to Institutional Abuse of Children.”; Wright and Swain, “Speaking the Unspeakable, Naming the Unnameable: The Royal Commission into Institutional Responses to Child Sexual Abuse.”; Swain, “Giving Voice to Narratives of Institutional Sex Abuse.”; Lisa Featherstone, ““Children in a Terrible State”: Understandings of Trauma and Child Sexual Assault in 1970s and 1980s Australia,” *Journal of Australian studies* 42, no. 2 (2018); Wright and Swain, “Speaking the Unspeakable, Naming the Unnameable: The Royal Commission into Institutional Responses to Child Sexual Abuse.”; Kathleen McPhillips, “Traumatic Isolation: Institutional Stigma and the Australian Royal Commission into Institutional Responses to Child Sexual Abuse,” *Health and history* 20, no. 2 (2018).

<sup>193</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 April 1977, 7154.

were suffering from various forms of abuse, being cared for by undertrained staff and at the mercy of a system that thought little of them.

## **Conclusion**

While the 1970s was a decade that saw great change, this did not trickle down to those in juvenile detention centres. Although juvenile delinquency was increasingly being viewed as a problem that could be fixed with sufficient welfare, there was still an underlying view that certain individuals require punishment. Although numbers inside institutions dropped during the 1970s, those that remained were increasingly seen as 'hardcore', even if their crimes did not support this labelling. The government's restructure and development of alternate sentencing pushed juvenile detention centres closer to adult gaols. The increased reliance on professionals was also problematic because of continued issues of understaffing and the inherent biases of the middle-class experts. The ultimate result was that conditions for inmates failed to improve. It was simply another decade that promised meaningful reform but did not achieve it.

## 5. 1982 – 1992: Helpless and homeless

In 1982 the Victorian Labor Party returned to power under John Cain Jr. for the first time since 1955. Whilst it was a decade that saw record youth homelessness and youth unemployment, it is also one that is often associated with meaningful change. At a Federal level the Hawke Government promoted improved education to combat youth unemployment. However, as Bessant argues the undercurrent to this policy focus was that it was a poor work ethic – instilled by a lack of education – that resulted in this unemployment.<sup>1</sup> The 1980s was also the first post-war decade in which the justice model truly replaced the welfare model in Victoria, meaning that young people in detention were seen as in need of punishment rather than help. This chapter will argue that this increased focus on punishment served to strengthen the links between the child and adult penal systems, and that the acceptance of the justice model blinded the government to the links between youth homelessness and juvenile detention; once again resulting in the latter being ignored.

By the end of the decade the government had commissioned the “Child Welfare and Practice Legislation Report” (Carney Report), introduced the *Children and Young Persons Act 1989* (Vic) and started to implement changes stemming from the RCIADC.<sup>2</sup> Following the Carney Report the Victorian Labor government introduced changes to sentencing but they ignored the recommendations to improve youth detention facilities. Institutional conditions also failed to improve due to policies pertaining to deinstitutionalisation, lack of attention to institutional conditions, stagnation of staff training and the development of prison industries. Similarly, while the government discussed the RCIADC in depth, the implementation of the recommendations was only lightly done. Indigenous young people continued to be overrepresented in institutions and the essentially destructive structure of institutionalisation did not change. The 1980s also saw very little funding sent to institutions. Indeed, the Labor party passed legislation to make sure that inmates were more productive and able to make the training centres more cost effective. The 1980s was, once again, a decade of promised change and positive rhetoric with very little real difference made.

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<sup>1</sup> Bessant J, "Policy Paradoxes: The Disempowerment of Young People under the Labor Government, 1983/ 91," *The Australian journal of social issues* 28 (1993): 93.

<sup>2</sup> Child Welfare Practice and Legislation Review Committee, "Child Welfare and Practice Legislation Review Report," (Victoria, 1984).

## Replacing the Welfare Model

While previous decades had seen a tension between the welfare model and the justice model, the 1980s was the first decade in which the welfare model was expressly replaced by the justice model. Scholars have recognised that from the late 1970s onwards, most jurisdictions in Australia were moving to separate justice from welfare matters.<sup>3</sup> Under the welfare model, ‘problem’ behaviour is seen as a symptom of outside factors and rehabilitation was the primary goal of sentencing.<sup>4</sup> Comparatively, the justice model focuses on the offence, viewing the child as being responsible for their own actions, and applying punishment commensurate to the crime: a philosophy which lies at the heart of ‘get tough on offenders’ responses to perceived spikes in youth crime.<sup>5</sup>

These broad delineations of the difference between the welfare and justice models understate the complexities of the system,<sup>6</sup> and even in the 1980s, it was argued that both models required social conformity and both had punitive elements.<sup>7</sup> The justice model gained support from two competing viewpoints, with civil libertarians voicing concern that the welfare model did not protect the rights of the offenders and further disadvantaged them, whilst the law and order lobby were concerned punishments did not offer sufficient deterrence.<sup>8</sup> The civil libertarian perspective criticised the welfare model because it has tended to justify intervention in the lives of children beyond those charged with offences – so-called ‘pre-delinquent’ children as discussed in previous chapters – and because of its use of indeterminate sentences for ‘social treatment’ purposes, which left young people at the mercy of administrative decisions after their entry into the system. Their hope was that the justice model would provide clearer rules and structures around sentencing, and place firmer boundaries around which children could and should be detained. However, the reality has been that punishment has been the focus of the justice model, with young people being unable to access full legal protections.<sup>9</sup> It has also been noted that “both models have essentially informed the social control of working class young people”, although with its “overt focus and rational based on personal choices and responsibilities” the justice model has contributed more to youth marginalisation.<sup>10</sup> In

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<sup>3</sup> Australian Institute of Health and Welfare, "Juvenile Justice and Youth Welfare: A Scoping Study," 5; Cunneen, White, and Richards, *Juvenile Justice: Youth and Crime in Australia*, 110; *ibid.*

<sup>4</sup> Cunneen, White, and Richards, *Juvenile Justice: Youth and Crime in Australia*, 109.

<sup>5</sup> *Ibid.*

<sup>6</sup> See for example Patricia Gray, "Assemblages of Penal Governance, Social Justice and Youth Justice Partnerships," *Theoretical criminology* 17, no. 4 (2013).

<sup>7</sup> See for example John Pitts, *The Politics of Juvenile Crime* (London: Sage, 1988), 111; Cunneen, White, and Richards, *Juvenile Justice: Youth and Crime in Australia*.

<sup>8</sup> Australian Institute of Health and Welfare, "Juvenile Justice and Youth Welfare: A Scoping Study," 5.

<sup>9</sup> Cunneen, White, and Richards, *Juvenile Justice: Youth and Crime in Australia*, 112.

<sup>10</sup> Johanna Wyn and Rob White, *Rethinking Youth* (London: Sage, 1996), 135.

reality, what the move to the justice model meant in Victoria was that the juvenile detention system was brought discursively and practically closer to the adult penal system.

Although this replacement was ultimately enshrined by the *Children and Young Persons Act 1989*, clear steps towards it can be seen in the 1984 Carney Report.<sup>11</sup> The Carney Report resulted from a review completed by a committee of four people, with “the twin tasks of providing a blueprint for the development of child and family welfare services to serve Victoria in the foreseeable future and the drafting of new legislation consistent with this blueprint.”<sup>12</sup> It was hoped that it would fundamentally reform the child welfare (including juvenile justice) system.<sup>13</sup> The bulk of its content concerned children ‘in need of care and protection’ (the language used in legislation of this period to describe children placed under the welfare arm of the department). It recognised that child welfare had decreased as a proportion of state budgets – even though the involvement of the voluntary sector had decreased – whereas spending on “Law, Order and Public Safety, which represents in many ways the antithesis of child care, has leaped ahead”.<sup>14</sup> The majority of recommendations pertaining to young offenders related to court process. The report characterised youth training centres as necessary for community safety, instead of facilities to allow for rehabilitation. The report recommended a hierarchical approach to detention, where the last resort was secure detention, allowing “maximum protection of both the young offender and the community”. Institutionalisation was to be avoided “wherever possible” and “used as a last resort and be confined to the minimum period possible consistent with the safety of the community”.<sup>15</sup> It was a direct reflection of the justice model and essentially recognised youth training centres as prisons.<sup>16</sup>

A similar sentiment was evident when, in conjunction with the publishing of the Carney Report, in 1984 the Penalties and Sentences (Youth Attendance) Bill was passed. Consistent with the report, the aim of the bill was to provide further sentencing options to magistrates sentencing young offenders to reduce numbers in youth training centres. Pauline Toner, the Labor Minister for Community Services until 1985, recognising the limitations of the welfare model, argued that this was advantageous both socially and

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<sup>11</sup> Following the bureaucratic trend of ‘new management’ the report was larger than its earlier counterparts and boasted three volumes as well as a new bill.

<sup>12</sup> Child Welfare Practice and Legislation Review Committee, “Child Welfare and Practice Legislation Review Report,” 1.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid., 5.

<sup>15</sup> Ibid., 57.

<sup>16</sup> Cunneen, White, and Richards, *Juvenile Justice: Youth and Crime in Australia*, 109.

financially as “institutions have unintended negative effects on their inmates which are counterproductive to their rehabilitative goals” and “it costs the tax- payer more than \$600 a week to keep one person in a youth training centre, but only \$90 a week to have that person at a youth attendance project.”<sup>17</sup> Toner wanted to introduce a sentence that was “more severe than probation yet which is not as drastic as, not as stigmatizing as committal to a youth training centre.”<sup>18</sup> During her second reading speech Toner was careful to differentiate the youth attendance order – part of which would require young people to perform community service work on the weekend – from the youth welfare services developed in the 1970s. The purpose of the youth attendance order was to penalise young people by taking away leisure time, and was modelled on adult attendance centres that were introduced in 1976, which were designed to act as a punishment.<sup>19</sup> Therefore, in a clear rejection of the welfare model and the clear acceptance of the justice model, Toner was expressly stating that young offenders were to be punished. The bill provided further that youth attendance projects were to have no co-mingling of class of child – therefore they were only for young people charged with a crime – with the aim:<sup>20</sup>

To provide a young offender with activities and requirements:

- (a) which take into account the gravity of an offender's behaviour;
- (b) which penalize an offender by imposing restrictions on his liberty;
- (c) which require an offender to make amends for the offence committed by performing community services; and
- (d) which provide the offender with an opportunity of receiving such instruction, guidance, assistance and experiences as will assist the offender to develop an ability to abide by the law and complete the requirements of the youth attendance order.

The rehabilitative aspect of the program was to be the last consideration.

The bill was also careful to use the language of ‘young offender’ and not ‘young person’, or any other such humanising term. It also specifically required that this sentence only be used for young people that would otherwise be sent to youth training centres and not as an alternative to a lighter sentence. Toner positioned this requirement as necessary “to prevent the net-widening effect, namely that new programmes may lead to greater social control than is necessary over people for whom the programme was not

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<sup>17</sup> Ibid., 112. Victoria, *Parliamentary Debates*, Legislative Assembly, 19 April 1984, 4108 (Pauline Toner).

<sup>18</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 April 1984, 4108 (Pauline Toner).

<sup>19</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 April 1984, 4108 (Pauline Toner).

<sup>20</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 April 1984, 4109 (Pauline Toner).

intended.”<sup>21</sup> Such a requirement is an interesting one and speaks more to alleviating political concerns rather than ensuring other young people were not unduly punished; as once the sentencing option was available it was unlikely that a magistrate would only consider it in a trade off with a period of institutionalisation as this is not the reality of sentencing. It would simply become one of many options. Whilst the introduction of this new sentencing measure had the intention of reducing numbers in the detention centres – thereby reducing overcrowding which in theory should improve conditions – its focus on punishment worked to further stigmatise those in youth detention centres.

It is therefore not surprising that by the late 1980s, when the *Children and Young Persons Act* was finally introduced, that it used the language of punishment and not rehabilitation.<sup>22</sup> Whilst the bill proclaimed to bring fundamental change for children and young people the changes for juvenile offenders were mostly administrative. For example, the Children’s Court was split into two divisions, the Family Division and the Criminal Division. This meant that offending children would be dealt with under a separate division from those ‘in need of care and protection’. They were expressly a different class. The justice model approach exemplified in the act did not go without criticism, Ronald Wells of the Liberal party, did not believe young people were to blame for their crimes, he believed it was society:<sup>23</sup>

The example I give is of 80 offences by children recorded at one police station in Victoria. Victoria has 210 shires each with at least one police station. Are we considering 16 000 cases in one year of alleged offences by human beings under the age of sixteen years? If we are, who is at fault, the children or society? The answer is clear: the adults who run our society.

However, the new act did not seek to look at the reasons behind youth crime, perhaps unsurprising since such a line of questioning was in line with the rejected welfare model.<sup>24</sup>

In the late 1980s the bill again returned to parliament. It augured that the majority of the original bill was yet to be proclaimed due to lack of funding, an issue that had been

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<sup>21</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 April 1984, 4109 (Pauline Toner).

<sup>22</sup> The *Children and Young Persons Act 1989* started its life as the *Community Services Bill* in 1986, at which stage it did not explicitly discuss youth training centres. By 1987 it had changed its name and dealt with juvenile crime. A second version was introduced in May 1988. Later the same year would see another second reading, and another round of debates. Passing the bill was a drawn-out process, with the second reading debate occurring 5 months after the second reading speech itself. The delay was largely blamed on delays occurring with passing changes to the *Magistrates Court Bill*, changes which were required to give the *Children and Young Persons Act* effect. Victoria, *Parliamentary Debates*, Legislative Assembly, 24 May 1989, 1972 (Donald Hayward).

<sup>23</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 August 1988, 436 (Ronald Wells).

<sup>24</sup> Cunneen, White, and Richards, *Juvenile Justice: Youth and Crime in Australia*, 109.

brought up in the 1988 debates.<sup>25</sup> Indeed, in 1990 the opposition pointed out that the government “pretends to be about social justice and to care about children and young people growing up in Victoria, yet it cannot find even \$20 million or \$30 million to implement one of the most significant pieces of legislation to pass Parliament.”<sup>26</sup> In 1990 the original bill was amended by the Children and Young Persons (Amendment) Bill. This bill contained a number of amendments, including solidifying the different treatment between offending children and those in need of protection.

The act did introduce some positive change: the age of criminal responsibility was raised from 8 to 10; further community based sentencing options were introduced and the ability to move children from a youth training centre to prison was restricted to parole board decisions (prior to this it could be done administratively). Other changes were good in intent, but rather less tangible. For example, the new act included an obligation to make court proceedings more comprehensible to children, for cultural identity to be recognised and stigma reduced.<sup>27</sup> Children also got a right to legal representation.

A range of procedures were also changed to ensure that young people charged with a crime were treated in accordance with justice principles, thereby signifying their foray into the adult criminal system; different standards had previously applied because offending children were technically seen as welfare cases, not criminal justice cases. Procedural changes included not denying bail on the basis of lack of accommodation, the right to access reports and the right to challenge information in those reports.<sup>28</sup> Wardship – with its accompanying indefinite period of detainment or supervision – was also no longer an option under the new Criminal Division of the Children’s Court.<sup>29</sup> With regards to young offenders, the focus of the new bill was on alternative sentencing. Institutions were to be for “the small group of offenders requiring a custodial order”.<sup>30</sup> The government also proposed:

In recognition of the special requirements and vulnerability of children and young people between ten and fourteen years of age whose offence warrants a custodial sentence, Community Services Victoria is establishing youth residential centres

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<sup>25</sup> Ronald Wells of the Liberal party argued that the government had allocated \$21 million to children, whereas “in the same Budget is an allocation of \$113 million to reduce the cost of motor car expenditure for car owners in Victoria and \$77 million has been provided to pay off the Arts Centre in one go.” Victoria, *Parliamentary Debates*, Legislative Assembly, 10 August 1988, 437 (Ronald Wells).

<sup>26</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 November 1990, 2806 (Denis Napthine).

<sup>27</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 8 December 1988, 1151 (Peter Spyker).

<sup>28</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 8 December 1988, 1154 (Peter Spyker).

<sup>29</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 8 December 1988, 1154 (Peter Spyker).

<sup>30</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 8 December 1988, 1155 (Peter Spyker).

which will provide special direction, support, educational opportunities, and supervision for these young people.<sup>31</sup>

However, again these changes were more rhetorical than substantive: in reality youth residential centres were housed with youth training centres. This change also continued the blurring between the child welfare and juvenile justice ends of the system, because it was proposing following the welfare model for younger offenders. It is also an example where the reality of the system did not necessarily reflect the strict justice model the government was largely attempting to follow.<sup>32</sup>

Similarly, the ability to access reports and challenge information did not address the fundamental power imbalance between a young person and the system. By focusing on community sentencing, the conditions of those in detention were also ignored. By aligning the youth system with the adult system, the focus further moved towards the crime committed, and not the reason behind committing the crime or the developmental ability to comprehend the impact of one's actions. By focusing on sentencing, and not the institutions, the act also had some significant blind spots, such as improving the staff working at institutions. This will be discussed further below.

Changes continued to be introduced which likened the children's system to the adult one. Whilst positive on the surface, these changes also enshrined powers necessary for 'community protection' such as body searches and solitary confinement. For example, in 1992 a bill was introduced to require a pre-sentence report prior to sentencing (an obligation already existing in the adult system). This meant that the court would be "fully informed about the child's background and circumstances, about other possible sentencing options and about what a youth residential centre and a youth training centre will provide for a young offender".<sup>33</sup> It also finally gave children the right to "have their medical, cultural, religious and developmental needs met, and to be provided with information on the rules of the centre and on avenues for complaint."<sup>34</sup> That this amendment took until 1992 to bring in speaks to the reality of the conditions in the institutions, and the government's hesitancy to instigate any meaningful change.

At the same time as bringing in these seemingly positive changes the bill also put into the act what had been a previous set of regulations on "matters such as the power to search persons detained in centres, and on the use of isolation and confiscation".<sup>35</sup> It was

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<sup>31</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 8 December 1988, 1155 (Peter Spyker).

<sup>32</sup> See Gray, "Assemblages of Penal Governance, Social Justice and Youth Justice Partnerships."

<sup>33</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 12 August 1992, 68 (Kay Setches).

<sup>34</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 12 August 1992, 68 (Kay Setches).

<sup>35</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 12 August 1992, 68 (Kay Setches).

pointed out that “such powers are necessary to maintain safety, security and peace and good order in those centres” and that “the amendments are essential to ensure that there is a proper balance between the rights of detainees to privacy and bodily integrity, and the need to maintain security and protect the rights of all detainees, staff and visitors to personal safety.”<sup>36</sup> Ultimately, what these changes meant was that minimum standards were put in – standards that should have already existed – and it was clearly enshrined in legislation that youth training officers had the power to put children in solitary confinement and other such punishments. It was not an act to protect children.

The act also failed to introduce programmes that would have assisted children within institutions. For example, during the same debates, Robert Maclellan of the Liberal party criticised the government for not funding drug treatment programs in youth training centres.

As I understand it, in health terms the institutions have six young people to a ward; yet they are young and at their most sexually active and perhaps most sexually irresponsible years. One needs but one syringe and one matchbox full of white powder to have a recipe for disaster for the rest of their lives, yet the government cannot find the miserable funds needed to institute some drug treatment and drug counselling programs in those situations, while millions of dollars are spent on the grand prix at Phillip Island. Funds for that were made available from the Victorian Health Promotion Foundation because there is no shortage of money to sponsor the motorcycle races.<sup>37</sup>

Making the link between youth offending and youth homeless, Maclellan continued:

The public sees young people at risk and a government which claims to care, but this government has made the claim that it cares too loudly, shallowly and indifferently because there are thousands of young people in danger day and night for want of a little money that could be transferred... The Opposition is not prepared to see six people to a dormitory in youth training centres, with no assistance being provided for drug problems and needle exchange and no counselling or treatment. The centres are merely a preparatory school for a life of crime and institutional care which will bankrupt Victoria if something is not done about it.<sup>38</sup>

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<sup>36</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 12 August 1992, 68 (Kay Setches).

<sup>37</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 November 1990, 2811 (Robert Maclellan).

<sup>38</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 November 1990, 2812 (Robert Maclellan).

Maclellan also revealed that health services to children in youth training centres were worse than those provided to inmates at Pentridge. The government were on notice that drug and alcohol abuse was an issue for some young offenders because five years earlier it had been argued that the drinking age should be increased because a high percentage of offending children were intoxicated at the time of committing their crime.<sup>39</sup> The government's approach to juvenile detention was emblematic of the inherent issue with the justice model; the focus is on punishment and little else.<sup>40</sup>

In 1991 the Minister for Health, Anne Lyster, announced the establishment of a Young Offenders Health Board to ensure "the integration of policies and services and the coordination of programs provided to young offenders".<sup>41</sup> The focus was on psychiatric services. Lyster quoted the statistic that approximated 5 percent of inmates at Winlaton and Turana had a psychiatric disorder (she was quick to point out that no children were put in these institutions because of their disorder).<sup>42</sup> The government had been criticised in the Legislative Council for not adequately dealing with young offenders with psychiatric conditions: "here we have a health system that will not get involved with young children because they have been offenders of some sort, even though they have psychiatric illnesses. Where do we send them? We send them off to Poplar House, Turana."<sup>43</sup> It took the government the entire decade to finally provide services to the young people in juvenile detention centres. And it was not until 1992 that the minimum standards for medical care were brought in, once again indicating that whilst the government was not willing to spend any genuine funds on youth training centres or those inside of them.

The political approach taken to escapes from youth training centres also clearly demonstrated the adoption of the justice model and the lack of empathy that followed. Through the 1980s and early 1990s there continued to be escapes from various youth institutions. Escapes from Malmsbury were blamed for causing community fear over the development over a new low-security women's prison. Richard de Fegely of the Liberal Party reported that "I understand the concern of the people of Woodend because the history of the Malmsbury Youth Training Centre, which is in that area, is one of many escapes. Approximately one- quarter of the people who attend Malmsbury in any year escape from the centre."<sup>44</sup> The matter of Malmsbury escapees was raised again in the

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<sup>39</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 26 Marcy 1986, 625 (Morris Williams).

<sup>40</sup> Cunneen, White, and Richards, *Juvenile Justice: Youth and Crime in Australia*, 112.

<sup>41</sup> Victoria, *Parliamentary Debates*, Legislative Council, 10 March 1991, 581 (Maureen Lyster).

<sup>42</sup> Victoria, *Parliamentary Debates*, Legislative Council, 10 March 1991, 581 (Maureen Lyster).

<sup>43</sup> Victoria, *Parliamentary Debates*, Legislative Council, 24 March 1991, 1144-1145 (Maureen Lyster).

<sup>44</sup> Victoria, *Parliamentary Debates*, Legislative Council, 30 April 1986, 950 (Richard de Fegely).

Legislative Council and it was described as “an open prison environment” by the opposition.<sup>45</sup> Caroline Hogg countered this by pointing out that “courts sentence young people to a period of detention in a training centre and not in a prison, and the programs in a training centre are obviously different from those in a prison”.<sup>46</sup> Nonetheless she posited that she was “investigating ways of improving the security at Malmsbury and I am mindful of the honourable member's concern about the number and level of escapes.”<sup>47</sup> Whilst Hogg made an effort to sound balanced, she did not ask why young people would feel the need to escape.

In 1990 escapes from Langi Kal Kal were brought to the government's attention. The institution was at this time being used as a remand centre, which the opposition argued meant the class of child behind there was more dangerous than had previously been the case: “A number of offenders up to 21 years of age are at the centre and serious crimes have been committed by some of them, including indecent assault, armed robbery, rape, arson, drug trafficking and assaulting police”.<sup>48</sup> The member was concerned that a number of crimes had been committed by escapees: “We have also had reported crimes in the wake of these escapes including theft often motor vehicles from Beaufort and seventeen from further afield. Eleven assaults occurred during that period as well as six burglaries, 40 traffic offences and also drug offence problems.”<sup>49</sup> He was concerned that widows living along would be attacked.<sup>50</sup> Again, all of the language surrounding the young people was of fear and community safety, not the welfare of those inside the institutions.

In 1991 Ronald Best of the National Party was again concerned about the number of escapes from “correctional institutions” and what this meant for public safety and police resources.<sup>51</sup> Best called on the Minister for Community Services to investigate the security of Langi Kal Kal, Malmsbury, Winlaton and Turana due to there being “almost 5 [escapes] a week” and “while they were at large they committed an amazing 1063 offences or almost twenty offences a week”.<sup>52</sup> Best compared the number of youth training centre escapes to those from adult penal institutions, whose numbers were substantially lower. He also quoted an example of a man aged 21 who was charged with murdering his mother being put in a youth training centre. He concluded “there is no

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<sup>45</sup> Victoria, *Parliamentary Debates*, Legislative Council, 6 May 1986, 960 (Frederick Granter).

<sup>46</sup> Victoria, *Parliamentary Debates*, Legislative Council, 6 May 1986, 960 (Frederick Granter).

<sup>47</sup> Victoria, *Parliamentary Debates*, Legislative Council, 6 May 1986, 960 (Frederick Granter).

<sup>48</sup> Victoria, *Parliamentary Debates*, Legislative Council, 13 November 1990, 1334 (Richard de Fegely).

<sup>49</sup> Victoria, *Parliamentary Debates*, Legislative Council, 13 November 1990, 1335 (Richard de Fegely).

<sup>50</sup> Victoria, *Parliamentary Debates*, Legislative Council, 13 November 1990, 1335 (Richard de Fegely).

<sup>51</sup> Victoria, *Parliamentary Debates*, Legislative Council, 23 October 1991, 898 (Ronald Best).

<sup>52</sup> Victoria, *Parliamentary Debates*, Legislative Council, 23 October 1991, 898 (Ronald Best).

doubt that the Minister for Community Services has a responsibility to the community to ensure community safety and I ask that she take appropriate action.”<sup>53</sup> By likening children to adults Best was again prompting fears of public safety and supporting the justice model.<sup>54</sup> Again, at no point did he consider the welfare of the children or ask why they felt the need to escape in the first place.

Failing to inquire into the reasons for escapes was not restricted to the politicians. This was a point addressed by the RCIRCSA and it was found, for instance, that none of the policy manuals provided listed sexual abuse as a reason for absconding.<sup>55</sup> The RCIRCSA also identified lack of staff training and awareness as contributing to this, because staff were also not aware that children were escaping due to sexual abuse within the institution.<sup>56</sup> Similarly, it found that the Victorian police did not have any procedures in place to determine why children had absconded, and that “there may have been an attitude to children in youth training and reception centres at the time which meant that police did not inquire into the reasons that residents abscond.”<sup>57</sup> During the RCIRCS the Assistant Commissioner (Victoria Police) also admitted that no such policies existed today, nor did he think that police would necessarily inquire into why a detainee escaped.<sup>58</sup>

It is worth noting that there were examples where the political rhetoric countered the justice model as some offending children were deemed by politicians as in need of assistance, namely those charged with prostitution or drug use. Comparatively, those charged with property theft or damage were viewed as in need of punishment.<sup>59</sup> This complicated the justice model as a welfarist view was still being applied to some classes of young offender. However, this rhetoric did not always reflect reality, because children charged with these crimes were still sent to juvenile detention centres, indeed girls at Winlaton were routinely institutionalised for being victims of sexual assault.<sup>60</sup> Therefore, although the system did not always strictly reflect the justice model, by transitioning away

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<sup>53</sup> Victoria, *Parliamentary Debates*, Legislative Council, 23 October 1991, 898 (Ronald Best).

<sup>54</sup> Cunneen, White, and Richards, *Juvenile Justice: Youth and Crime in Australia*, 109.

<sup>55</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse.," 65.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*, 66.

<sup>58</sup> *Ibid.*

<sup>59</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 October 1982, 1036.

<sup>60</sup> See for example the case of Katherine X in Royal Commission into Institutional Responses to Child Sexual Abuse, "Report of Case Study No. 30: The Response of Turana, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria to Allegations of Child Sexual Abuse.."

from the welfare model, children within youth training centres were officially being treated as adult criminals, seen as ‘hardcore’ cases and having their conditions ignored.<sup>61</sup>

### Youth Homelessness

During the 1980s youth homelessness was an ongoing issue facing the Labor government. In the late 1970s and early 1980s there was a recognised increase in not just homelessness, but also youth homelessness.<sup>62</sup> Homelessness had been increasing as a recognised social issue since the late 1960s, but its focus had predominately been on white homeless men.<sup>63</sup> It was believed that this was caused by “dramatic changes to the family” resulting from social changes and economic recession.<sup>64</sup> Homelessness became a renewed topic of national concern and there was the further development of national programs, such as the Supported Accommodation and Assistance Program.<sup>65</sup> It also resulted in the 1989 report published by the Human Rights and Equal Opportunity Commission, “Our homeless children: report of the national inquiry into homeless children”.<sup>66</sup> The report recognised the interplay between the juvenile justice system and youth homelessness, also noting that children often avoided seeking help due to the fear of being institutionalised.<sup>67</sup>

In Victoria, however, the adoption of the justice model and the view that youth training centres were there to protect the community from dangerous young people, hindered the government’s ability to connect youth homelessness with the children in the juvenile justice system. Instead, they were seen as two distinct issues. Throughout the 1980s the Labor party were continually criticised by the opposition for not spending enough money and not focusing enough energy on issues facing the youth of Victoria. These criticisms predominately revolved around the issues of homelessness and unemployment, issues facing ‘innocent’ young people.<sup>68</sup> The parliamentary debates on youth issues carried a strong undertone of ‘innocent’ versus ‘guilty’ young people, the former being deserving of funding and the latter only deserving of attention to the extent

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<sup>61</sup> See Gray, "Assemblages of Penal Governance, Social Justice and Youth Justice Partnerships," 517-34.

<sup>62</sup> Chris Chamberlain and David Mackenzie, "Understanding Contemporary Homelessness: Issues of Definition and Meaning," *The Australian journal of social issues* 27, no. 4 (1992): 280.

<sup>63</sup> Anne O'Brien, "'Archaic Laws' and the Making of the Homelessness Sector," *Housing studies* 38, no. 6 (2023): 947-62.

<sup>64</sup> Human Rights and Equal Opportunity Commission, "Our Homeless Children: Report of the National Inquiry into Homeless Children," (Canberra, 1989), 9-10.

<sup>65</sup> National Youth Commission, "Australia's Homeless Youth: A Report on the National Youth Commission Inquiry into Youth Homelessness," (Melbourne, 2008), 365.

<sup>66</sup> Commission, "Our Homeless Children: Report of the National Inquiry into Homeless Children."

<sup>67</sup> Ibid., 20.

<sup>68</sup> For example, reportedly Victoria had a younger homeless population than was common in other comparable parts in the world, with a large portion of homeless youth being under the age of 15. (Victoria, *Parliamentary Debates*, Legislative Assembly, 16 June 1982, 1413 (Jeanette Patrick))

it might reduce further societal harm by reducing recidivism. Again, this was reflective of the justice model. What this meant was that, as with the 1970s when funds were actively diverted to alternate sentencing, in the 1980s funding for ‘innocent youth’ was prioritised over funds for those deemed guilty inside youth training centres.

For example, when discussing homeless youth, the opposition were careful to differentiate between those children who had offended and those who had not. Funding was needed to avoid offending, but once the offending had occurred then the young person was in a different class not worthy of assistance. This was clearly expressed by Prudence Sibree of the Liberal party, who criticised the government for providing community homes for young offenders.<sup>69</sup>

I express grave concern that, on the one hand, programmes are announced for offenders but, on the other hand, nothing has been said about the severe problems faced by innocent young people who find themselves without suitable accommodation for a variety of reasons, some of which may be their own fault, but most of which is the fault of their families and society around them.

She makes a clear divide between children that were impacted by circumstances beyond their control, and those children that had the appearance of exercising free will. However, whilst Sibree’s criticism related to Labor government over-spending on ‘criminal’ children, the Labor party’s trend in actuality had been to avoid spending on children who had been charged with a crime. An example of this was in 1986 when the government rejected an application for funding assistance for a community organisation that provided employment to young offenders. Phillip Gude of the Liberal Party, frustrated by the lack of appreciation for such programs, spoke of “one senior probation officer who has worked for many years in my area has given up from frustration, anger and hurt because he feels he is not even treading water.”<sup>70</sup>

The ‘innocent’ vs ‘guilty’ rhetoric – reminiscent of the ‘deserving’ and ‘undeserving’ poor rhetoric discussed in previous chapters – was also clear in 1986 when the Cain Government introduced the Youth Affairs Bill which created the Youth Policy Development Council.<sup>71</sup> The opposition were careful to voice their concern that this bill ought not attempt “to legislate for minority groups rather than the interests of the majority”.<sup>72</sup> They were worried that this was the “dangerous course of action” the

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<sup>69</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 16 September 1982, 412 (Prudence Sibree).

<sup>70</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 October 1986, 1376 (Phillip Gude).

<sup>71</sup> See for example McCalman, *Struggletown: Portrait of an Australian Working-Class Community*, 494.

<sup>72</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 May 1986, 1719 (Jeffrey Kennett).

government had generally been “embarking on”.<sup>73</sup> Ultimately, what resulted was the Youth Guarantee Program. In order to pass the order, however, the Premier was required to settle a debate between two factions of the Labor party, neither of which could agree which Ministry would control the program. Ultimately, the Ministry for Youth, Sport and Recreation was disbanded, with the ‘Youth’ portfolio being moved to the Department of Employment and Industrial Affairs.<sup>74</sup> A separate Department of Sports and Recreation was then set up.<sup>75</sup> Whilst arguably a side point, what this evinces is that youth concerns were being taken seriously to the extent they related to employment, and ‘worthy’ young people. However, whilst in previous decades the Minister of Youth, Sport and Recreation had been involved with community activities designed to reduce offending, this now received no attention at all. Therefore, it was issues of youth employment that attracted government funding and attention, not offending.

It is worth noting that the rhetoric about ‘deserving’ and ‘underserving’ youth was not supported by evidence provided at a Federal level. In 1989 the then Human Rights and Equal Opportunity Commission (now the Australian Human Rights Commission) published “Our Homeless Children: the of the National Inquiry into Youth Homelessness”.<sup>76</sup> While the content of this report goes beyond the scope of this thesis, the report called for immediate action to assist children facing homelessness. It also made the following observation:

The child welfare and juvenile justice systems have operated alongside these large-scale national initiatives, often in ways which have been unsympathetic to them and their aims. Individual homeless children and young people have felt the presence of these systems in various ways. In Chapter 10, Children in the Care of the State, the point is made that, for many children, involvement with these systems is the commencement of their progress towards homelessness.<sup>77</sup>

The report’s recommendations also included increased access to advocacy to assist children in police settings.<sup>78</sup> All of this is to say, the government was being pressured at a national level to roll out assistance more broadly, yet their adoption of the justice model

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<sup>73</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 May 1986, 1719 (Jeffrey Kennett).

<sup>74</sup> Public Record Office Victoria, "Department of Youth, Sport and Recreation," <https://researchdata.edu.au/departments-youth-sport-recreation/645183>.

<sup>75</sup> Public Record Office Victoria, "Department of Sport and Recreation," [https://researchdata.edu.au/departments-sport-recreation/2591352/?refer\\_q=rows=15/sort=score%20desc/class=party/p=1/q=Department%20of%20Sport%20and%20Recreation/](https://researchdata.edu.au/departments-sport-recreation/2591352/?refer_q=rows=15/sort=score%20desc/class=party/p=1/q=Department%20of%20Sport%20and%20Recreation/).

<sup>76</sup> Human Rights and Equal Opportunity Commission, "Our Homeless Children: Report of the National Inquiry into Homeless Children," (Canberra 1989).

<sup>77</sup> *Ibid.*, 2.31.

<sup>78</sup> *Ibid.*, Summary of Recommendations.

meant that there was a disconnect between funding initiatives to assist homeless youth and their treatment of children in youth training centres.

Indeed, by the early 1990s the opposition was arguing that youth homelessness had gotten worse over the nine years of Labor's reign and pre-existing programs to assist youth had been shut down.<sup>79</sup> The opposition also provided the statistics on what proportion of homeless children were also State Wards: "In 1984-85 that figure remained at about 29 per cent. By 1985-86 it was 30 per cent. By 1986-87 it was 31 per cent, and by January 1988 it had increased to 48 per cent – in other words, 48 per cent of our street kids were clients of Community Services Victoria".<sup>80</sup> Even though the statistic does not specifically state what number of these children had also been in youth detention centres, it is well established that a large number of children that find themselves in detention are, or have been, State Wards. As John Richardson of the Liberal party put to the government in 1991:

I refer to homeless kids – the street kids of Melbourne. Most of them are wards of the State. The Minister for Community Services is the legal guardian of most of the kids who are cared for nightly by people such as Father Bob Maguire of the Open Family Foundation, the Salvation Army and a multitude of other non-government organisations. Open Family Foundation receives not one cent of financial support from the government, yet the government spends millions upon millions of dollars featherbedding the unions that staff institutions.<sup>81</sup>

As will be discussed below, institution staffs continued to strike throughout the 1980s, suggesting they were not being paid to the degree Richardson is suggesting. Nonetheless, what Richardson evinces is the tension between 'innocent' and 'guilty' young people.

Nothing came of the criticism. Later that year, it was reported that Winlaton and Turana were to be redeveloped. The use of Winlaton was down by 73 percent since 1980 and the use of Turana was down 70 percent.<sup>82</sup> As such, Winlaton was to be renamed the "Nunwading Youth Residential Centre" where it would be both a youth residential centre and a youth training centre. By February 1992 Turana Youth Training Centre would no longer house boys under protective orders.<sup>83</sup> The government boasted that services were moving regionally and to smaller units and that 350 staff had been reallocated, 300 children moved, \$30 million spent and all "within the existing budget and demonstrates

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<sup>79</sup> Also see National Youth Commission, "Australia's Homeless Youth: A Report on the National Youth Commission Inquiry into Youth Homelessness."

<sup>80</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 August 1991, 129 (David Perrin).

<sup>81</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 April 1991, 1615 (John Richardson).

<sup>82</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 October 1991, 1511.

<sup>83</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 October 1991, 1511.

value for money”.<sup>84</sup> Therefore, whilst by the end of the decade they could boast lower numbers, this may have been because those that would have otherwise been inside the institutions were living on the streets instead.<sup>85</sup>

### **Institutional Conditions**

During the 1980s conditions for inmates once again failed to improve. While the government’s focus on deinstitutionalisation may have decreased its numbers, it did nothing for those already inside institutions. Similarly, deinstitutionalisation did not necessarily mean sufficient services were provided for children needing help. Under the justice model juvenile detention centres were further linked to the adult prison system, and little to no attention was paid to improving institutional conditions. Finally, the government’s newly introduced prison industries ensured children were treated as prisoners, and not children needing an education.

In 1982 Pauline Toner spoke impassioned by her cause, pledging that the Labor government would improve the Victorian prison system and show its commitment to its policy of deinstitutionalisation. In the same speech she spoke of alternate sentencing arrangements for young offenders.<sup>86</sup> With the acceptance of the justice model the adult and juvenile systems were now seen as inherently linked. Toner also did not forget to mention that alternate arrangements were also considerably cheaper for the Victorian taxpayer.<sup>87</sup> As with the 1970s, the 1980s continued to focus on deinstitutionalisation, which continued to contribute to the labelling of young people in institutions as hardcore and, as such, linked youth training centres to adult prisons.

As with the 1970s, the continued focus on alternate sentencing arrangements necessarily positioned the children in youth training centres as a danger to society, as it was perceptively the only reason they were incarcerated. By the end of 1982 Pauline Toner was announcing to parliament various schemes being developed or implemented by the department, such as organising local households to take children awaiting court appearances and means by which individuals in the community could be contracted to provide “day by day practical help” to young offenders.<sup>88</sup> The youth attendance order – discussed in Chapter 4 – was also officially introduced in 1984. The overall impact of

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<sup>84</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 October 1991, 1511.

<sup>85</sup> The report *Our Homeless Children* commented that whilst the reduction in institutional numbers was a positive trend, what was concerning was that sufficient alternatives had not been developed. Commission, “Our Homeless Children: Report of the National Inquiry into Homeless Children,” 17.

<sup>86</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 27 April 1982, 64 (Pauline Toner).

<sup>87</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 27 April 1982, 64 (Pauline Toner).

<sup>88</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 7 December 1982, 2512 (Pauline Toner).

alternate sentencing was to reduce the population in youth training centres. As Toner pointed out in response to an allegation that there was overcrowding:<sup>89</sup>

Ten years ago, there were approximately 600 people in youth training centres, and today, there are approximately 350. This is as a result of the provision of welfare services and the development of a range of family support services, police cautions and a range of similar options. Furthermore, during the time that the population in youth training centres has been decreasing, the youth population, overall, has increased in Victoria.

Toner was keen to keep the numbers down. To the extent that when the opposition suggested that youth training centres should accommodate young people up to the age of 20 (something that Langi Kal Kal already did) Toner was open to the idea of opening a youth prison instead.<sup>90</sup> By the end of the 1980s the population in youth training centres had more than halved. A significant contribution to this was the development of alternate sentencing.

However, as discussed in the previous chapter, whilst alternate sentencing did reduce institutional numbers it was also coupled with ignoring the conditions of the institution itself. For example, along with recommending that institutionalisation be used as a last resort, the Carney Report also recommended Turana and Winlaton be replaced with more appropriate facilities. While the government took heed of the first recommendation, it chose to ignore the latter. Similarly, the report argued that children in detention should be given the same education and access to medical care as the rest of the community. It also recommended that facilities be culturally sensitive, that there be a youth hostel developed for Indigenous girls and that facilities be community focused. It also recommended that staff training be improved and “designed to foster the creative use of staff development in detention and latent community development skills”.<sup>91</sup> It would take until the early 90s for the government to enshrine these basic rights in legislation, and even then it is questionable if they were provided for within the institutions.

The government’s trend towards deinstitutionalisation also meant that in some cases services were removed completely without being replaced with an alternative. For example, in 1987 the function of Winlaton was to change due to reducing numbers. The opposition was concerned that services would be shut down with no replacement. The underlying assumption was that Winlaton provided a valuable service to the community

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<sup>89</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 April 1984, 4309 (Pauline Toner).

<sup>90</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 April 1984, 4310 (Pauline Toner).

<sup>91</sup> Child Welfare Practice and Legislation Review Committee, “Child Welfare and Practice Legislation Review Report,” 58.

that could not be replaced by a community sentencing option.<sup>92</sup> In 1988 Rosemary Varty of the Liberal party again expressed concern about the deinstitutionalisation of the girls at Winlaton, referring specifically to its triad programme:<sup>93</sup>

Over a long period excellent work has been done at the centre in assisting females to get back into the community rather than going to corrective institutions. I have the utmost respect for the work done at Winlaton under the supervision of Dr Eileen Slack. Honourable members who know Dr Slack would respect the work she has done. Although "triad" is not a popular word within organisations or the community, the triad system is in operation at Winlaton. It enables girls in that institution to provide support and assistance to new girls coming into the institution. Under the deinstitutionalisation program, Winlaton in its present form will disappear and will become an institution for younger males and females. That is fine in theory but will not provide for the girls who were assisted previously by Winlaton. A number of those girls from time to time have come back to Winlaton, which has provided a support network. With that facility and support no longer available, many of those young girls may be unable to cope with the stresses and pressures of the outside world.

The evidence from RCIRCSA clearly shows that the triad programme was damaging to the girls involved and that the experiences of those at Winlaton was overwhelmingly negative. For example, the RCIRCSA found that in the 1980s therapy was favoured over reporting crimes to the police, meaning sexual abuse would go unreported.<sup>94</sup> Compounding this was the fact that triad therapy required the participant to take responsibility and/or blame for their role in any problems they were having, including those resulting from sexual abuse.<sup>95</sup> Nonetheless, given that deinstitutionalisation was not coupled with an increase in funding the point remains valid about whether appropriate facilities were provided for those sent to community sentencing options.

In 1990 the Labor government was also criticised for shutting the remand section of Winlaton and placing these girls into the main section of Winlaton. Those on remand were also "losing the guidance of specialist teachers."<sup>96</sup> George Cox of the Liberal party argued that the purpose of shutting the remand centre was a cost cutting exercise. He suspected that eventually the training centre would be shut down and the land sold (and

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<sup>92</sup> Victoria, *Parliamentary Debates*, Legislative Council, 7 October 1987, 765 (Caroline Hogg).

<sup>93</sup> Victoria, *Parliamentary Debates*, Legislative Council, 31 October 1988, 271 (Rosemary Varty).

<sup>94</sup> *Public Hearing - Case Study 30 (Day C088)*, 73.

<sup>95</sup> *Ibid.*, 63-64.

<sup>96</sup> Victoria, *Parliamentary Debates*, Legislative Council, 18 September 1990, 310 (George Cox).

indeed this is what happened in the 1990s under the Liberal party).<sup>97</sup> Cox was also concerned that community treatment options were not always beneficial, quoting the *Nunawading Gazette*:

I don't want to see any girl incarcerated, but I wonder whether these community-based option places are manned 24 hours a day and what sort of education programs and training is available to those girls.<sup>98</sup>

Again, whilst the evidence clearly showed that Winlaton did not provide useful education or training to the girls detained there, and was instead almost universally traumatic, the point still remains valid; namely that simply shifting girls to community sentencing options did not mean that they were getting the help or resources that they genuinely needed.

Similarly, in 1987 the government stopped funding, and therefore shut down, the motor vehicle and cycle training scheme at Turana.<sup>99</sup> The scheme taught inmates Victorian road law and defensive driving and was estimated to cost \$3000 - \$4000 per annum. The importance of the scheme was it taught the inmates road safety, and as the opposition pointed out: "the overwhelming majority [have] had motor vehicle or cycle offences as the reasons for their being in Turana" and that someone needed to speak for these children because "the Turana Education Centre is unique in that it does not have a supportive parent group."<sup>100</sup> Essentially, Coleman was admitting that the young people in Turana were not hard cases – they were mostly guilty of vehicle offences – and they needed help, because they did not have anyone else to speak for them. This argument never resurfaced and certainly did not garner the attention of the government. In 1991 the government even received criticism John Richardson of the Liberal party for reducing food rations in Baltara and Winlaton.<sup>101</sup>

The only improvements the government was willing to consider was to the buildings itself. For example, in 1985 Caroline Hogg, the Minister for Community Services, pledged to upgrade Turana and to establish "appropriate facilities generally".<sup>102</sup> Hogg pointed out that Turana had similar conditions as adult gaols, that this "is a situation that no Government can put up with", and that in any case adult gaols were getting updated too.<sup>103</sup> However, Hogg's discussion only turned on the bricks and mortar

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<sup>97</sup> Ibid; "186-192 Springvale Road," <https://www.realestate.com.au/property/186-192-springvale-rd-nunawading-vic-3131/>.

<sup>98</sup> Victoria, *Parliamentary Debates*, Legislative Council, 11 October 1990, 725 (George Cox).

<sup>99</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 16 April 1987, 1417 (Charles Coleman).

<sup>100</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 16 April 1987, 1417 (Charles Coleman).

<sup>101</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 April 1991, 1615 (John Richardson).

<sup>102</sup> Victoria, *Parliamentary Debates*, Legislative Council, 17 April 1985, 153 (Caroline Hogg).

<sup>103</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 16 April 1987, 1417 (Charles Coleman).

conditions of the institution, not its programs or the treatment by staff (indeed she took care to compliment those working at the institutions).<sup>104</sup> Later that year Hogg also discussed another committee of review that was looking into the conditions of Winlaton. Little detail was provided about the “extensive study” that had been undertaken, other than:

The paper highlights the fact that many young women are in Winlaton not because they are offenders but because their behaviour is regarded as difficult to manage or because they are in need of protection. Winlaton, therefore, may not be the most suitable environment for these young women.<sup>105</sup>

There was no criticism of the institution itself.

In 1989 the conditions at Turana once again gained attention when a boy with an intellectual disability was sexually assaulted by other inmates at Turana. He had been sent there for a minor offence, one that he had committed due to his intellectual disability. The opposition criticised the government for not having sufficient arrangements in place to care for intellectually disabled offenders. Such was the commitment to the justice model on both sides that no one questioned whether the boy should have been incarcerated at all, and nor was it questioned what conditions the other inmates were in to commit such an assault. The government’s response was to pledge funding to make bricks and mortar updates to ensure the security of Turana. pledged \$1 million for “the redevelopment of Turana Youth Training Centre for 60 high and medium security beds for young offenders” and “an amount of \$1.8 million will be provided to allow construction of a 20 bed security unit at Kingsbury.”<sup>106</sup> However, this spending pledge did nothing to change the genuine conditions under which inmates were kept.

Interlinked with stagnating conditions within institutions, was also stagnating conditions for the staff within those institutions. During the debates of the *Children and Young Persons Act* the Labor government were criticised for not dealing with the issue that had always plagued child welfare services, namely the provision of staff. Again, this matter was not addressed by the government. The opposition criticised the Labor government for creating a division between staff that worked directly in the field and those in the bureaucracy. Donald Hayward, a Liberal party politician, criticised the departmental officials as “most interested in their own theories and their bureaucratic approaches to problems”.<sup>107</sup> He posited that “the department is out of control and the

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<sup>104</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 16 April 1987, 1417 (Charles Coleman).

<sup>105</sup> Victoria, *Parliamentary Debates*, Legislative Council, 17 July 1985, 950 (Caroline Hogg).

<sup>106</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 August 1989, 102.

<sup>107</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 May 1989, 173.

bureaucrats have control of the Minister.”<sup>108</sup> However, this was only a side argument. No serious discussion was given to the quality of staff in the institutions or the training they received.

That staff training and conditions were blatantly ignored is evinced by the staff strikes (often coupled with youth escapes) that continued throughout the 1980s and early 1990s. In 1983 there was an incident where seven children escaped during a staff strike. There was no debate around why the children would want to escape, but there was discussion on poor working conditions experienced by the staff. Similarly, in 1984 Thomas Evans of the Liberal party drew the parliament’s attention to a newspaper report which discussed Langi Kal Kal. The article discussed the working conditions at the institution:

staff at a Victorian youth training centre claim they are set to revolt over lax discipline, according to a former officer. The officer who declined to be named, said many of his former colleagues at Langi Kal Kal, were angry that a "hard core" of youths were being allowed to openly flout regulations.<sup>109</sup>

Evans continued, “most of the staff are getting pretty cheesed off and someone on the staff is going to finish up being clobbered.”<sup>110</sup> In the article, the neighbours of Langi Kal Kal had also reported concern “about some of the people who are sent there after being convicted of crimes of robbery and rape.”<sup>111</sup> The conditions experienced by the inmates were not questioned, however, what the article did reveal was a struggling system that did not trust the young people it was designed to take care of, which also meant that staff were not adequately trained to work at the institution. This is also evident of the general attitude that the young people were described as fearsome and hardcore, yet Langi Kal Kal was a low security facility.

Again in 1986 the workers at Winlaton and Allambie Reception Centre held talks on potential strike action.<sup>112</sup> In 1991 in the Legislative Council, Michael John of the Liberal party referred to allegations made by staff at Turana that they had been unjustly “charged with offences relating to the abuse of youth offenders”.<sup>113</sup> The staff claimed that the complaints made against them were unfounded and they “are not properly protected”. John, goes on:

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<sup>108</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 May 1989, 174.

<sup>109</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 October 1984, 1077-78.

<sup>110</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 October 1984,

<sup>111</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 October 1984,

<sup>112</sup> Victoria, *Parliamentary Debates*, Legislative Council, 18 November 1986, 1011 (Rosemary Varty).

<sup>113</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 May 1991, 2053.

I do not condone violence anywhere and least of all where it is undertaken by youths under supervision in training centres. Turana holds offenders who have committed serious crimes against people in the community and the community can be genuinely concerned about safety and security if there is any doubt about the matter I raise. Naturally members of the public are concerned if any industrial action is undertaken - and I understand it may be - by members of the staff who are put at risk.<sup>114</sup>

What this quote shows is twofold, first that conditions experienced by the inmates were ignored but also that staff felt out of control. The same thing can be seen again when in 1991 the staff at Turana went on strike for the longest period in the institution's history, with the dispute lasting at least four weeks. During the parliamentary debates discussing the strike, not once were the conditions of the inmates discussed. The opposition criticised the Labor party:

It is reprehensible that the Minister has been so slow to intervene or seek discussions with those involved. It is clear that she does not have control of Community Services Victoria. I submit that the present circumstances pose a security and a safety risk, not just for the trainees, the volunteers and the security guards but also for members of the public.<sup>115</sup>

This ties in with the adoption of the justice model above as again, the inmates were characterised as a danger to society because "some of the young people have been sentenced for armed robbery, theft, car theft, burglary, high-speed car chases and assault".<sup>116</sup> Most of these crimes relate to property, which pose no immediate danger to an individual. The majority of inmates were sent home during the strike and the rest were watched by security guards and volunteers. Again, even though the working conditions of the officers was clearly a point of contention, the conditions impacting inmates were not; the suggestion again being that it was the inmates themselves that were the problem (by framing it in this the way the government also removed themselves from any form of culpability). The opposition's criticism supported this interpretation of events. Indeed:

Last week the chief executive officer, Mc Paul Carter, who was acting in a volunteer capacity, was assaulted with an iron bar and had his ribs broken. Other volunteers have been assaulted at the centre. I am informed that last Friday young students at the Phillip Institute were asked to man the centre as volunteers over

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<sup>114</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 May 1991, 2053.

<sup>115</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 7 May 1992, 1363 (Margaret Ray).

<sup>116</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 7 May 1992, 1363 (Margaret Ray).

the weekend! Police cells throughout Victoria are choked with young offenders because they cannot be placed in institutions. It is an incredible situation, yet the Minister has no answer. The Minister stands condemned. She has failed to control her department and ensure that young offenders are securely housed. She has failed to prevent young people convicted of serious offences from roaming the streets unchecked, and they represent an additional security risk to the community.<sup>117</sup>

At one stage during the strike four inmates escaped from the high security area by using planks that had been left in the yard. Again, the boys were painted as dangers to the community, one being on remand for murder (but not charged) and the other three for simply “serving sentences”.<sup>118</sup> This was demonstrably not true, given the boy on remand gave himself up and nothing was reported on the other three.<sup>119</sup> No consideration was given to the fact that the boy was on remand, not charged, and that property theft was the most common crime these young people were charged with. What the opposition succeeded in doing was arguing that treatment needed to be harsher, not that conditions needed to be improved or that staff needed additional training to appropriately support young people. Therefore, despite there being continued strikes throughout the 1980s, the adoption of the justice model and the view that children inside the institutions were ‘hard’ cases, meant that decision makers were blind to the conditions that they lived in.

At the same time as youth training centres were being increasingly characterised as youth prisons, the government was also implementing legislation to make them more profitable.<sup>120</sup> This approach was consistent with the general trend of privatising prisons that arose internationally, in particular the USA.<sup>121</sup> This did nothing to improve conditions, all that it did was further link youth training centres with the adult prison system and ensure that children were working whilst imprisoned, not educated. This was exemplified by the Victorian Industries Commission Bill. In 1983 the bill was brought in to increase production inside prisons and some youth training centres. Essentially it

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<sup>117</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 May 1992, 1446 (Michael John).

<sup>118</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 May 1992, 1308-1309 (Kay Setches).

<sup>119</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 May 1992, 1308-1309 (Kay Setches).

<sup>120</sup> Prison privatisation has been recognised by scholars as only temporarily reducing expenditure, with no clear improvement in performance and worse accountability. Valarie Sands, Deirdre O'Neill, and Graeme Hodge, "Cheaper, Better, and More Accountable?: Twenty-Five Years of Prisons Privatisation in Victoria," *Australian journal of public administration* 78, no. 4 (2019): 577. Also see Gaylene Styve Armstrong, *Private Vs. Public Operation of Juvenile Correctional Facilities* (New York: LFB Scholarly Publishing LLC, 2001).

<sup>121</sup> Younhee Kim and Byron E. Price, "Revisiting Prison Privatization: An Examination of the Magnitude of Prison Privatization," *Administration & society* 46, no. 3 (2014): 255.

allowed prisoners to manufacture goods, and some youth trainees to run farms.<sup>122</sup> It also allowed for money made by this new work stream “to be a direct offset to the cost of imprisonment”; the commission could of course choose to give some money to the prisoners and trainees which would “be a most valuable incentive to production”.<sup>123</sup> Under the guise of welfare policy, Toner was careful to ensure that prisons would become commercially productive and cheaper to run. She was also unabashed in talking about adult prisoners and youth trainees as though they were interchangeable, the separate classifications a mere technicality.

This theme continued during the second reading debate. For example, Neville Saltmarsh of the Liberal party spoke of “the inordinate length of time prisoners spend virtually doing nothing, except, in some instances, planning to escape”.<sup>124</sup> To prove this, Saltmarsh produced a letter written by an offender in Turana, not Pentridge. Even though the letter specifically discussed children:

People think that if offenders are locked away, society's problems will be solved. They think that while a kid is locked up he won't be any harm to anyone. But one day that kid will be released, and then he'll be doing the same things all over again. Turana is supposed to change kids, change the way they think, so that when they get out they'll go straight. But it doesn't happen like that most kids get out and do the same offences because when they get out nothing has changed.

I don't know what people expect Turana to do for us. It's a hole in here, locked doors, bars on the windows, no freedom, and it's the same thing day in and day out. All the time the same old routines. In the outside it's not the same every day, things change. I think life in Turana should be close to life on the outside, so that when you're released you don't feel lost about what you're doing.

Most adults don't even know what Turana, Winlaton, Allambie, Tally-Ho and St. Augustines is really like, and half of them don't care anyway. They don't want to know and they won't listen. I think there should be people in Turana who are really interested in their work. There should be people you can talk to and trust.<sup>125</sup>

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<sup>122</sup> Victoria, *Parliamentary Debates*, Legislative Council, 13 September 1983, 145 (Malcolm Sandon).

<sup>123</sup> Victoria, *Parliamentary Debates*, Legislative Council, 13 September 1983, 145 (Malcolm Sandon).

<sup>124</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 August 1983, 231 (Donald Saltmarsh).

<sup>125</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 August 1983, 231 (Donald Saltmarsh).

Saltmarsh concluded that “that letter explains clearly the experiences of people whether young or adult in imprisonment.”<sup>126</sup> He failed to differentiate between the prison system and the youth trainee system. He also indicated a lack of attention to detail, as the bill itself would not impact those trainees in Turana as this institution did not undertake farming work, as was the case at Malmsbury and Langi Kal Kal. He did not see the letter as a cry for help from a child feeling lost in a system that nobody cares about. Instead, he saw a prisoner that would benefit from more work to keep him busy. Therefore, while he gives the appearance of providing a thoughtful opposition voice – he agreed with the bill but wanted it to also provide for training of inmates – he was simply providing empty platitudes. Similarly, he rightfully pointed out that without enough funds the bill would simply be “a token measure”.<sup>127</sup> Therefore, the introduction of this bill showed once again that children in youth training centres were seen simply as criminals that could be treated as a resource for increasing the productivity – and therefore cost effectiveness – of the institutions.

However, even without the new bill inmates were already being used as a cheap (unpaid) form of labour. As Thomas Reynolds of the Liberal party pointed out when he was defending the inmates at Malmsbury in response to a media attack:<sup>128</sup>

In fact, the inmates provide a great service around the district and it is appreciated by those whom they help. In a charitable sense, they have helped to restore recently the Kyneton Baptist Church by assisting with renovations and the bluestone extension also by constructing the stone fence. They have undertaken a lot of earthworks at Woodend for the swimming pool and have moved approximately 1000 cubic yards of earth by wheelbarrow. They have worked for the Romsey Scout Hall and the Tylden Recreation Reserve. They are saving the community a lot of money.

Therefore, the government was openly admitting that imprisoned children were being used for unpaid labour.

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<sup>126</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 August 1983, 231 (Donald Saltmarsh).

<sup>127</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 August 1983, 232 (Donald Saltmarsh).

<sup>128</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 November 1982, 1709 (Thomas Reynolds).

## Indigenous Young People

Finally, the continued destructive nature of the juvenile justice system was evinced by the continued overrepresentation of Indigenous Young People as seen in the findings of the RCIADC. As discussed in previous chapters, prior to the 1980s little to no attention was given to the treatment faced by Indigenous children in juvenile detention centres. However, in the 1980s the Federal government commissioned the RCIADC. The report included a section on juvenile detention centres. The report itself was not published until 1991. The report linked juvenile institutionalisation and adult incarceration: of the 99 cases, 63 were 17 or under and 53 were 16 or under when they were first dealt with for offences.<sup>129</sup> The carceral nature of juvenile justice is now well recognised, with some scholars considering social workers' links with law enforcement resulting in a practice they describe as 'carceral social work'.<sup>130</sup> Whilst the final report of the RCIADC was released in the early 1990s, and therefore the flow-on effects will also be discussed in the next chapter, several recommendations were released during the 1980s. The profile of the RCIADC throughout its duration was also significant because it signalled the beginning of Australian social and political institutions starting to seriously grapple with their complicity in perpetuating settler-colonialism.<sup>131</sup> Scholars now readily recognise the long history of Indigenous Australians and over policing; indeed this is a trend that can also be seen internationally.<sup>132</sup> The RCIADC was also the first inquiry to adopt the testimony-based model, which would lead the way for future national abuse inquiries.<sup>133</sup>

The report covered six deaths linked to the juvenile system, none of which happened in Victoria. However, the findings applied universally to the detention system and were scathing:

But there is one matter which recurs constantly through practically every case with heartbreaking regularity which has nothing to do with custodians or police as such and for which the whole society must bear the responsibility. Man after

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<sup>129</sup> Royal Commission into Aboriginal Deaths in Custody, "Royal Commission into Aboriginal Deaths in Custody: National Report Volume 1," (Canberra, Australia 1991), 14.2.3.

<sup>130</sup> See for example Leah A. Jacobs et al., "Defund the Police: Moving Towards an Anti-Carceral Social Work," *Journal of progressive human services* 32, no. 1 (2021): 37-62.

<sup>131</sup> For a discussion on the importance of inquiries into developing national histories see Margaret D. Jacobs, "Seeing Like a Settler Colonial State," *Modern American history (Cambridge)* 1, no. 2 (2018).

<sup>132</sup> See for example Anna Anderson, "The Constitution of Youth: Toward a Genealogy of the Discourse and Government of Youth" (Doctor of Philosophy, RMIT University, 2010); Sherene H. Razack, "Settler Colonialism, Policing and Racial Terror: The Police Shooting of Loreal Tsingine," *Feminist legal studies* 28, no. 1 (2020): 1-20; Alexandra Cox, "The Sociological Landscape of Youth Confinement," *Sociology compass* 15, no. 12 (2021): doi: 10.1111/soc4.12937.

<sup>133</sup> Shurlee Swain, Katie Wright, and Johanna Sköld, "Conceptualising and Categorising Child Abuse Inquiries: From Damage Control to Foregrounding Survivor Testimony," *Journal of historical sociology* 31, no. 3 (2018): 291.

man, woman after woman of these ninety-nine cases were being dealt with by the criminal justice system, being placed in custody, released, and returned in an unending rotation. As a community we seemed to be incapable of finding a solution to this roundabout.<sup>134</sup>

The deaths in custody findings also spoke generally to the key issue facing those charged with offences:

Of course, such matters affect the non-Aboriginal population as well as the Aboriginal populations, but the latter to a greater extent. It is not within my commission to consider these problems in the non-Aboriginal society nor within my expertise to suggest all the answers. But what these ninety-nine Aboriginal deaths proclaim loud and clear is that the first reason why this cruel and destructive problem has not been solved is that it has not been faced. We spend enormous amounts of money on courts, prisons, police, hospitals etc. and, by comparison, practically nothing in rehabilitation.<sup>135</sup>

It was said of one case (whilst in Western Australia and not Victoria): “Walley's treatment by the juvenile justice system is probably the single most important underlying issue related to his death”.<sup>136</sup> Victoria had historically had a smaller Indigenous population than many other Australian states (albeit one which was underestimated for reasons outline in previous chapters), however the report still found that Victorian Indigenous youth were 20 times more likely to be institutionalised in the juvenile justice system than their non-Indigenous counterparts.<sup>137</sup> Further to this, in 1989 a census was taken of the Victorian youth training centres and as at 30 June 1989 9.1% of the juvenile detainee population were Indigenous, whilst Indigenous children were only 0.7% of the Victorian youth population.<sup>138</sup> Therefore throughout the 1980s overrepresentation continued to be an issue.

Prior to the Royal Commission, in 1985, the Labor Party had also brought to the Legislative Council's attention “recent criticism of the Aboriginal Youth Support Unit at Turana Youth Training Centre”.<sup>139</sup> The unit was “designed to resettle young, male Aboriginal offenders and disadvantaged young people from other institutions into their local communities and kinship networks”.<sup>140</sup> Hogg did not go into any detail about the

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<sup>134</sup> Royal Commission into Aboriginal Deaths in Custody, "Royal Commission into Aboriginal Deaths in Custody: National Report Volume 1," 3.3.80.

<sup>135</sup> Ibid.

<sup>136</sup> Ibid., 14.2.3.

<sup>137</sup> Ibid., 14.3.10.

<sup>138</sup> Ibid., 14.3.14.

<sup>139</sup> Victoria, *Parliamentary Debates*, Legislative Council, 24 July 1985, 1156 (Maureen Lyster).

<sup>140</sup> Victoria, *Parliamentary Debates*, Legislative Council, 24 July 1985, 1156 (Caroline Hogg).

criticisms, other than admitting that a vacancy in the unit had existed for some time (as per an article in the *Age*) and also that a task force from the Indigenous state-wide Consultative Conference had been appointed “to try to make that unit more preventative in its approach, to localize it and to put it where it really should be in the community.”<sup>141</sup> She also pointed out that “all of that is a resource question, which I have to stress”.<sup>142</sup> She also defended the department, by pointing out that seven Aboriginal community officers were soon to be appointment to support young people.<sup>143</sup> It was clear that the Victorian system needed to change if Indigenous young people were going to be helped.

Ultimately, what the report recognised was that Indigenous young people were more likely to be charged with an offence due to a complex range of factors, including socioeconomic, placements in ‘care’ (meaning ‘delinquent’ behaviour was reported on), targeting by police, unduly harsh sentencing and alcohol use. The report also expressly rejected the claim that prison time acted as a deterrent, instead all detention resulted in was an escalation in criminal behaviour on release and re-institutionalisation. Bud Hammond, a friend of the deceased Thomas Carr, reflected on his experiences:

I guess the institutions taught me how to commit more serious crimes, to go from cars to break and enters to robberies. They also make you disrespect and hate people. They don't teach you nothing, it is all 'stand over'. I think if they tried to help you would be better. But, when they try to stand over you, you just renege on them.<sup>144</sup>

The Commission also recognised the effect of constant institutionalisation, by referencing the case of Daniel Lacey:

Prison became a way of life for Daniel Lacey. Except for the twelve months from August 1984, he was never out of a correctional institution for more than a few months from the time he was 14 until his death at age 40. The consummate tragedy of Lacey' s life was that he found a place, a reputation and a degree of status in prison that he never found in freedom.<sup>145</sup>

What the Royal Commission report made clear was that serious resources and change were needed in order to reduce the number of Indigenous children in youth training centres and that if children could avoid institutionalisation, then this could also reduce overrepresentation in the adult inmate population.

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<sup>141</sup> Victoria, *Parliamentary Debates*, Legislative Council, 24 July 1985, 1156 (Caroline Hogg).

<sup>142</sup> Victoria, *Parliamentary Debates*, Legislative Council, 24 July 1985, 1156 (Caroline Hogg).

<sup>143</sup> Victoria, *Parliamentary Debates*, Legislative Council, 24 July 1985, 1156 (Caroline Hogg).

<sup>144</sup> Royal Commission into Aboriginal Deaths in Custody, "Royal Commission into Aboriginal Deaths in Custody: National Report Volume 1," 14.4.31.

<sup>145</sup> *Ibid.*, 14.4.32.

The report also expressly spoke out against both the welfare and the justice model. It considered the welfare model as having:

detrimental effects on young people who have not committed offences or those juveniles who have committed minor offences only. Through no fault of their own these juveniles find themselves in custodial-type institutions along with juveniles held in detention for serious offences because they have been neglected by those who would properly care for them.<sup>146</sup>

However, at the same the report did not like the justice model because the Commission agreed that “there may be some cases where the consequence of the offending is such that detention is dictated as a last resort, in the overwhelming number of cases the endeavours of the system should be directed towards rehabilitation, not towards punishment. This rehabilitative approach should not be confused with the welfare model.”<sup>147</sup> However, no funding or attention was paid towards the rehabilitation of offenders and the justice model was the favoured approach. This continued into the 1990s and across party lines.

The adoption of the justice model was also recognised as being particularly detrimental to Indigenous young people in the “Bringing them Home” report. It was found that:

The formal separation has had effects which have not necessarily been beneficial. Some commentators have argued that a ‘justice’ model emphasising the ‘rule of law’ and ‘due process’ has in fact lead to a failure to consider discretionary issues particularly as they are exercised by police. Factors such as the utilisation of police discretion on the street, over-policing, police-youth conflict and racism have been ignored although they are the very issues likely to lead to disproportionate criminalisation of Indigenous young people.<sup>148</sup>

In Victoria, Community Services responded to the commission by making a number of changes to youth training centres. This included modifying cells, providing additional resuscitation equipment, additional staff training including matters such as Indigenous culture, how to safely restrain and first aid and resuscitation.<sup>149</sup> *The Crimes Act* was also amended to ensure that Indigenous juveniles were to be treated the same as non-Indigenous juveniles in that they could not be fingerprinted or interrogated by the police without “a parent, guardian or independent person”.<sup>150</sup> However, all of these measures

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<sup>146</sup> Ibid., 14.3.66.

<sup>147</sup> Ibid., 14.3.67.

<sup>148</sup> National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, “Bringing Them Home,” 437.

<sup>149</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 May 1991, 1999 (John Richardson).

<sup>150</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 May 1991, 1999-2000 (John Richardson).

required fundamental, institutional change. And as we have seen in the evidence discussed above, little attention was given to genuine staff training and institutional conditions. Any changes made as a response to the RCIADC recommendations were token only. Today Indigenous young people are still more likely to be institutionalised than their non-Indigenous counterparts and overrepresentation continues to be a very real issue.

Finally, the government also introduced measures around community control and self-determination. These included the use of community support measures to try and reduce participation rates in the juvenile justice system and also the involvement of Indigenous communities when juvenile justice issues arose.<sup>151</sup> In 1992 the government boasted having spent \$5 million on implementing recommendations from the Royal Commission, including improving conditions at youth training centres. However, as the Royal Commission noted the causes leading to overrepresentation were multi-faceted, intergenerational and unlikely to be fixed by a small spending spree in a year. The government also failed to address a number of fundamental concerns, such as over-policing and police powers, harsh sentencing, lack of resources in regional locations and socioeconomic disadvantage. It is therefore not surprising that the overrepresentation of Indigenous young people in detention continued to be an issue into the 1990s, and indeed is still an issue today.

## **Conclusion**

The 1980s is often characterised as a period of meaningful change for young people, with the Carney Report, the *Children and Young Persons Act 1989* and the RCIADC. However, instead it was simply another decade in which the rhetoric did not match the reality. In replacing the welfare model firmly with the justice, conditions inside youth training centres were ignored and the young people inside of them increasingly likened to ‘hardcore’ criminals in need of punishment only. It was also a decade that saw increased levels of youth unemployment, yet the rigid acceptance of the justice model meant that politicians were unable to link the plights of those homeless youth with those inside juvenile detention. Whilst the policy of deinstitutionalisation that continued throughout the period did reduce inmate numbers, it did not improve conditions. Fundamental issues such as medical care and staff training were effectively ignored. The Labor government did not provide funding for youth training centres and in fact cut

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<sup>151</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 May 1991, 1999-2000 (John Richardson).

programs. Finally, the changes implemented as a result of RCIADC recommendations were token only, they did not result in the fundamental institutional and societal change needed to meaningfully reduce the overrepresentation of Indigenous young people in custody. Once again, conditions remained unchanged.

## **6. 1992 – 1999: From deprivation to privatisation**

In 1992 the two term Cain Government was overthrown by what would be the two term Liberal-National coalition Kennett Government. Where previous decades had been characterised by detailed reports into juvenile detention and promises of change and new legislation, the 1990s followed the political trends of economic conservatism and privatisation. Juvenile justice was a minor public concern as compared to debates about economic rationalism. No significant legislation was introduced relating to juvenile justice, and public sector funding was reduced. Structural change tended to cut and privatise. Winlaton (at this stage named Nunawading) was closed down, and Langi Kal Kal was transformed into an adult prison. Facilities were amalgamated at the new Melbourne Youth Justice precinct; previously called Turana. Continuing the trend set by the Labor government, ties with the private sector were strengthened and by the end of the decade the government were considering opening a privately run youth training centre for young men between 19-21. Youth matters were shifted back to the Department of Health and Community Services, which in 1996 became the Department of Human Services.

This chapter argues that during the 1990s Victoria's juvenile justice system was profoundly shaped by the larger politically charged debates of those years. The Kennett Government adopted neoliberal policies, and the political insistence on cutting government spending in almost every area also applied to juvenile justice. In addition to scaling back on juvenile detention facilities, funding cuts also saw non-carceral youth programs shut down. Neoliberalist philosophy also ultimately led to integrating the private sector into the juvenile justice system and arguing for the full privatisation of institutions, which also reduced government accountability. The decade also saw negative discourse around 'problem' youth flourishing. The Kennett Government adopted a 'tough on crime' rhetoric, and this led to practices which reversed the pattern of the previous decade which had seen steady decreases in numbers of young people in detention. Coupled with this was a renewed fear of immigrant communities – in particular the Vietnamese community – and the subsequent overrepresentation of Vietnamese young people in detention. This was also the decade in which both the final report of the RCIADIC and the landmark "Bringing them Home" report were released, and while these prompted a good deal of discussion about Aboriginal young people in detention, conditions and outcomes for Indigenous children changed little.

## Neoliberalism and juvenile justice

By the 1990s, and with the election of the Kennett Government, neoliberalism had a stronghold on the Victorian government, and with that came deprioritising of welfare spending.<sup>1</sup> The Kennett Government was influenced by the Institute of Public Affairs (IPA) and the Tasman Institute, both of which disliked welfare spending and the welfare state. The close link with the IPA think tank was such that Dennis Napthine, the Minister for Community Services, employed Ken Baker as an adviser. Baker had formerly worked at the IPA and was critical of government spending on welfare and social justice issues.<sup>2</sup> Minimising the government's investment in these areas was consistent with the Kennett Government's election campaign, which positioned the Cain Government as irresponsible, leaving Victoria "crippled with debt" and "excessively strained by a quagmire [of] government regulation".<sup>3</sup> As Bessant writes, their solution was therefore clearly put: "if a fiscally-irresponsible government was the problem, then a fiscally-responsible government that would reign in spending, roll back the state and deregulate the economy was the answer".<sup>4</sup> As a welfare function of the state, juvenile justice was directly impacted by this policy.

At the same time as welfare spending was deprioritised, the need for it also increased.<sup>5</sup> In Victoria this was exemplified by continued high rates of youth homelessness. Following the "Our Homeless Children" report – discussed in the previous chapter – the Federal government provided increased funding to target youth homelessness. However, the impact was short-lived. Indeed, youth unemployment had doubled between 1982 and 1992, and in 1993 there was an unemployment rate of 30 percent for young people between 15 and 19 years old.<sup>6</sup> The newly elected Liberal party blamed the Labor policy of the 1980s, claiming that the \$700 million spent on youth issues was misspent and did not solve issues such as homelessness.<sup>7</sup> When coming to office, the Kennett Government had promised a spending increase of \$2 million on

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<sup>1</sup> Anne O'Brien, "'A Bargain with the Devil': Human Rights and Homelessness in the Neoliberal Age," *Australian historical studies* 53, no. 2 (2022): 234; Peter Saunders, *Welfare and Inequality: National and International Perspectives on the Australian Welfare State* (Cambridge: Cambridge University Press, 1994), 170; Katherine Hepworth, "Governing Identities: Neoliberalism and Communication Design in 1990s Victoria, Australia," *Design and culture* 9, no. 1 (2017): 30.

<sup>2</sup> Philip Mendes, "From Minimal Intervention to Minimal Support: Child Protection Services under the Neo-Liberal Kennett Government in Victoria 1992-1999," *Children Australia* 26, no. 1 (2001): 4.

<sup>3</sup> Judith Bessant, "How a State Changed Its Government: From Kennett to Bracks," *Just policy*, no. 17 (1999): 5.

<sup>4</sup> Ibid.

<sup>5</sup> O'Brien, "'A Bargain with the Devil': Human Rights and Homelessness in the Neoliberal Age," 234.

<sup>6</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 31 March 1993, 502-503 (Vincent Heffernan).

<sup>7</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 31 March 1993, 502-503 (Vincent Heffernan).

homeless youth (which would then be matched by the Commonwealth). Only \$1 million was allocated, and therefore the Commonwealth matching was also unspent. Similarly, \$700,000 that was also given by the Federal government upfront had been allocated but not actually been spent.<sup>8</sup> The government did, however, find a new source of funding to aid homeless youth gambling. In 1993 the Gaming Machine Control (Amendment) Bill was introduced. The amendment allowed funding obtained from poker machines to be used to fund youth homeless initiatives.<sup>9</sup> Homeless funding was therefore tethered to private individuals' gambling (controversially discussed as a form of entertainment), as opposed to being, fundamentally, an obligation from the state.<sup>10</sup>

By 1994 complaints were being made about funds being cut from pre-existing programs for at risk youth and consolidated in homelessness support through the Street Kids program. When the government announced how the Street Kids money would be allocated, none was specifically earmarked for offending children or those at risk of being institutionalised; although \$525 000 was allocated to a broad category of "intensive youth support services".<sup>11</sup> The government deflected criticism of this redirection of funds, arguing that its decisions were guided by the best interests of the children and misdirected the debate by stating that Victoria's child protection unit was the best-resourced in the country; child protection, of course, only being one aspect of child welfare and youth affairs.<sup>12</sup> Contrary to this rhetoric, scholars have shown that the Kennett Government cut spending on community and social services by 10.7 per cent between 1993 and 1998, and that nationally, Victoria had the lowest social spending.<sup>13</sup>

As was the case in the 1980s, the government failed to link the two issues of juvenile justice and youth homelessness and instead treated one as 'deserving' and the other as 'undeserving', and neoliberal discourse vehemently opposed spending on the 'underserving'. Thus, in 1994 when the government announced a total of \$1.925 million grants to spend over three years as part of the Street Kids program, it was to provide accommodation and facilities for homeless youth; funding for the 'deserving'.<sup>14</sup> By 1995 the Kennett Government continued to face criticism by those working in youth services and even the Commonwealth government. However, the government argued that the

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<sup>8</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 11 March 1993, 149-150 (Sherryl Garbutt).

<sup>9</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 18 March 1993, 380 (Jan Wade).

<sup>10</sup> Louise Francis and Charles Livingstone, "Discourses of Responsible Gambling and Gambling Harm: Observations from Victoria, Australia," *Addiction research & theory* 29, no. 3 (2021): 212-22.

<sup>11</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 25 May 1994, 2121 (Vincent Heffernan).

<sup>12</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 20 March 1994, 970 (Michael John).

<sup>13</sup> Mendes, "From Minimal Intervention to Minimal Support: Child Protection Services under the Neo-Liberal Kennett Government in Victoria 1992-1999," 5.

<sup>14</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 November 1994, 2005.

criticism was “from people who do not do their homework” and that “unfortunately, some people involved in youth services prefer to make political capital out of the problems of young people.”<sup>15</sup> They argued that they had in their first term allocated \$35 million to youth services, the most of any Victorian government.<sup>16</sup> Of course, none of this funding was directed to youth training centres.

Whilst the government had promoted its youth homeless services, one member pointed out that her electorate saw 450 referrals in one year when there were only 20 or so places where young homeless people could be housed.<sup>17</sup> Another member, Bernard Finn, queried why his electorate’s youth support program grant was reduced from \$60 000 to \$24 000 for 1996-97. Finn also reported that Les Twentyman, a prominent youth worker, had spoken to him and was concerned about the impact the perceived cuts would have for young offenders and the unemployed. Finn reported that “Les is very concerned about the future of the excellent work he has been doing in the western suburbs for some time. These are extremely important youth programs, and the perceived cuts will severely disadvantage young people who are already way behind the eight ball.”<sup>18</sup> The government responded that the claim of a funding cut was erroneous and that the City of Brimbank would be funding Keilor and Sunshine, and not just Keilor, and that the media reports had been erroneous.<sup>19</sup> Nonetheless, what was clearly evident was that whilst the government was busy promoting its approach to funding, those in the field were concerned. Indeed, by 1998 Victoria’s youth unemployment rate was the highest in Australia, at 37.5% (although the Liberal government considered this a statistical aberration).<sup>20</sup>

The government also revealed its commitment to neoliberalism in its response to an increasing youth suicide crisis. The 1990s saw an increasing youth suicide rate— both nationally and internationally — in particular for young men aged 20-24.<sup>21</sup> This was directly related to unemployment.<sup>22</sup> The opposition repeatedly pushed the government to do address the issue.<sup>23</sup> Ultimately in 1996 the government did agree to spend \$8 million

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<sup>15</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 May 1995, 1553 (Vincent Heffernan).

<sup>16</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 May 1995, 1553 (Vincent Heffernan).

<sup>17</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 May 1996, 406 (William McGrath).

<sup>18</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 May 1996, 463 (Bernard Finn).

<sup>19</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 May 1996, 468 (Dennis Naphthine).

<sup>20</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 April 1998, 1192 (John Brumby, Alan Stockdale).

<sup>21</sup> Stephen Morrell, Andrew N. Page, and Richard J. Taylor, "The Decline in Australian Young Male Suicide," *Social science & medicine* (1982) 64, no. 3 (2007): 748.

<sup>22</sup> *Ibid.*

<sup>23</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 May 1994, 1643 (George Seitz);

on youth suicide prevention.<sup>24</sup> However, even though the government allocated this amount they were still criticised for reducing youth services and spending. For example, the 1996 Autumn Economic Statement did not address youth unemployment nor the fact that community services were being reduced or removed in rural areas, areas also where youth suicide was the highest. The opposition argued that although the government were addressing youth suicide, it was overdue and targeted “the symptoms and not the cause”.<sup>25</sup> This was therefore an example of targeted welfare spending, again consistent with what scholars have recognised as a trend with neoliberal welfare policy.<sup>26</sup>

## **Privatisation**

Associated with the government’s neoliberal agenda was the push to privatise Victoria’s youth justice system. Privatisation of the prison system started to gain favour internationally in the 1980s, but rapidly increased in the 1990s.<sup>27</sup> This aligned with the neoliberal economic policy because it argued the private sector could run the system more efficiently given their profit motive. It also aligned with the justice model, because with rehabilitation being a secondary factor the efficiency of an institution could be judged by its cost and not by the outcomes of inmates.<sup>28</sup> Proponents of privatisation have also argued that it increases accountability, however scholars have demonstrated that this is not the case due to the lack of public visibility over private contracts.<sup>29</sup> It is therefore not surprising that the Kennett Government continued with the trend first evident under the Cain Government, namely privatising the youth justice system.

Discussing an upcoming youth affairs seminar, Vincent Heffernan (the Minister for Youth Affairs), derided the Labor government’s 1980s policies and instead promoted the Smorgon group of companies, that had privately raised \$350 000 to assist with youth homelessness in the western suburbs.<sup>30</sup> Heffernan promised that over the next 12 months there would be “a change in direction”.<sup>31</sup> In May he announced that the government would coordinate with Smorgon to assist in delivering it’s Street Kids policy, and that

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<sup>24</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 May 1996, 262 (Gary Rowe); Victoria, *Parliamentary Debates*, Legislative Assembly, 28 May 1996, 292 (David Perrin).

<sup>25</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 May 1996, 386 (Lynne Kosky).

<sup>26</sup> O'Brien, "A Bargain with the Devil": Human Rights and Homelessness in the Neoliberal Age," 234.

<sup>27</sup> Sands, O'Neill, and Hodge, "Cheaper, Better, and More Accountable?: Twenty-Five Years of Prisons Privatisation in Victoria," 579.

<sup>28</sup> Alexis M. Durham, "Correctional Privatization and the Justice Model: The Collision of Justice and Utility," *Journal of contemporary criminal justice* 3, no. 2 (1987): 60.

<sup>29</sup> Sands, O'Neill, and Hodge, "Cheaper, Better, and More Accountable?: Twenty-Five Years of Prisons Privatisation in Victoria," 591.

<sup>30</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 31 March 1993, 502-503 (Vincent Heffernan).

<sup>31</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 31 March 1993, 502-503 (Vincent Heffernan).

another organisation had pledged \$5 million over 5 years to also assist.<sup>32</sup> Heffernan was careful to distance the government from youth issues: "The community now realises that the government cannot overcome every problem in society".<sup>33</sup> The reliance on private funding removed government culpability; to the extent programs could not be funded this could then be blamed on the lack of private sector donations.

To this end, the Kennett Government was also careful to keep alliances with voluntary organisations. In 1993 the government announced a youth outreach program, for which it provided \$165,000. It was jointly sponsored by the Council of Churches. Although initially positioned as an initiative to "assist young people and to divert them from becoming involved in the juvenile justice system", the government could not resist but point out that it would also be cheaper than housing them in an institution.<sup>34</sup> Michael John, Minister for Community Services, also took the opportunity to position the Liberal party as being targeted spenders because the scheme would provide targeted youth workers, and it was not the aim to "maintain a huge bureaucracy, particularly after the former Labor government tripled that bureaucracy in 10 years – from 3000 in 1982 to 8500 in 1992!"<sup>35</sup> By reducing the number of people working in the youth field, they were also reducing any expertise that may have assisted young people. Significantly, however, they were arguing that the system could be made more efficient, an argument that aligned with the call for privatisation.<sup>36</sup>

In September of 1993 Heffernan introduced new youth services to be divided by region. This would again see less resources and advocacy for young people. The services were to be backed by committees that were heavily influenced by the private sector (thereby suggesting they would have the expertise to run the system in a business-like manner).<sup>37</sup> For four years these committees sat alongside the Youth Policy Development Council, but in 1996 the Youth Policy Development Council was disbanded. The regional youth committees had less power, did not advise on government policy and did not undertake research; comparatively the Youth Policy Development Council had actively engaged with young people with the aim to provide clear advice to the government.<sup>38</sup>

At the same time the government had a current account surplus of \$1324.7 million. As the opposition aptly stated: "The fact is that this state's budget is in surplus

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<sup>32</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 May 1993, 1500 (Vincent Heffernan).

<sup>33</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 May 1993, 1500 (Vincent Heffernan).

<sup>34</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 May 1993, 1716 (Michael John).

<sup>35</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 6 May 1993, 1716 (Michael John).

<sup>36</sup> Sands, O'Neill, and Hodge, "Cheaper, Better, and More Accountable?: Twenty-Five Years of Prisons Privatisation in Victoria," 579.

<sup>37</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 14 September 1993, 386.

<sup>38</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 September 1996, 828 (Lynne Kosky).

and the child welfare system is in total disarray”.<sup>39</sup> Christine Campbell of the Labor party argued that the government was in contravention of the United Nations Declaration of the Rights of the Child.<sup>40</sup> Campbell concluded her contribution to the debate by quoting the *Herald Sun* tabloid newspaper:

I will conclude with a reference to the bible of the Kennett Government, the *Herald Sun*. A letter to the editor in last Monday's edition states:

Who is allowing these children to slip through the system? How many more children will we cry for, but only once they are dead? This is society's problem and we must take a stand and say, 'No more'. Life is a gift, so precious and short. We must not allow these children's cries to go unheard anymore.<sup>41</sup>

Instead of providing increased funding or otherwise engaging in state lead reform efforts, in 1999 the government indicated its intention to move towards a privatised youth justice system. In May 1999 Christine Campbell of the Labor Party sought leave to amend the *Children and Young Persons Act 1989* to prohibit the privatisation of youth training centres, youth residential centres and youth remand centres.<sup>42</sup> Leave was refused. Campbell was worried that the government was going to privatise juvenile justice facilities, in particular that a new privatised facility would be developed in Broadford. She also asked why the government was going ahead with privatisation despite advice to the contrary from “VCOSS, the Criminal Bar Association, heads of churches and juvenile justice welfare organisations”.<sup>43</sup>

Dennis Napthine, the then Minister for Youth and Community Services, avoided answering the question directly by arguing that:

when this government was elected, juvenile justice facilities in this state were an utter disgrace. They were physically run down, the culture within them was extremely poor, there was gross over-representation of people from Koori backgrounds, and the system generally needed a change of leadership.<sup>44</sup>

He further boasted of spending more than \$40 million and that now:

Professor Carney, leading judges and academics recognise that under this government Victorian juvenile justice services are not only the best in Australia

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<sup>39</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 September 1996, 844 (Christine Campbell).

<sup>40</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 September 1996, 845 (Christine Campbell).

<sup>41</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 September 1996, 846-7 (Christine Campbell).

<sup>42</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 May 1999, 79.

<sup>43</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 24 May 1999, 79.

<sup>44</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 13 April 1999, 219 (Dennis Napthine).

but among the best in the world. Victoria has the lowest juvenile incarceration rate in Australia, and the government has been at the forefront of improving juvenile justice by innovative programs such as MAPPS and a range of community initiatives such as the Hand-brake Tum program.<sup>45</sup>

When pushed by the speaker, Napthine did admit that a new facility was needed due to overcrowding at Turana and Malmsbury and that they were considering running it privately, but that there had been no decision made as yet.<sup>46</sup> Napthine was genuinely considering privatisation because he admitted that a committee was currently getting information that would be used to go out to market. He concluded that: “The government will continue its management of juvenile justice by lateral thinking, innovation and the use of every method available to incorporate the best from both the public and private systems to deliver the best outcomes for the young people involved in the juvenile justice system.”<sup>47</sup>

The debate continued the next day. Campbell was not convinced that no decision had been made to provide for a privatised facility. She pointed out that since 1997 the government had been looking into developing a privatised youth training centre, including sending a senior bureaucrat to the United States to learn more about private juvenile justice facilities, calling for tenders, having private operators visit Parkville and Malmsbury to learn about the Victorian system and having one of the government’s senior bureaucrats discuss the government’s aim to privatise the system at a conference at Jika Jika.<sup>48</sup> Campbell also argued that the government had not considered other options to deal with ‘older’ juvenile offenders or looked at the reasons why there were high numbers of older offenders, such as reductions in legal aid, removal of suspended sentences for drug treatment, the lack of advice courts received when sentencing 17-21 year-olds and the desire to not sentence a young person to an adult prison. These issues were set out in a report commissioned by the government in 1997, but Campbell argued that they had not been considered and the privatisation of a new facility was nonetheless preferred. Campbell also pointed out that it would be cheaper to provide more beds at pre-existing facilities that already had services associated with them and would avoid the issue of electorates not wanting a new youth justice facility.

The concern with privatisation was that the government would no longer be held responsible for conditions in youth training centres. As Campbell clearly put:

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<sup>45</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 13 April 1999, 219 (Dennis Napthine).

<sup>46</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 13 April 1999, 219 (Dennis Napthine).

<sup>47</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 13 April 1999, 219 (Dennis Napthine).

<sup>48</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 14 April 1999, 269-271 (Christine Campbell).

When custodial facilities are managed by the state the community holds the government responsible. When privatisation of prisons occurs it is clear that the responsibility is placed on the private sector operator that manages the prison, whose primary responsibility is to ensure its shareholders obtain profits. It is clear that the primary responsibilities in the state-operated system become secondary when the prison is operated by a private company.<sup>49</sup>

Campbell also made an effort to humanise the children in detention, by calling them ‘children’ and not just ‘young offenders’.<sup>50</sup>

It is worth noting that earlier in the decade the government had made moves to privatise adult prisons, including amending the *Corrections Act 1986* (Vic) to allow for private contractors to run prison industries.<sup>51</sup> The changes meant that prison labour could be used more broadly and in competition with other businesses.<sup>52</sup> It also removed the ability for prisoners to opt out of working and required prisoners to put away 20% of their wage to improve prison management.<sup>53</sup> The bill did not dictate what would happen to the money or how the private operators would invest it.<sup>54</sup>

In the 1999/2000 Appropriations Bill the government allocation \$1 million for the privatisation of youth training centres, specifically senior youth training centres. The government was criticised for failing to express a clear position on how youth training centres should be run. The opposition thought that the current system was world class and did not want it altered. As part of the Appropriations Bill the government proposed \$5.2 million in spending, including funding a number of programs which the opposition supported, such as more post-release support to decrease the rate of drug-overdose related deaths, more money for parole supervision and funding transport costs between Malmsbury and the Melbourne Juvenile Justice Centre.<sup>55</sup> However, Labor were adamantly against the \$1 million allocation to consider tenders for the privately run facility, and were also concerned about the 20% foreshadowed for next years’ budget, up

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<sup>49</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 April 1999, 572 (Christine Campbell).

<sup>50</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 April 1999, 573-4 (Christine Campbell).

<sup>51</sup> It appears from the legislation that although youth training centres were included in the definition of prison sites, that the right to privatise did not apply to youth training centres as this was controlled by the *Children and Young Persons Act*. The amendment only allowed for the privatisation of “police gaols”.

<sup>52</sup> Victoria, *Parliamentary Debates*, Legislative Council, 13 November 1996, 579-581 (Monica Gould).

<sup>53</sup> Victoria, *Parliamentary Debates*, Legislative Council, 13 November 1996, 579-581 (Monica Gould).

<sup>54</sup> Victoria, *Parliamentary Debates*, Legislative Council, 13 November 1996, 579-581 (Monica Gould).

At the end of the third reading speech the minister clarified that the 20 percent would not be invested and was just to sit in a trust account with the main purpose that prisoners would have money when they came out. It is worth noting that this intention is not expressed in the amending Act, which only amends the section on prisoner money to make it clear that prisoners will not earn any interest on retained funds.

<sup>54</sup> *Correction (Amendment) Bill 1996* (Vic).

<sup>55</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 May 1999, 957 (Christine Campbell).

to \$6.4 million. Campbell argued that this money should be allocated towards rehabilitation and not additional custodial facilities:

The Court of Appeal has advised both the government and the former Labor government that the community is better served and protected if young offenders are rehabilitated and led away from a life of crime rather than being taught the ways of the criminal after short or long gaol sentences that are imposed to satisfy the public's need for retribution.<sup>56</sup>

Campbell also pointed out that the same trend was evident for the adult prison system, where custodial sentences were increasing over community based ones.<sup>57</sup> By May 1999 the government was still avoiding providing answers to the parliament on where the proposed centre might be built.<sup>58</sup> This question would not be answered by the time they lost power in 2000. Therefore, even though the government did in fact provide funding for some programs inside youth training centres – more than was evident in the 1980s – at the same time it was pushing for reduced responsibility and privatisation. By focusing on privatisation – even if it was not ultimately achieved by the time they lost power in 2000 – they were able to avoid seriously engaging with reform efforts or fundamentally improving conditions for inmates.

### **‘Tough on Crime’**

By the 1990s the welfare model had been clearly replaced by the justice model. The rhetoric of the liberal party was to be hard on crime and to shift the focus away from the welfare of perpetrators and towards the victims of crimes. However, at the same time they wanted to appear ‘balanced’ and ‘rational’ and as legislating to protect the rights of detainees. The ultimate result of this was that the number of youth detainees remained unchanged, unlike the decrease in numbers seen in the 1980s. Rhetoric also focused on particular ‘problem’ suburbs, and the promulgation of ‘gang violence’.<sup>59</sup> This would also feed into concerns about culturally and linguistically diverse communities (CALD), which will be discussed further below.

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<sup>56</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 April 1999, 572 (Christine Campbell).

<sup>57</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 April 1999, 572 (Christine Campbell).

<sup>58</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 May 1999, 750.

<sup>59</sup> See for example, in 1993 Gary Rowe appealed to the government to provide further assistance for young people in Cranbourne, Berwick and Dandenong. (Victoria, *Parliamentary Debates*, Legislative Assembly, 6 May 1993, 1711). In 1999 Sang Minh Nyugen asked the government why there were a lack of youth justice facilities at Werribee, where children were being forced to travel to Sunshine. Nguyen pointed out that “Werribee has 80 000 residents, 42 per cent of whom are under the age of 24, and the region remains one of the major growth corridors of Melbourne” (Victoria, *Parliamentary Debates*, Legislative Council, 21 April 1999, 314.)

The government's approach to crime was seen as early as 1992, when they amended the *Children and Young Persons Act 1992* (Vic). Although the act enshrined rights for youth detainees (those that had been promised through the 1980s), it also enshrined the powers of corrective services staff. The rights given to young people were not insignificant, although arguably token in nature because there was little funding or other support for implementing them. The court was now required to consider a pre-sentence report, prior to ordering a sentence of detention at a youth training or youth residential centre.<sup>60</sup> The act now also required there to be minimum standards of care for young people detained on remand or in a youth centre, including the right to receive visits, to have medical and developmental needs met and also to have their religious and cultural needs met.<sup>61</sup> Detainees were also required to be given the rules of the institution and information on how to make a complaint.<sup>62</sup> This amendment also had the benefit of addressing some of the concerns raised by RCIADC. However, this was not necessarily coupled with the funding to carry through with these obligations nor staff training in how to support these rights.<sup>63</sup> Therefore, whilst the government did introduce positive changes to the legislation, this did not necessarily flow down to the institutions themselves.

The 1992 amendment also moved the powers of corrective services staff into the legislation, although it did not make any significant amendments to their powers. The government saw the amalgamation of institutional power and legal protection for inmates in one piece of legislation as “a proper balance between the rights of detainees to privacy and bodily integrity, and the need to maintain security and protect the rights of all detainees, staff and visitors to personal safety”.<sup>64</sup> This ‘balance’ was reflective of the now embedded justice model and would characterise the 1990s. However, again there is no evidence that staff were provided additional training to ensure this ‘balance’. The token nature of these changes revealed itself as the decade progressed. In 1997 concerns were raised that juvenile offenders were not being searched in a sensitive manner, and that it should be ensured that officers of the same sex searched young people because “in many instances... people who work with juvenile and adult offenders have reported that for

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<sup>60</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 October 1992, 232 (Marie Tehan).

<sup>61</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 October 1992, 232 (Marie Tehan).

<sup>62</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 October 1992, 232 (Marie Tehan).

<sup>63</sup> Indeed, in 1996 evidence was put before the parliament that the Children's Court was critically understaffed and needed to be separately run from the Magistrates court. This would, in theory, help improve conditions for magistrates, thereby reducing burnout and also allowing for the recruitment of magistrates with experience in child welfare. Therefore, if the government were unwilling to properly staff the Children's Court, they were unlikely to be properly staffing juvenile institutions. Victoria, *Parliamentary Debates*, Legislative Assembly, 29 October 1996, 815, Legislative Assembly, 29.10.96, Johnstone Thwaites.

<sup>64</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 October 1992, 232 (Marie Tehan), 232.

women who have a male search them is akin to rape, and many women have been sexually abused in the past.”<sup>65</sup>

The government’s tough on crime stance was also repeated throughout the decade. In 1993 Kenneth Smith of the Liberal party made a speech to the parliament noting that it was estimated that youth crime cost Victoria approximately \$1.35 billion a year and that a quarter of major crimes in 1992 were committed by people under 17. He continued, claiming that 70 per cent of Australians wanted harsher measures for criminals and that although he did “not believe Parliament is ready for them at this stage...events will be carefully monitored”.<sup>66</sup> Read together, Smith was arguing that harsher treatment was needed for those in juvenile detention. Similarly, when questioned on how to reduce crime Smith’s response was simply to rely on the police (a position that would be criticised in the “Bringing them Home” report).<sup>67</sup>

Coupled with the ‘tough on crime’ rhetoric were anxieties around youth violence and gangs. In 1995 Bernard Finn of the Liberal party was concerned: “There have always been lads on the corner, hanging around and often having good old fashioned punch-ups, but things have changed. These days, instead of good old-fashioned punch-ups 30, 40, 50 or maybe 60 youths will sometimes attack only one or two” and, he continued, that “there is growing concern that we are heading the same way as Los Angeles and some of the other big cities in the United States of America.”<sup>68</sup> Finn also blamed youth gangs for decreasing rates of public transport use.<sup>69</sup> Whilst this debate was not directly related to those in youth training centres, what it did mean is that youth offenders would continue to be seen as ‘hardcore’ cases, with little concern for their welfare.

Again, the government tried to promote the Victorian police as helping young people by providing youth liaison officers and promoting cooperation through recreational activities.<sup>70</sup> Also, the government boasted that now it had been in power for a number of years “there are some positive statistical indicators that Victorians live in a relatively safe society compared with other states because the number of offences that have been followed through and brought to finalisation is much higher in Victoria than in other jurisdictions around Australia.”<sup>71</sup> All this proved was that people were being

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<sup>65</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 April 1997, 935 (Christine Campbell).

<sup>66</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 8 September 1993, 338 (Kenneth Smith).

<sup>67</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 8 September 1993, 338 (Kenneth Smith).

<sup>68</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 March 1995, 581 (Bernard Finn).

<sup>69</sup> Victoria, *Parliamentary Debates*, Legislative Council, 24 May 1995, Autumn economic statement (Burwyn Davidson).

<sup>70</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 May 1996, 463 (William McGrath).

<sup>71</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 30 May 1996, 468 (William McGrath).

pushed through the court system, instead of being given more leniency. It did not speak to the original crime rate.

Again, in the 1996 Children and Young Persons (Miscellaneous Amendments) Bill the government would position certain children as hardened criminals. The bill introduced the ability for the Adult Parole Board to move a child from prison to a youth training centre; a situation only relevant where a child was committed for more than 3 years as this exceeded the maximum sentence allowed for a youth training centre.<sup>72</sup> Insidiously, whilst marketed as a change to get children out of prison, the bill also allowed for children to be transferred from a residential centre to a training centre and from a training centre to prison providing “two-way flexibility”.<sup>73</sup> The ability to move a child between institutions had previously been restricted, but was now being opened up, once again evincing the growing link between the juvenile detention system and the adult penal system.

The incident prompting the change was, itself, evidence of a fundamentally flawed system. A boy that had been in state ‘care’ with a history of escaping (he had absconded 27 times) was charged with killing a taxi driver with a knife, a crime which attracted a sentence greater than three years. The opposition blamed government funding cuts.

This government slashed the funding for residential care, cutting \$7.4 million from placement and support services at the same time as it introduced mandatory reporting. Everyone in the field is saying that that has made it impossible for him or her to operate.<sup>74</sup>

However, the opposition were still on side with the government because the tenure of their criticism was that society was not being adequately protected from youthful criminals, not that the welfare of young people in ‘care’ was inadequate. Both sides were committed to the justice model. For example, the opposition focused on the fact that the boy was able to abscond from ‘care’ 27 times, not why he wanted to abscond. Similarly, when discussing the girl in ‘care’ that had a child by the boy the opposition cited a letter from girl’s mother that suggested the state were not being tough enough:

There is no system in place by the department to deal with this behaviour and it doesn't take the kids very long to work out that effectively they can do whatever they choose without consequence ... Certainly the workers at the respective

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<sup>72</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 October 1996, 497 (Johnstone Thwaites).

<sup>73</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 10 October 1996, 497 (Johnstone Thwaites).

<sup>74</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 October 1996, 820 (Johnstone Thwaites).

residential units do their best but unfortunately their hands are tied. The workers cannot touch them without the fear of being reported for physical abuse and they cannot forbid them to go out as that will cause emotional trauma to the kids. So a situation arises where these kids have no respect for any form of authority and have the freedom to go from one little crime to a major crime of armed robbery and murder.<sup>75</sup>

The ultimate criticism was that the government had mismanaged the move away from institutionalisation, not that there was anything fundamentally wrong with the system.<sup>76</sup> This is not surprising, given the approach of the Kennett Government was only a hardened version of what had already been introduced in the 1980s.

What all of these changes also showed was that the Kennett Government was moving away from alternate sentencing and community based options and back towards incarceration; which again was consistent with their economic approach. This also aligned with their ‘hard on crime’ rhetoric. As Napthine characterised the development:

The Melbourne and Parkville juvenile justice systems will be renovated significantly. There will be substantial capital improvements to those facilities, which will provide security to the community. The young people in the facilities will be made well aware of their offences against society and the significance of the offences, but we will also tell them that there is an opportunity for them to rehabilitate themselves in their own interests and in the interests of the community.<sup>77</sup>

In this way, the government could appear balanced and rational – in line with the politics of the decade – whilst hardening on the justice model.

Whilst the Kennett Government’s economic conservatism did result in budget cuts, their ‘hard on crime’ rhetoric also resulted in capital expenditure on youth training centres. However, this was not discussed until as late as 1998 when Napthine gave a speech to the parliament in which he outlined the capital expenditure the government had spent on juvenile justice facilities:

When the coalition was elected in October 1992, it unfortunately inherited outdated and Dickensian-style facilities for young juvenile offenders across Victoria. Indeed, the facilities could only be described as appalling. Despite its 10 years in office and all its rhetoric about social justice and care for people in need,

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<sup>75</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 October 1996, 820 (Johnstone Thwaites).

<sup>76</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 October 1996, 821 (Johnstone Thwaites).

<sup>77</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 29 October 1996, 849 (Johnstone Thwaites).

the facilities the Labor government provided for young juvenile offenders, both male and female, could be described as the worst of anywhere in the Western world.<sup>78</sup>

In 1994 the government opened – at the same site as Turana – a “Melbourne juvenile justice centre”, costing \$13.5 million. It was to replace the Turana youth training centre: “Anybody who would have seen the outmoded and inappropriate centre at Turana would not have shed a tear over its passing.”<sup>79</sup> The centre was for boys between 14 and 16 years. During his speech Napthine was careful to characterise the youth as “young male offenders”, and never describe them as children.<sup>80</sup>

In 1998 the government also opened a new Malmsbury Juvenile Justice Centre, costing \$12.6 million to house 74 boys between 17 and 21 years. Napthine characterised the new Malmsbury facility as a balance between rehabilitation and community safety: “It is important that they be given the opportunity to redirect their lives, to turn away from lives of crime and to understand that what they did is wrong. They must be provided with the skills and ability to return to society and make a productive contribution to society.”<sup>81</sup> The government also introduced health programs, including drug and alcohol programs and partnered Malmsbury Juvenile Justice Centre with the Bendigo Regional Institute of Tafe.<sup>82</sup> Along with this the government also announced that a further \$14.25 would be spent on a Parkville Youth Residential Centre to provide accommodation for “10 to 14 - year-old males and 10 to 20-year-old females”.<sup>83</sup> Again, the government was careful not to call them children. It was to be finished in 1999.<sup>84</sup>

Whilst the government did fund programs, what is notable is the extent of the capital expenditure coupled with the government’s hard-line approach to crime. Unlike the 1980s, which saw a steep decrease in young people detained in institutions, no such drop was seen in the 1990s. Indeed, the government was criticised for cutting funding for community programs. Telling is the fact that when promoting their capital expenditure, Napthine was always careful to characterise the young people as guilty: “We say to them, Yes, we know you have done something wrong, but as a community we are prepared to invest in facilities that will give you the opportunity to make something of yourself.”<sup>85</sup>

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<sup>78</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Dennis Napthine).

<sup>79</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Dennis Napthine).

<sup>80</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Dennis Napthine).

<sup>81</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Dennis Napthine).

<sup>82</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Dennis Napthine).

<sup>83</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Dennis Napthine).

<sup>84</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Dennis Napthine).

<sup>85</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Dennis Napthine).

The upside of the government's hard on crime rhetoric was that money got spent on the youth justice facilities, "despite facing significant budgetary constraints".<sup>86</sup>

However, irrespective of the government's announced spending on juvenile justice facilities, they continued to be criticized for their opaque treatment of youth matters. In 1998 Lynne Kosky of the Labor party criticised the government's amalgamation of youth affairs into the youth and family area of the Department of Human Services, as it made it very difficult to work out what funds were going where and that youth matters were downgraded. Kosky also criticised the government for predominately focusing on custodial facilities and the "punishment of young people who do the wrong thing in the community".<sup>87</sup> She wanted to see money spent on youth matters for more 'deserving' young people. Coupled with this was also the long running criticism that the underlying cause of youth crime, such as unemployment, was not being addressed by the government.

The government has blindly followed its zealous need to be able to display an AAA credit rating, but it has sacrificed many things in the community to achieve that end, which is not acceptable. The AAA credit rating may be something you can hold up on a placard but it does not put food on the table or give jobs to the people. Rather than presenting a budget that genuinely supports the principle of social advantage the Kennett government has introduced a budget that is driving divisions within the Australian community.<sup>88</sup>

The government also made structural changes which downgraded the significance of youth affairs. In 1993 youth affairs was made a subprogram (linked with small business, liquor licenses and regulatory review), downgrading it from being an independent program.<sup>89</sup> In 1996 the government also changed the Office of Youth Affairs to a department of Human Services, thereby downgrading its significance. Again, this is not surprising given the ideological underpinnings of the government and their commitment to reduce welfare. The opposition criticised this move because it now associated all youth matters with the branch that had previously only dealt with young offenders. The opposition saw this as a move away from providing alternate sentencing options and more towards institutionalisation.<sup>90</sup> It also used this debate as an opportunity to criticise the government generally for not addressing the fundamental problems that faced youth, and

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<sup>86</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Dennis Napthine).

<sup>87</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 April 1998, 374 (Lynne Kosky).

<sup>88</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 28 April 1998, 1313 (Edward Micallef).

<sup>89</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 October 1993, 866 (Michael Leighton).

<sup>90</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 October 1993, 840 (Sherryl Garbutt).

instead provided small legislative amendments.<sup>91</sup> The government's defence was that it was spending money on upgrading youth training centres; thereby supporting the argument that they were shifting towards institutionalisation.

Institutional conditions, however, continued to be of concern. In May 1998 Langdon brought to the parliament's attention that Parkville Youth Residential Unit – Chisholm house which was designed to hold 12 girls aged 10 to 15 and Bradman house designed to hold 12 boys from 10 to 15 years of age – experienced a night of significant overcrowding because one house was holding 19 boys and the other 8 girls and 2 boys.

If they are the numbers the centre is constantly looking after, the staff must be working under horrendous conditions. They are doing an outstanding job working under duress, but the situation should not be allowed to continue. I ask the minister to investigate the matter and to ensure that the situation does not recur. I believe the government has made a commitment to build other residential units on the site to accommodate the growing numbers, so I ask the government to honour that commitment.<sup>92</sup>

Later in 1999 the government did decide to conduct a survey of 13 000 young people across secondary schools to help identify "risk and protective factors for Victorian youth".<sup>93</sup> The opposition pointed out that doing a survey was cheaper than providing services.<sup>94</sup>

What the government also failed to draw attention to in the debates was that it closed down and sold Winlaton. In 1991 it was technically closed down and replaced with the Nunawading Youth Residential Centre, which catered for both girls and boys. In 1993 this centre also closed down and the government sold the site for \$1,690,000.<sup>95</sup> The government also replaced Langi Kal Kal with an adult correctional facility in 1993. Therefore, whilst they did spend money on youth detention facilities, they also gained money by selling the Winlaton site and moved Langi Kal Kal off of the youth justice books (also keeping in mind the adult correctional facilities had moved further down the privatisation road). Ultimately what the Kennett Government's economic policy meant was that budgets and programs were cut, but spending was targeted and in some cases did provide resources for those inside youth training centres. It is difficult to ascertain what the genuine conditions were inside of youth training centres during the 1990s as there is

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<sup>91</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 October 1993, 842 (Sherryl Garbutt).

<sup>92</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 15 May 1998, 1909 (Craig Langdon).

<sup>93</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 21 October 1998, 574 (Hurtle Lupton).

<sup>94</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 21 October 1998, 574 (Christine Campbell).

<sup>95</sup> "186-192 Springvale Road"; , realestate.com, <https://www.realestate.com.au/property/186-192-springvale-rd-nunawading-vic-3131/>.

no evidence from RCIRCSA covering this period. However, what can be said it based on the riots of the 2000s and the continued calls to improve conditions, any improvement in conditions would have been temporary. Institutional memory of the staff (and continued lack of staff training), inconsistent funding and the opaque policies that continued would have made any genuine improvement difficult.

Outside of specific changes to youth legislation and detention facilities, during the 1990s the Kennett Government also made a number a changes that impacted criminal legislation and further characterised children as in need of punishment. In 1993 the government, along with some changes to how juries operate, increased police powers by introducing the Crimes (Amendment) Bill (No.2) (Vic). The changes included giving the right to fingerprint on arrest, increased powers to bug phones and the right to take evidence such as hair and nail clippings.<sup>96</sup> It also included changes in the process for fingerprinting children. This included enabling the police to obtain fingerprints from someone 15 years or older if they were suspected of committing an indictable or summary offence. Fingerprints could also be taken for children between 10 and 14 if other certain conditions were met. The opposition argued that these conditions should also apply to children up to 17. The government positioned the Crimes (Amendment) Bill (No.2) as necessary to restore law and order in Victoria.<sup>97</sup> However, as the opposition pointed out, lowering the age at which fingerprints could be taken did not appear to be a clear crime deterrent.<sup>98</sup> The opposition also wanted to keep the current process where permission had to be obtained from a magistrate or judicial authority for 10- to 17-year-olds, children themselves being unable to consent to the process. By separating out 15-17 year olds the government was effectively treating them as adults and removing any protections that existed for them as children, even though they did not have the same rights as adults.<sup>99</sup> Coupled with the concerns around youth crime, the amendments to the *Crime Act* can be read as targeting juvenile offenders.

This is further complicated by the human rights backdrop of the 1990s.<sup>100</sup> In 1990 the Australian Government ratified the Convention on the Rights of the Child and later on the Havana Rules, the rules governing the treatment of young people who have been deprived of their liberty.<sup>101</sup> Whilst these were only incorporated into Victorian legislation

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<sup>96</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 November 1993, 2121 (Robert Cooper).

<sup>97</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 November 1993, 2121 (Robert Cooper).

<sup>98</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 November 1993, 2121 (Joan Kirner).

<sup>99</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 23 November 1993, 2096 (Joan Kirner). 2096.

<sup>100</sup> For discussion on the interplay between neoliberalism and human rights see O'Brien, "A Bargain with the Devil": Human Rights and Homelessness in the Neoliberal Age," 222-41.

<sup>101</sup> Mohamed A. Naleemudeen and Anita Mackay, "Locking up the Locked Up: Solitary Confinement of Children and Young People in Victoria," *Australian journal of human rights* 27, no. 1 (2021): 79.

in the 2000s when the *Charter of Human Rights and Responsibilities Act 2006* (Vic) was passed, they were nevertheless in the political consciousness at the time. Irrespective of this, the Kennett Government further restricted the rights of children.<sup>102</sup>

In the Legislative Council, Jean McLean of the Labor party, directly criticised the bill's approach to young people, pointing that:

there has always been a tendency to demonise our teenagers and their youth culture...there have been bodgies and widgies, mods and rockers - judging from his haircut, our Premier could classify himself as a rocker - draft resisters, protesters, sharpies, skinheads, hippies, punks and more recently swampies and ferals. Far from seeing them as a product of the society they have created, the next generation of parents tends to think they are all drug addicts and vandals. They forget exactly where they come from. The Bill could encourage the police to treat them as though they are drug addicts and vandals.<sup>103</sup>

Nonetheless, the amendment was made and protections for children were lost.

Concerns around youth crime were also voiced in the context of the Education (Amendment) Bill 1993 (Vic), a bill that increased the rights to expel students from schools. The government argued that anti-social children should do schooling by correspondence; the opposition argued that this defeated the purpose of education and failed those children.<sup>104</sup> What the amendment did do, again, was signal that children that were not doing the 'right' thing should lose their fundamental rights.

In the same year the government also introduced harsher sentencing as part of the Sentencing (Amendment) Bill 1993 (Vic). The purpose of the bill was to empower courts to impose indefinite sentences on persons convicted of serious offences, to increase penalties for serious sexual offenders and serious violent offenders, and to create certain new offences.<sup>105</sup> The indefinite sentences provision was not to apply to young offenders.<sup>106</sup> Whilst the bill did not directly relate to young people, it nonetheless spoke to the attitude of the government towards crime. And as one opposition member said:

I finish my contribution to the debate with a quote from the United Nations Children's Fund, which highlighted among other things that we have the worst youth suicide rate in the world: The day will come when the progress of nations

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<sup>102</sup> Victoria's contradiction of the UN convention would become an issue in the 2000s, ultimately resulting in court proceedings against the Victorian government for their treatment of children in detention. This will be covered in more detail in the conclusion. Ibid.

<sup>103</sup> Victoria, *Parliamentary Debates*, Legislative Council, 1 December 1993, 1512 (Jean McLean).

<sup>104</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 25 November 1993, 2239 (Malcolm); Victoria, *Parliamentary Debates*, Legislative Assembly, 20 March 1994, 253 (Robert Knowles).

<sup>105</sup> *Sentencing (Amendment) Bill 1993* s 1.

<sup>106</sup> *Sentencing (Amendment) Bill 1993* s 18A(1).

will be judged not by their military or economic strength - nor by the splendour of their capital cities and public buildings - but by the wellbeing of their peoples. The treatment of young people was such that their treatment was being used as a barometer for community wellbeing, even when the legislation itself did not apply to young people.<sup>107</sup>

In 1994 the fear of the criminal youth was evinced when the Control of Weapons Bill 1994 (Vic) was introduced, the aim of which to increase controls on knives and increase police abilities to search without a warrant. The bill followed an incident where a group of young people had entered a school, one of whom had threatened the deputy principal with a knife. It was considered "another step in implementing the coalition's stated policy of introducing justice and safety in Victoria".<sup>108</sup> In 1997 the Police and Corrections (Amendment) Bill 1997 (Vic) extended the power to search to people in youth training centres and made it an offense to escape.<sup>109</sup> What all of these amendments showed was that the government was increasingly criminalising children's behaviour, giving them less avenues to avoid incarceration.

### **Immigrant Communities**

The 1990s was also a time of racial tensions and moral panics surrounding immigrant communities. At the beginning of the 1990s multiculturalism was touted, however by 1996 its support was at all time low, with 65% of the Australian population supporting reduced immigration, in particular identifying Asian immigration as a major concern. This was fuelled by the mid 1990s recession, with economic displacement heightening anxiety around immigration, engendering a "moral panic concerning multiculturalism's material and symbolic consequences".<sup>110</sup> This could be seen not only in the rise of Pauline Hanson's One Nation, which promoted the 'ordinary Australians', but also in the politics of John Howard (Australian Prime Minister 1996-2007). Howard's 1996 campaign slogan 'For all of us' was a direct attack on immigrant communities, implying that "Labour's policies catered to a narrow set off ethnic special interests and encouraged antisocial behaviour and a permissive culture".<sup>111</sup> Howard increased the selectivity of visas, militarised the coast to deter asylum-seekers and reduced family reunification

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<sup>107</sup> Victoria, *Parliamentary Debates*, Legislative Council, 10 November 1993, 892 (Jean McLean).

<sup>108</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 5 May 1994, 1579 (Gary Rowe).

<sup>109</sup> Victoria, *Parliamentary Debates*, Legislative Council, 14 May 1997, 767 (Blair Boardman).

<sup>110</sup> James P. Walsh, "The Marketization of Multiculturalism: Neoliberal Restructuring and Cultural Difference in Australia," *Australia, ethnic and racial studies*, 37, no. 280-301 (2014): 288.

<sup>111</sup> *Ibid.*, 288-89.

visas.<sup>112</sup> Whilst all of this was done at a Federal level, this influenced the rhetoric in Victoria and the Kennett Government. This was particularly evident in the treatment of the Vietnamese community, in particular the promulgation of the ‘ethnic gangs’ rhetoric.

A *Herald Sun* article published on 29 January 1993 – and discussed in parliament – detailed a case where two boys (11 and 15) were charged with armed robbery for stealing a skateboard at knife point and questioning whether gang violence was linked to race. Opinion was divided on the matter, however, the article quoted youth worker Les Twentyman discussing racial tensions between ‘gangs’: “I talk to lots of different kids and their anger towards ethnic groups other than their own is frightening”.<sup>113</sup> Twentyman was also concerned that a lot of unfair blame was being placed on the Vietnamese community for this violence. Instead, he thought that at the heart of youth crime was a lack of parental responsibility (he also thought that the movie *Romper Stomper* had fuelled the violence).<sup>114</sup>

Later, in response to the weapons control bill giving police additional powers over knives, Vincent Perton quoted a recent article in the *Herald Sun* entitled “Ethnic violence flares. Gang war fears”.<sup>115</sup> Perton discussed the article and the claims that “high economic and government cutbacks would create more ethnic ‘hot spots’ and that ‘ethnic groups involved in violence in the [Western suburbs] included Vietnamese, Croatians, Serbs, Maltese and Filipinos”.<sup>116</sup> Perton called on the government to do more to curb gang violence.<sup>117</sup> Perton also referenced an article in the *Age* that discussed an increase in crimes against old people.<sup>118</sup> By discussing youth crime in the context of ‘gangs’, and ‘ethnic gangs’, the government were effectively ‘othering’ these young people. This approach also aligned with their hard on crime approach and the justice model, as it removed any responsibility to the welfare of the young people committing these crimes and instead moved the focus towards community safety and retribution. It also aligned with economic concerns being blamed on immigrant communities. And ultimately it was consistent with the overarching theme of their being a delinquent class considered unworthy of help.

The result was that Vietnamese children started populating youth detention centres. Hong Lim, the Minister for Clayton, appealed to the government to consult “with

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<sup>112</sup> Ibid., 289.

<sup>113</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 March 1995, 581 (Bernard Finn).

<sup>114</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 March 1995, 581 (Bernard Finn).

<sup>115</sup> “Ethnic Violence Flares. Gang War Fears.,” *Herald Sun* 1993.; Victoria, *Parliamentary Debates*, Legislative Assembly 18 May 1994, 1794 (Victor Perton).

<sup>116</sup> Victoria, *Parliamentary Debates*, Legislative Assembly 18 May 1994, 1794 (Victor Perton).

<sup>117</sup> Victoria, *Parliamentary Debates*, Legislative Assembly 18 May 1994, 1794 (Victor Perton).

<sup>118</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 18 May 1994, 1795 (Victor Perton).

the appropriate Asian communities and agencies so that they know how to handle young Asian offenders and other offenders".<sup>119</sup> Napthine assured Lim that the involvement of Vietnamese youth in the drug trade had been identified as an issue by the Youth Parole Board and that the Department of Human Services were culturally sensitive.<sup>120</sup> However, Napthine's solution was only to refer the Vietnamese young people to a generic program, in this case the Turning the Tide drug offensive.<sup>121</sup>

In 1998 Sang Minh Nguyen of the Labor Party brought to the parliament's attention that Vietnamese young people were now being overrepresented in the juvenile justice system. Quoting the Director of Jesuit Social Services, Nguyen claimed that 25% of the young people in the juvenile justice institutions were Vietnamese, when under the 1996 census only 1.3% of Victoria's population were Vietnamese. Nguyen also discussed a recent report by the Catholic Commission for Justice, Development and Peace which detailed the problems presented to people of Indochinese descent in the prison and juvenile justice system.<sup>122</sup> For example, no interpreters were provided and due to the lack of understanding of prison processes there were low rates of family visits and low participation in drug rehabilitation. Records were also not sent with prisoners and therefore staff would not be aware of any post-traumatic-stress disorders, particular those suffered by refugees that were subject to torture. Similarly, no special provision was provided for Buddhist or Muslim religious beliefs.<sup>123</sup> Nguyen also pointed out that the recent annual reports of the Youth Parole Board and Youth Residential Board called for "improved access and to make available culturally appropriate services."<sup>124</sup> Therefore, despite Napthine's reassurances in 1997, nothing had in fact been done to assist young people from a background other than white Australian.

This was also confirmed in a report produced by the Australian Multicultural Foundation, *Ethnic Youth Gangs in Australia Do They Exist?*<sup>125</sup> The report was published in 1999 and looked at a number of ethnic minority groups – such as Vietnamese young people, Turkish young people and Pacific Islander young people – within Australia that had been portrayed in Australia as contributed to an 'ethnic youth gang' epidemic. The conclusion was that media coverage was sensationalised and that police did unfairly target

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<sup>119</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 1 March 1997, 283 (Hong Lim).

<sup>120</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 2 April 1997, 374 (Dennis Napthine).

<sup>121</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 2 April 1997, 374 (Dennis Napthine).

<sup>122</sup> Victoria, *Parliamentary Debates*, Legislative Council, 10 November 1998, 643 (Sang Minh Nguyen).

<sup>123</sup> Victoria, *Parliamentary Debates*, Legislative Council, 10 November 1998, 643 (Sang Minh Nguyen).

<sup>124</sup> Victoria, *Parliamentary Debates*, Legislative Council, 10 November 1998, 643 (Sang Minh Nguyen).

<sup>125</sup> Santina Perrone Rob White, Carmel Guerra, Rosario Lampugnani, "Ethnic Youth Gangs in Australia *Do They Exist?*," (Australian Multicultural Foundation 1999).

ethnic minorities.<sup>126</sup> Similarly, whilst young people interviewed did admit to engaging in illegal activity, such as vandalism due to boredom or drug dealing to supplement income, what the report concluded was “that a key desire and wish of most young people today is to gain acceptance for who they are, and to enhance their social belonging. For this to occur, action needs to be taken, now, to support them.”<sup>127</sup> The report also put the issue of ethnic gangs in a global context by referring to an equivalent report presented in Canada in 1998.<sup>128</sup> Its findings were similar. By the end of the decade there was no suggestion that support was going to be provided. In May 1999 the government brought in a sentencing amendment to allow a court to defer a sentence of a young offender for three months in order to “encourage young offenders to take responsibility for their actions” during that time. Nguyen used this bill as an opportunity to remind the parliament of the overrepresentation of Vietnamese: “I emphasise that the number of Vietnamese young offenders being charged with drug offences such as possession, trafficking and use, presenting before the courts and entering the juvenile justice system is disproportionate to that of other sections of the community.”<sup>129</sup> The overrepresentation of CALD communities in juvenile detention was a trend that would continue into the 2000s and was yet another example of race becoming a weaponised construction of youth.<sup>130</sup>

### **Indigenous Young People**

Despite the RCIADC releasing its findings in 1992, and making 339 recommendations, there was no significant government debate immediately following its release. Although the 1980s had seen a lot of the recommendations discussed, progress was still required. It took until 1996 for the government to boast “quite some achievement and some success”, having admitted that in previous years success had been mixed.<sup>131</sup> Their focus related more to public relations than actual results, as what they were most looking forward to was the 1997 national summit planned to discuss the recommendations and their implementation: “it is a great opportunity for the government to promote the very

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<sup>126</sup> For further academic consideration of this also see Helen McKernan, "Whiteness and Policing Vietnamese Australian Communities" (Doctor of Philosophy, Swinburne University of Technology, 2016).

<sup>127</sup> Rob White, "Ethnic Youth Gangs in Australia *Do They Exist?* ," 30.

<sup>128</sup> *Ibid.*, 31.

<sup>129</sup> Victoria, *Parliamentary Debates*, Legislative Council, 11 May 1999, 538 (Sang Minh Nguyen).

<sup>130</sup> See for example the discussion of weaponised race in Gillfeather-Spetere Sophie, "From Pursuit to Progress: Critical Reflections on Concepts of Young People and Crime in Australia," *Current issues in criminal justice* 31, no. 1 (2019): 111-21.

<sup>131</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 December 1996, 1611 (Ann Henderson).

good and successful things that have been done in this area of the justice portfolio.”<sup>132</sup> Other than this, the Royal Commission was not discussed.

In 1997 the “Bringing them Home” report was published. Whilst the focus of the report was on the separation of Indigenous children from their families, it also discussed overrepresentation in juvenile detention facilities. It was damning. It revealed that Indigenous overrepresentation was still very much a problem. In June 1996 it was recorded that the overrepresentation rate in Victoria was 9.8, meaning that Aboriginal children were 9.8 times more likely to be incarcerated than their non-Aboriginal counterparts. What the survey results also showed was that Indigenous girls had a higher over-representation rate than Indigenous boys. Again, what this showed was that the issue of overrepresentation had to be looked at a societal level, and not simply one of policing: “policies also need to consider the specific factors that may lead to the incarceration of girls such as previous physical and sexual abuse, drug and alcohol problems, homelessness and so on.”<sup>133</sup> The report also discussed the need to reduce the number of Indigenous children on remand.<sup>134</sup> What is also significant to note is the language used in the report, youth training centres were simply called detention centres.

The report also recognised other issues impacting juveniles in detention, such as the location of detention centres; centralised institutions in the city made it practically very difficult for young people to receive visits from family and friends when they were from non-urban communities.<sup>135</sup> While the Victorian government had moved to regional committees, in no way had it indicated that facilities would be moved away from the Melbourne Youth Justice Precinct in Parkville. The report also discussed the impact of entering the juvenile justice system at a young age:

Not only is the rate of removal of Indigenous young people from their families much higher than non-Indigenous young people, they are comparatively younger and more geographically isolated from their family and kin.<sup>136</sup>

Significantly, the lack of funding and Indigenous community based alternatives was considered a national problem; therefore the government’s funding cuts of community programs was only going to exacerbate the problem. The report also called for proper consultation of Indigenous communities, stating that usually community diversionary schemes were “introduced without proper negotiation with Indigenous communities and

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<sup>132</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 4 December 1996, 1611 (Ann Henderson).

<sup>133</sup> National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, “Bringing Them Home,” 435.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid., 436.

<sup>136</sup> Ibid.

organisations and without a framework for control by Indigenous organisations where communities desire such control”.<sup>137</sup> It also pointed that this when government’s announced community diversionary programs it was usually accompanied with the rhetoric of self-determination, without this being a reality.<sup>138</sup>

However, the report also recognised the Victorian government’s work in this respect and praised its Koori Justice Workers Project, noting that the scheme was government funded but determined by the community. The report stated that the overrepresentation of Aboriginal young people had fallen between 1993 and 1994 from 37.3 to 11.9, with a further decrease of 46% of the number of Aboriginal young people on correctional orders between 1994 and 1995. The report considered the reduction “particularly pleasing” given “a number of personal submissions to the Inquiry concerning incarceration in Turana detention centre during the 1980s.”<sup>139</sup> These submissions had included examples where an Aboriginal boy was incarcerated simply for shop lifting, and another one where a deaf Aboriginal boy was put in Turana because his foster care placement broke down.<sup>140</sup>

This observation aligned with the government’s rhetoric in the parliamentary debates, where Mr John, the Minister for Aboriginal Affairs, was keen to promote the Koori justice project and the involvement of the Aboriginal community in the project.<sup>141</sup> Later in the decade Napthine also promoted this program, claiming it as proof of the government taking “a particular interest in the need to deal with young Kooris in the juvenile justice system...stemmed from concerns over the overrepresentation of young Aboriginal people in the juvenile justice system and the concerns raised by the Royal Commission into Aboriginal Deaths in Custody.”<sup>142</sup> However, it is worth noting that budget allocations were still low. The 1996 budget allocated an additional \$254000 to the program with the anticipation that this would help 80 more young Indigenous people to participate in these programs.<sup>143</sup> This equated to \$3175 per person, an amount questionable in its long-term utility.

A point of concern in Victoria that the report did recognise was policing. Whilst the official policy of the Victorian police was to initially issue young people with a warning, in 1995-6 Indigenous young people were less likely than their non-Indigenous

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<sup>137</sup> Ibid., 440.

<sup>138</sup> Ibid.

<sup>139</sup> Ibid., 442.

<sup>140</sup> Ibid.

<sup>141</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 22 April 1993, 1131 (Michael John).

<sup>142</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 19 June 1996, 869 (Dennis Napthine).

<sup>143</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 14 November 1996, 1265-66 (Dennis Napthine).

counterparts to get such an initial warning (11.3% instead of 35.6%).<sup>144</sup> This trend was also reflected in arrest statistics, where Indigenous young people were twice as likely to be arrested when apprehended by police than their non-Aboriginal counterparts (46.6% instead of 23.5%).<sup>145</sup> The report even revealed that the processing rate of Indigenous young people by police had increased by 46.4% between 1994 and 1995. Damningly, the report found that “relatively effective initiatives such as the Koori Justice Project which has successfully diverted more Aboriginal juveniles from detention centres will be undermined if arrest rates are not reduced.”<sup>146</sup> It was also found that police were holding Indigenous children in police cells, failing to tell them what they were charged with, not providing them with telephones and interrogating them without telling an adult.<sup>147</sup> This aligned with the government’s ‘tough on crime’ approach discussed earlier in the chapter.

In 1997 the Liberal government issued an apology to the Aboriginal people of Victoria, which recognised that policies of child removal contributed to the overrepresentation of Aboriginal young people in the juvenile justice system. The apology recognised that juvenile detention continued the legacy of child removal:

The national inquiry not only looked at past practices, but also made the point that [I]ndigenous children are still ripped away from their families by the juvenile justice system. To Victoria's shame the report points out that Victoria leads the way in some respects. The report reveals that Victoria has the highest rate of placement of indigenous children in substitute care in Australia. That shows a great gap between the rhetoric and the reality when it comes to placing the opportunity and responsibility for the wellbeing of Aboriginal children in Victoria where it belongs - with Aboriginal families and communities.<sup>148</sup>

Whilst the government was willing to admit this, in the following years there was no indication that they were going to do anything about it, in particular with respect to police powers. Similarly, there was no long-term decrease of Indigenous over-representation in the juvenile justice system.<sup>149</sup> It is also worth noting that whilst the report attracted significant media attention, much of this attention surrounded the debates around Australia’s history being waged between white Australians, rather than the

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<sup>144</sup> National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, “Bringing Them Home,” 450.

<sup>145</sup> Ibid., 451.

<sup>146</sup> Ibid., 453.

<sup>147</sup> Ibid., 454-55.

<sup>148</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 17 September 1997, 114-115 (Rob Hulls).

<sup>149</sup> Kelly Richards, “Trends in Juvenile Detention in Australia,” *Trends and issues in crime and criminal justice*, no. 416 (2011): 3.

recommendations themselves.<sup>150</sup> Given this, it is then perhaps not surprising that no genuine reform followed.

## **Conclusion**

The 1990s was a period in which a number of trends that were started in the 1980s were hardened. The government pursued privatisation, and whilst this was never finalised it revealed a desire to distance their responsibility for the wellbeing of young people in juvenile detention. The rhetoric of 'deserving' young people continued, although this time along with cuts to community services and the stabilisation of incarceration rates. The justice model was entrenched and fuelled by hard on crime rhetoric, which saw the behaviour of young people increasingly criminalised. Economic recession and moral panic also saw an increase in 'ethnic gang' fears and the subsequent overrepresentation of Vietnamese young people in youth detention centres. While the overrepresentation of Indigenous young people did decrease in the 1990s due to effective community programs, the hard on crime approach of the Victorian police was set to undermine this. The Kennett Government boasted a political approach that was balanced, and whilst there were examples of conditions improving and funding being spent on youth detention centres, essentially the 1990s was yet another decade where no meaningful change was introduced to help those children that found themselves detained by the government.

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<sup>150</sup> Matthew Bailey, "'You Betray Your Country': Remembering and Forgetting the Stolen Generations in the Metropolitan Press," *Journal of Australian studies* 44, no. 1 (2020): 116.

## Conclusion

In 2000 the new Bracks Government published the Ministerial Statement “A Balanced Approach to Juvenile Justice in Victoria”.<sup>1</sup> The statement called for a new approach to juvenile justice that would focus on prevention, and “develop innovative and progressive responses to juvenile crime”.<sup>2</sup> It would be a ‘balanced approach’ that would consider the needs of the child, the victim and the community. Of course aware of budgetary constraints, the Labor government was also careful to “recognise that the most socially responsible and cost effective response to young offenders” was community based sentences and that detention “should only occur as a last resort”.<sup>3</sup> The new government criticised the Kennett Government’s proposal to build a private facility for offenders between 17 and 21, and instead promised to reduce the number of children incarcerated and to eventually close “the old Turana facility”.<sup>4</sup> The number of children incarcerated had increased throughout the 1990s, not because crime rates had increased but because the length of sentences had.<sup>5</sup> The government also promised to build on strong partnerships with the non-government sector, essentially meaning that they would continue to rely on the voluntary sector to assist in the provision of services.<sup>6</sup> The report mirrored the language and promises of the reports of the last 50 years. It once again distinguished itself from the previous government and promised a new approach that would both solve the problem of youth crime and be cost effective. It was simply a repeat.

Seventeen years later the inability of government to implement genuine reform was evinced by the publication of “Meeting Needs and Reducing Offending”. The report was produced in response to an election promise by the Andrews government – elected in 2014 – and promised to “re-design the system to create an evidence-based response to youth offending and youth crime”.<sup>7</sup> It was not alone. It sat amongst a number of other reports, such as the “The

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<sup>1</sup> Hon Christine Campbell MP, "A Balanced Approach to Juvenile Justice in Victoria," ed. Minister for Community Services (Melbourne 2000).

<sup>2</sup> Ibid., 2.

<sup>3</sup> Ibid., 1.

<sup>4</sup> Ibid., 6.

<sup>5</sup> The number of children charges with drug and alcohol related offences had increased and these carried longer sentence lengths. Ibid., 5.

<sup>6</sup> The statement listed key stakeholders at the Juvenile Justice Roundtable as including the Criminal Bar Association, the Law Institute, the Defence for Children International, the Catholic Commission for Justice, Development and Peace, Jesuit Social Services, Catholic Social Services, Care and Communication Concern, Youth for Christ and the Youth Substance Abuse Service. Ibid., 16.

<sup>7</sup> Armytage and Ogloff, "Meeting Needs and Reducing Offending: Youth Justice Review and Strategy," 4.

Same Four Walls: inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system”, and separate reports into incidences that had occurred at Malmsbury and Parkville.<sup>8</sup> As with every other report that had been commissioned to consider Victoria’s youth justice system, it found it wanting. Indigenous children continued to be overrepresented within the system and whilst Vietnamese children were no longer a notable portion of inmates, South Sudanese children were.<sup>9</sup> The issues facing Victoria’s youth detention system were multitudinous and included poor staff training, arbitrary separation of children and excessive use of lockdowns hindering access to education.<sup>10</sup> As the report aptly stated:

This is a system in crisis. This Review is an opportunity for the youth justice custodial system to be bold and innovative in addressing its challenges. The system can, and should, undertake significant structural and cultural reform during the upcoming machinery of government change, making it the leading youth justice system in Australia, and informing best practice across the world.<sup>11</sup>

The review was also undertaken at the same time as the government was running the Grevillea Youth Justice Centre, located at the adult Barwon Prison. Grevillea was created in November 2016 in response to riots at Parkville and promises by the Minister for Families and Children that “perpetrators of this damage will face serious consequences” and that they “will be transferred to an adult correctional facility”.<sup>12</sup> In a case dated 21 December 2016 the use of Barwon prison was found to be contrary to Victorian human rights legislation.<sup>13</sup> For example, whilst held in Grevillea children were subject to lockdown periods that had them out of “their cells for less than one hour per day”, threatened by staff including with the use of German Shepherd dogs and lacked access to legal services.

More reports were prepared for the Victorian government, including an “Inquiry into Youth Centres in Victoria” and a “Review of the Parkville Youth Justice Precinct: An independent review by former Victoria Police Chief Commissioner Neil Comrie”.<sup>14</sup> The

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<sup>8</sup> Commission for Children and Young People, “The Same Four Walls,” (Melbourne: Victorian Government, 2017), 5; Armytage and Ogloff, “Meeting Needs and Reducing Offending: Youth Justice Review and Strategy.”

<sup>9</sup> “Meeting Needs and Reducing Offending: Youth Justice Review and Strategy,” 9-10.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid., 27.

<sup>12</sup> Antony Freeman, “Victorian Supreme Court Finds Decision to Detain Children in Barwon Prison Invalid Due to Failure to Consider Children’s Rights,” Human Rights Law Centre.

<sup>13</sup> Ibid. The court found that the Victorian government had failed to consider the *Charter of Human Rights and Responsibilities Act 2006* (Vic). Garde J held that the Victorian government failed to protect children in their best interests, did not protect children from cruel, inhuman or degrading treatment and that children did not receive humane treatment when deprived of liberty. Ibid.

<sup>14</sup> Garner Clancey, Sindy Wang, and Brenda Lin, “Youth Justice in Australia: Themes from Recent Inquiries,” *Trends and issues in crime and criminal justice*, no. 605 (2020): 3.

Andrews Government also boasted “significant investments” and “a range of initiatives across Youth Justice”.<sup>15</sup> Significantly, they also commenced building a new juvenile detention centre at Cherry Creek.<sup>16</sup> Cherry Creek was completed in 2022 and cost a total of \$419 million.<sup>17</sup> It was positioned to offer targeted intervention to boys aged 15 to 18.<sup>18</sup> However, in 2024 the Victorian government continued to be criticised for its treatment of inmates in Victoria’s juvenile detention system. Writing for *Crikey*, human rights lawyer Sarah Schwartz detailed conditions at Cherry Creek including “staffing shortages, lack of access to education, and extended periods of isolation”.<sup>19</sup> Indeed, the *Youth Justice Act 2024* (Vic) increased powers to use isolation on inmates.<sup>20</sup> During the COVID-19 pandemic the United Nations Committee on the Rights of the Child called for Victoria to release inmates due to health concerns, including concerns pertaining to depression, suicidal thoughts and post-traumatic stress.<sup>21</sup>

This also needs to be put in its national context. In October 2023 and August 2024 two boys committed suicide at Banksia Hill, a juvenile detention centre in Western Australia.<sup>22</sup> This was despite the fact that Banksia Hill had been the subject of a targeted inspection in 2018 and an investigation by investigative journalism television programme Four Corners in 2022. The same trend can be seen nationwide. In 2016 Don Dale Youth Detention Centre was also investigated by Four Corners.<sup>23</sup> What followed was the Royal Commission into the Protection and Detention of Children in the Northern Territory.<sup>24</sup> In 2024 Don Dale became an adult prison, and children were moved into a new facility – built next to an adult prison against the royal commission’s recommendations – outside of Darwin.<sup>25</sup> Prior to its opening there were

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<sup>15</sup> "Government Response to the Parliamentary Inquiry into Youth Justice Centres in Victoria," Parliament of Victoria, [https://www.parliament.vic.gov.au/4af7ad/contentassets/93f6e5af54eb4e5dabe118715c3c442f/governmentresponse\\_sclsi\\_youth\\_justice\\_centres\\_in\\_victoria.pdf](https://www.parliament.vic.gov.au/4af7ad/contentassets/93f6e5af54eb4e5dabe118715c3c442f/governmentresponse_sclsi_youth_justice_centres_in_victoria.pdf).

<sup>16</sup> *Ibid.*

<sup>17</sup> Denham Sadler, "‘Precisely the Wrong Direction’: Why Is Victoria Opening a \$419m Youth Prison?," *Crikey* 2022.

<sup>18</sup> *Ibid.*

<sup>19</sup> Schwartz, "It Is a Matter of When, Not If, a Child Dies by Suicide in Victoria’s Broken Youth Justice System."

<sup>20</sup> *Ibid.*

<sup>21</sup> Faith Gordon, Hannah Klose, and Michelle Lyttle Storrod, "Youth (in)Justice and the Covid-19 Pandemic: Rethinking Incarceration through a Public Health Lens," *Current issues in criminal justice* 33, no. 1 (2021): 27-46. This article also pointed out that whilst Victoria boasted falling numbers of sentencing children in detention in the late 2010s, the number of unsentenced and children on remand increased, meaning numbers inside detention also ultimately increased.

<sup>22</sup> Rhiannon Shine and Andrea Mayes, "Banksia Hill Teenager Becomes the Second Child to Die by Suicide in Wa’s Troubled Youth Detention System."

<sup>23</sup> Clancey, Wang, and Lin, "Youth Justice in Australia: Themes from Recent Inquiries," 2.

<sup>24</sup> *Ibid.*, 4.

<sup>25</sup> Jacqueline Breen and Alex Barwick, "Five Years since the Nt Royal Commission into Youth Detention and Child Protection, There Is Hope, Disappointment and Fear," *ABC News* 2022; Jayden O’Neill, "Youth Detainees Cause Estimated \$200,000 in Damage Less Than a Week after Occupying New Darwin Facility," *ibid.* 2024.

already concerns about overcrowding.<sup>26</sup> Across Australia similar reports, similar findings and similar results can be seen.<sup>27</sup> Simply put, nothing has changed.

By following the history of juvenile detention in Victoria in the post-war period, what this thesis has shown is that irrespective of increasing government involvement the reality of juvenile detention has failed to fundamentally change. The specific reasons for this have differed from decade to decade, but ultimately the issue sits with the system itself. Consecutive governments have engaged with the rhetoric of reform – and commissioned reports to consider it – but have ultimately found themselves hindered by social views, budgetary concerns and structural realities of the system. In some cases, the rhetoric of reform was clear but actual intent was not.

During the post-war period the juvenile justice system was increasingly professionalised, and by the 21<sup>st</sup> century it was a given that ‘expert’ advice would influence the system, be this through the work of social workers or the developments in psychology and psychiatry. However, while the experts were rhetorically differentiated from previous individuals that had worked in the system – and positioned as the solution to the juvenile delinquency problem – the reality was that they were still influenced by the same biases that had influenced those that came before them. They were still ultimately middle-class, and held the same racial, classist and sexist views of those that had not had the equivalent training.

At the same time, consecutive governments were hindered by fiscal concerns. Whether or not genuine reform was intended, throughout the entire period examined in this thesis governments did not commit the funds needed to genuinely improve the system. Where money was spent, it was on bricks and mortar updates, but very rarely on programs or staff training; namely, matters that could make a fundamental difference. The result was that inmates continued to receive little to no education and little to no care; indeed to this day inmates continue to be abused whilst in detention.

Various moral panics throughout this period also positioned various groups of young people in need of punishment. Whether it be the bodgies and widgies of the 1950s or the ‘ethnic gangs’ of the 1990s, certain visible groups have been problematised and positioned as dangers to society. This has fed into the rhetoric of the ‘deserving’ and the ‘undeserving’, which has also continued to divide how different groups of children have been treated. These moral panics

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<sup>26</sup> "Youth Detainees Cause Estimated \$200,000 in Damage Less Than a Week after Occupying New Darwin Facility."

<sup>27</sup> Clancey, Wang, and Lin, "Youth Justice in Australia: Themes from Recent Inquiries."

fuelled public appetite for legislative, policy and structural developments, but the electorate was fed with the rhetoric of reform rather than fundamental changes to the system.

Reform has also been limited by the continuing links between the children's system and adult criminal justice. As the period progressed the links to the adult system only got stronger, although they were always there. This link was solidified by the replacement of the welfare model with the justice model in the 1980s. The result was that officially juvenile detention became increasingly carceral in nature, which necessarily meant the wellbeing of the inmate became a secondary consideration. The efficiency of how the system could be run became the key concern, and by the end of the century this was epitomised by moves to privatise the juvenile justice system.

The ultimate result is that the juvenile detention system has remained fundamentally unchanged. The Royal Park Receiving Depot may have been renamed Turana and then renamed again to the Melbourne Youth Justice Centre; Winlaton may have been built, opened and then closed again; Malmsbury may have been built and expanded and Langi Kal Kal may have been moved from the adult system, to the children's, and back again, but through all of this, children in detention have been subject to unending abuses. Indigenous children continue to be overrepresented, as do children from CALD communities subject to the moral panic of the day.

This thesis is the first time there has been a systematic review of the Victorian juvenile detention system in the post-war period. Very little scholarship has considered the Victorian child welfare system in the post-war period, and even less has touched on the juvenile detention system. It has shown that the post-war period has seen an ongoing trend of reports, legislative changes and promises of genuine reform, all of which has amounted to very little change. This is significant because Victoria can be used as a case study to show that the same trend can be seen today nationally and many aspects are also observable at an international level. Consecutive governments have promised that they will be the ones to fix a broken system, a system that is still being criticised internationally for its treatment of children. The ultimate result is that to this day children continue to be incarcerated in a manner contrary to the UNCRC. 'Important deficiencies' was the phrase used by Justice Barry in his 1956 report and it still holds true today.

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