IN NEED OF CARE: DELINQUENT YOUNG WOMEN IN A DELINQUENT SYSTEM[1]

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PERPLEXING ISSUES ARISE IN ANY CONSIDERATION OF THE MEANINGS attributed to notions of delinquency and detention when these are applied to young women. Some of these issues are raised in this paper by telling stories about reports, young women, and reform in juvenile justice in NSW. Questions about just who or what is "in need of care", and who or what is "delinquent" inevitably arise. Are the young women in whose lives "the system" intervenes delinquent? Do the underlying philosophies from which justifications for interventions by "the system" are drawn need more careful and overt articulation? Does the interaction between young women and the system of juvenile justice contribute towards or minimise the production of young women's delinquency? Some of the questions raised are at present without satisfactory answers. They provide fertile ground for future research. Others elicit superficially easy responses which require further interrogation.

Nevertheless, it is clear that a concentration only on issues related to detention is misplaced. We need to consider the reasons why young women enter, and often re-enter, secure detention, and whether the outcomes of detention practices bear any relation to the reasons stated for detention. Underlying justifications for officially sanctioned acts should be scrutinised carefully.

A number of young women have died in recent years soon after release from youth custody in New South Wales; many reports on juvenile justice have been released over the same period. Will implementation of the recommendations contained in these reports minimise the possibility of death

in future? Are the recommendations designed to ensure, so far as is possible, that this will be the case? My conclusions on this point are somewhat pessimistic.

Most Australian jurisdictions can cite numerous reports on juvenile justice related issues (*see* Seymour 1988; Blackmore 1989; Youth Justice Project 1990b). New South Wales alone has seen the release of three reports since 1990. All have been part of the continuing debate on juvenile justice issues and all contain an agenda for "reform". Unfortunately, "reform" has often meant recycling recommendations from previous reports, recommending further research, rearranging some practices and conditions at the bureaucratic level and implementing changes at the practice level only on the basis of parsimonious, and/or economic, pragmatism (*see*, for example, Naffine, Wundersitz & Gale 1991 in relation to South Australia).

The reforms made at "ground" level, such as those currently occurring in New South Wales, at least where young women are concerned, are usually directed towards the better "management" of young women and the establishment of further and more effective programs designed to better reintegrate young women into the community (*see*, for example, Office of Juvenile Justice, March 1993). Few changes which can be directly related to report recommendations seem to have occurred in underlying structural conditions which may play a significant part in the entry and continued re-entry of young women into juvenile justice detention.

The processes by which gender issues have been included in juvenile justice report and reform exercises, and the relatively low level of importance accorded to these issues, provide a possible link with the concentration on program reform rather than structural change where young women are concerned. The major structural determinants of juvenile justice intervention in young women's lives tend to be marginalised, particularly in aspects of reports which are released to the media. Marginalisation has occurred, not only in young women's particular experiences with juvenile justice, but also in the experiences of those seeking to ensure that gender issues are not relegated merely to considerations about detention centre management and programs. Gender, together with race and class, has not consistently been part of the research agenda for reports on juvenile justice. The variable impact of all of these factors has not permeated reports on juvenile justice designed as blueprints for reform of legislation, policies and practices.

Aspects of gender often neglected in thinking about strategies which could provide a measure of justice within juvenile justice interventions directed towards young women include the gendered ways in which poverty, violence and homelessness affect their lives. While measures to address these structural problems are generally outside the direct powers of juvenile justice agencies, this should not prevent interdepartmental cooperation in doing so. Attention needs to be focussed on these issues by agencies working in the fields of education, housing and social welfare. Other neglected gender issues include the ways in which young women enter the net of juvenile justice, and the multiplicity and complexity of race and class issues intersecting with these gender issues. While these issues are not given equal attention in the processes of preparation, presentation, and

implementation of reports on juvenile justice, there is a sense in which the practice of juvenile justice where young women are its object can be said to remain "delinquent".

The Context

Research in Australia and elsewhere indicates that many young women who are drawn into the juvenile justice net have generally experienced violence in their lives prior to contact with the system (*see* Women's Coordination Unit (NSW) 1986). Race, class and socioeconomic status are further important factors which intersect with the violence experienced by these young women. Research also indicates that most of these young women are victims of sexual and/or physical assault at home, or have left home because of such assault, or for other reasons which make it impossible for them to remain there. Many become homeless, and, as "street kids", particularly vulnerable to state intervention. These young women are more likely than young men to have encountered the state system of care, and to be either wards of the state or subject to some form of implicit control by welfare agencies (Women's Co-ordination Unit (NSW) 1986). Many are likely to enter the net of juvenile justice because of their subjection to the state care system (*see*, for example, Carrington 1989). Indeed, some research suggests that female state wards are forty times more likely to proceed into juvenile justice institutions than non state wards (O'Sullivan 1991). Anecdotal evidence indicates that approximately 70 per cent of the complainants in criminal matters concerning young women are state welfare personnel (Carrington 1993). Incidents of "acting out" in institutions or foster placements can result in the laying of criminal charges for property damage (Women and Girls in Custody Advocacy Group 1990). Police are more readily called than would be the case for children outside state control. Bail refusals, guilty pleas, control orders, and characterisation as "serious offenders" almost inevitably follow.

Such contact with juvenile justice agents often means continued violence towards young women (Cunneen 1991). For many young women, and in particular Aboriginal young women, police interrogation often involves both physical and sexual assault (Alder et al. 1992; Cunneen 1991). The violence is further exacerbated as young women are drawn deeper into the net to become the often marginalised and always managed objects of juvenile justice practice.

Young women suffer violence during their incarceration in detention centres—often at their own hands (although it is uncommon for young Aboriginal women to engage in self-mutilation in these circumstances (personal communication with official visitors 1993)). This experience of violence is often exacerbated on release from incarceration, as the following stories indicate. The few programs available within detention centres which claimed to provide lessons in post-release survival strategies for young female detainees were apparently ineffective for these young women. An alternative reading of juvenile justice intervention and treatment which challenges conventional understandings that these young women are delinquent is that such intervention constitutes a criminalisation of young women's survival strategies. This response is taken up later in the paper.

Between May 1990 and January 1991 six young women died shortly after leaving juvenile justice custody in Sydney. Four of these young women were Aboriginal. At least one had been sexually abused in police custody, and had felt suicidal while being held in detention (Cunneen 1991). The coroner found the immediate cause of death in each case was a drug overdose.

Other young women who had also been in custody in Sydney died of drug overdoses elsewhere in Australia in the same period (Harvey 1991; McDermott 1991). Media representations of these young women were of "silly girls who had thrown away their lives".

In January 1993 a young woman of 17 who had recently been released on bail from state detention was allegedly murdered by a client after a sexual transaction. She was a ward of the state but had had little or no contact with the Department responsible for her welfare for some months prior to her death. Her parents had no knowledge of her whereabouts, having reluctantly agreed to her wardship after she had run away from home. This young women was also known to have had "serious drug and alcohol problems" (*Sydney Morning Herald* 1993).

State Reactions

None of the 44 young women for whom the Children's Court found a prostitution offence proved during the period between July 1991 and June 1992 was committed to custody. Most (35) received a fine; a small number of cases was dismissed (Office of Juvenile Justice 1992, pp. 104, 107).

However, since the last death, increasing numbers of young women have been committed to juvenile justice custody. In January 1993 there were 11 young women in juvenile justice (detention) centres in New South Wales. Since that time, the numbers have risen steadily. By June 1993, 27 young women were subject to custodial orders. Only one of these young women was officially committed to custody for a prostitution offence (Office of Juvenile Justice, unpublished statistics, July 1993).

Despite this, the offences with which young women are presently being charged may include those related to prostitution. Official statistics give no indication whether this is the case because of the counting and ordering rules employed. (Court statistics indicate only the most serious charge for which an offence has been found. Prostitution offences are placed lower in the level of seriousness than, for example, break and enter offences or riding in a stolen vehicle (information from OJJ statistics officer, July 1993)). The conclusion that police may be arresting young (homeless) women for soliciting more frequently than was the case prior to January 1993 is almost irresistible. Further research investigating the available anecdotal evidence must be undertaken to examine this disturbing hypothesis. On the assumption that soliciting forms part of the background for the increasing numbers of young women in custody, then one can reasonably speculate that section 19 of the *Summary Offences Act 1988 (NSW)* is being utilised, together with the usual public order provisions such as offensive language and resist arrest, as easy and convenient justifications for interference in the lives of young women. The underlying justifications may have their source in a concern about young

women's engagement in unacceptable lifestyles, or possibly on the basis of an underlying assumption that they are homeless and in need of care. If this is the case, very little has changed in the official (paternal) response to the survival strategies of young women since the seventies. Then, the moral transgressions of young women were the most significant factor in decisions giving rise to state intervention in the lives of young women, whether these interventions were for care or criminal matters (Carrington 1989). Now, status offences, the route by which numbers of young women formerly entered the juvenile justice system, have been abolished (Blackmore 1989). But the underlying assumptions and justifications for the imposition of control orders on young women seem remarkably unchanged.

Young Women's Reactions

Most of the twenty or so young women sentenced under control orders at Reiby detention centre in April 1993 knew some or all of the young women who died. This information emerged from my discussions in early 1993 with juvenile justice centre official visitors and Community Youth Centre (CYC) workers. Not surprisingly, these young women claimed that they felt "safer" in secure custody than on the streets (*see* Saville 1992). Clearly, this information requires careful interpretation. Even if young women do consider that the only "safe" place for them is in a detention centre, this belief on their part provides little justification for increasingly punitive responses to young women on the part of police and magistrates, particularly when so many young women experience high levels of distress and engage in self-mutilation during their periods in custody. In the next section I attempt to move beyond this simplistic justification for control and management.

Readings of Young Women's Delinquency

Feminist analysis of the law-breaking of women and girls which utilises a social constructionist approach suggests that many young women subject to juvenile justice intervention can be characterised as "criminalised" rather than "delinquent" (*see* for example Maher 1992). Cohen (1988, p. 257) discusses the process of criminalisation as follows:

> Criminalization is a particular reaction to a defined social problem. The empirical question is: Under what conditions do certain people consider that a given conflict requires state intervention, and if it does, should this intervention take the form of criminal justice . . . ? The political question is why and how this preference becomes reality. The pragmatic question is, what do we gain by defining the problem in terms of crime?

Indeed, what do we gain by criminalising the survival strategies of young women? It is a familiar claim that only young women who have committed serious offences are currently held in secure custody. These "serious offences" may well be the result of acting out behaviour in welfare institutions or inappropriate foster placements, as suggested earlier. The practice of viewing such young women as (seriously) delinquent/criminal, and hence as, subjects for criminal justice intervention, reflects a failure to understand "the

structures, processes and relations that mediate individual agency in specific contexts" (Maher 1992, p. 153). If, in addition, any of these young women are now being held in secure custody for prostitution related offences, as suggested above, then, in effect, it is their survival strategies which are being criminalised. In addition to harms resulting from institutionalisation and other juvenile justice interventions such as arrest, remand and trial, the targeting of young women engaged in sex-work for arrest and incarceration may be rendering them more vulnerable within the context of the street economy. Possibly such targeting may be forcing them to engage in high risk practices in the context of sex-work and drug use which increase vulnerability to HIV infection. Research elsewhere has suggested that this is the case. We have little other than anecdotal information and the media to rely on in Australia to date (although *see* Davis 1993; Howe 1990).

Reports, Young Women, and Juvenile Justice Policy and Practice: A Brief Discussion of Recent Attempts to Reform Juvenile Justice in NSW

The following remarks are confined to the recommendations concerning young women to be found in reports on juvenile justice and on young women since 1985. The purpose here is to attempt to draw connections between the relative emphases on gender issues in the reports and the outcomes for young women referred to above. In some of the reports discussed below sex and gender *issues* are not thoroughly explored, even where extensive *recommendations* are made concerning young women. At one time the subsuming of young women into the broader and more superficially understandable category of "young people" was said to be justified because the number coming to official notice and being drawn into the net of juvenile justice was too low.

Currently, gender concerns cannot be said to be generally absent from reports or present policy and practice. However, the concerns tend to be focussed on issues arising in the custody of young women, with the emphasis on appropriate management. The more recent reports discussed below have succeeded in convincing juvenile justice personnel that, while few in number, young women constitute one of the groups with pressing needs which juvenile justice practice to date has failed adequately to address. Unfortunately, the focus on young women, while welcome as long overdue, may have the unintended outcome that more young women, rather than less, are drawn into the juvenile justice system, because of the narrow concentration on detention issues. Perhaps the available research findings and theoretical analyses of young women's delinquency in this country (for example, Alder 1986; Carrington 1989, 1990a, 1990b; Goodall 1990; Howe 1990) which suggest that preventive measures can be implemented to minimise the risks of criminalisation for young women, have not played a prominent part in the final formulation of the reports or current policy. This should not come as a surprise, given that traditionally, policy formulation in juvenile justice in Australia and elsewhere has occurred in an androcentric research context. Research findings based on male samples are generalised as applicable to females. Rarely are such generalisations tested for their

applicability to young women generally, and more rarely for their applicability to a multitude of diverse subgroups of young women.

Girls at Risk Report (1986)

This report drew on a range of feminist research evidence then available about young women and the results of the research carried out by the project team. It was not specifically concerned with young women in the juvenile justice system, but rather sought to explore the factors which contributed to the entry of young women into state care. The "central concern" of the project was to "give the girls a voice and to outline what girls in care and girls at risk see as their issues and concerns" (NSW Women's Coordination Unit 1986, p. 30).

Prepared by the New South Wales Women's Coordination Unit, *Girls at Risk* was published in 1986, and provided a detailed picture of the lives of young women "at risk", who were defined as those who "[were] homeless or living in untenable housing, . . . [who] had experienced or were experiencing physical, sexual or emotional abuse, . . . [or] were pregnant and unsupported or lacked adequate income and were unsupported" (NSW Women's Coordination Unit 1986, p. 28).

One hundred young women spoke with the project team about matters of concern to them. A distressing picture of violence, family break-up, constant moving, inappropriate placement and often unhelpful or negative contact with welfare agencies and the police emerged (NSW Women's Coordination Unit 1986). The report considered the relationships between family breakdown, sexual assault, homelessness, state care and delinquency for girls. It envisaged that the programs and policies recommended would go some way towards breaking this vicious cycle, by ensuring that the problems were addressed (rather than exacerbated through criminalization via juvenile justice intervention) *before* the risk faced by these young women materialized. The press release stressed that:

> . . . a girl who has left home because of incest should be helped to establish a new life before she leaves school and becomes vulnerable to drug addiction and prostitution (NSW Women's Coordination Unit 1986).

The report overwhelmingly succeeded in its central concern and remains the most detailed exposition of the lives of girls at risk in NSW, from the perspective of the young women themselves. Few of the recommendations in *Girls at Risk* were implemented.

Nonetheless, there is merit in the claim that the findings and recommendations contained in *Girls at Risk* remain pertinent to today's young women at risk. The specific young women may have changed, but the picture painted in 1985 has not faded. If anything, the picture has been magnified, particularly through the lens of increasing youth unemployment and the specific disadvantaged position of young women in the labour market, which, since 1985, has deteriorated alarmingly. The loss of full-time jobs has affected young women more markedly than young men (State and Territory

Youth Affairs Councils and Networks 1992). The scale of homelessness among young people generally remains high and continues to grow. Despite calls for adequate income support through the availability of immediate allowances for this increasing number of young homeless people (Human Rights and Equal Opportunity Commission 1989), the Young Homeless Allowance continues to require that strict and often unreasonable eligibility conditions be met. Consequently, it can be said with some degree of confidence that the dangers that young womens' survival strategies will be criminalised have increased since 1985, while the mechanisms to avoid such dangers remain to be established.

Kids in Justice (1990)

Four years after the release of *Girls at Risk*, the Youth Justice Coalition (YJC), a small group of youth workers, lawyers working with young people, and academics, initiated another research project. YJC's objective was to "independently review" the New South Wales system of juvenile justice. Their focus was on "the experiences and perspectives of the users of the system—primarily the young offenders and their families, as well as victims, members of the public, and community workers involved with them" (Youth Justice Coalition (NSW) 1990a, p. 1).

Kids in Justice dealt with five "key areas": the social context of juvenile crime and juvenile justice; the "system" of juvenile justice; the policing of young people; community based options; and detention centres. It is one of the most detailed analyses of juvenile justice systems produced in Australia to date, drawing on project research, in addition to research from other Australian and overseas jurisdictions.

The *Kids in Justice* researchers found that young women were "amongst the most distressed and resentful of all [their] respondents", and that:

> [a] higher proportion of girls than boys . . . had serious drug problems, for which there was little or no treatment available. Of the six girls from one detention centre interviewed by the project, two girls had mutilated themselves; one had been cutting her arm; [an]other had smashed a window and cut herself "for something to do" (Youth Justice Coalition (NSW) 1990b, p. 314).

Despite this the final report devoted comparatively little space to analysing gender issues. Few recommendations relating to young women were included. Only three of the 233 recommendations in *Kids in Justice* are specifically concerned with young women. These suggest the establishment of community based accommodation for girls on remand, pre-release and on parole, and a special detention centre for girls, with appropriate policies and programs. The third recommendation is that, where a detention centre holds girls (and boys), the ratio of men and women on staff should be proportionate to the number of males and females held in the centre. All of these recommendations concentrate on requirements for girls *within* juvenile justice practices. All three are directed towards detention. None consider how to address issues surrounding the entry of girls into the juvenile justice system.

Kids in Justice succeeded, more than any previous report, in getting juvenile justice on the political agenda in New South Wales. The energy with which those involved in preparing the report publicised its "findings" in the media and actively and persistently lobbied politicians to move on their recommendations contributed to this outcome. The project had been funded by the Law Foundation, whose director had strong links with the Law Society and key government figures. Many recommendations, particularly those concerned with the formation of committees within cabinet, separate bureaucracies, and advisory bodies, were capable of immediate implementation without fundamentally changing the practice of juvenile justice. Nonetheless, while juvenile justice was on the (political) agenda, the fact remains that little consideration was given, by lobbyists, politicians, or public servants, to the importance of investigating the ways in which young women enter the juvenile justice system and the outcomes of their experiences within juvenile justice, despite the fact that one of the primary impetuses for change in juvenile justice was the deaths of some young women who had been subject to juvenile justice intervention. The concentration on issues arising in the treatment of young women within juvenile justice practices, particularly detention, narrows the domain of action to those aspects where control practices can be more easily adjusted. To seek to remedy criminalisation practices involves political choices which may be unpalatably difficult.

Social Issues Committee Report (Standing Committee of the Upper House of the NSW Parliament) 1992

The announcement of the Social Issues Committee's reference on juvenile justice was a further response to concerns about the state of the juvenile justice system. Yet another inquiry was considered necessary—this time by the Parliament itself!

The Social Issues Committee commenced hearings for its reference on juvenile justice just prior to the release of *Kids in Justice* in 1990. This work was suspended for some months when Parliament was prorogued after the calling of an election. The hearings recommenced in late 1991, were completed by early 1992 and the report was released in May of that year (Standing Committee on Social Issues 1992). This Committee received numerous representations stressing the need to consider young women's issues. Consequently, some time was spent investigating these issues. Young women who had been subject to juvenile justice intervention and those who had been or were working with similarly situated young women, were among those who gave evidence at Committee hearings. *Girls at Risk* was part of the research material which the Committee examined. Importantly, the Committee considered that, together with Aboriginal people, people from non-English speaking backgrounds, and rural young people, girls were among:

> [t]he most pronounced groups which are either disproportionately represented, or have a set of needs which sets them apart from the bulk of the juvenile justice population (Standing Committee on Social Issues 1992, p. 21).

The committee made 134 recommendations, many of which concerned young women. Some simply reproduced unimplemented recommendations from *Girls at Risk*. By taking up such recommendations, the Committee overtly recognised and reiterated the need to establish services outside the immediate domain of juvenile justice practices which would ensure that girls who were unable to remain at home because of violence or abuse were provided with accommodation and programs designed to meet their specific needs (Recommendations 4 and 5). They recognised the importance of an effective voice for girls at the policy level by recommending that the Policy Officer (Girls) position, recommended in *Girls at Risk*, implemented and then abolished in a departmental reshuffle (Moore 1990), be re-established within the (then) Office of Juvenile Justice (Recommendation 12). The crucial issue of means of entry into the system is reflected in the recommendations that police and magistrates should be specially trained to develop specific skills for working with young people (Recommendation 102). Ways in which the damaging effects of juvenile justice intervention can be minimised were also considered. A fostering scheme for both remanded and sentenced young people was suggested (Recommendation 116). Recommendations were made about sentencing options, and policies and programs within and as adjuncts to detention centres (Recommendations 76-85; 102-3).

The Committee thus recognised that the needs of young women were not confined to management or treatment within detention centres but that preventive action could be taken to minimise the possibility of criminalisation. The recommendations directed towards police training also recognised that overt action is required to reverse the negative behavioural trends apparent in the work of some police officers with young women.

Green Paper on Juvenile Justice (1993)

Two of the most significant "bureaucratic rearrangements" implementing recommendations in *Kids in Justice* were the creation (in 1991) of a separate office, the Office of Juvenile Justice (OJJ), within the portfolio of the Minister for Justice, and the establishment of the Juvenile Justice Advisory Council (JJAC). The JJAC is composed of a range of "experts in juvenile justice", whose brief is to advise the Minister on juvenile justice issues. One of the first tasks carried out by the JJAC at the request of the Minister was the preparation of a Green Paper, *Future Directions for Juvenile Justice in New South Wales* (1993). The Green Paper was the result of work over many months by a variety of working parties convened to consider the formulation of recommendations on specified areas of juvenile justice. The parties were directed to consider the recommendations contained in *Kids in Justice*, and recommendations made in previous reports which had touched on juvenile justice issues. The previous reports included the National Report of the Royal Commission into Aboriginal Deaths in Custody (1991), the report of the

Standing Committee on Social Issues of the New South Wales Legislative Council (1992), and the Human Rights and Equal Opportunity Commission reports of the National Inquiry into Racist Violence (1991), and the National Inquiry into Homeless Children (1989), but did not generally include *Girls at Risk*.

The document was released by the Minister for public comment, after some delay during which the recommendations were costed, in February 1993. The result of this costing exercise has not, to my knowledge, been released for public scrutiny.

A Charter of Principles for juvenile justice in New South Wales is set out at the commencement of the Green Paper. This contains the "key principles" said to "underpin the juvenile justice system in New South Wales". These principles recognise the primary importance of prevention, diversion and reintegration, emphasise that detention should be a last resort measure, and call for the development of a "comprehensive range of pre- and post-release services" for young offenders. The principles acknowledge that specialised programs and services are required to address the "unique requirements and special needs" of young women (Juvenile Justice Advisory Council of NSW 1993, pp. 5-6).

This acknowledgment is somewhat curious, given that the JJAC did not establish a separate working group to consider, report on and make recommendations about the treatment of young women in juvenile justice. *Kids in Justice* and, more obviously, the Social Issues Committee's report, had stressed that young women were a group with "a special set of needs". This finding called for the establishment of a separate working party on young women to consider how to meet these needs. Admittedly, there are rarely more than 25 young women out of a total of around 400 young people in custody at any one time. A mere one-fifth of the young people subject to juvenile justice intervention between July 1991 and June 1992 were young women (Office of Juvenile Justice 1991/92). Nevertheless, the small proportion represented by young women of the total numbers of young people in detention centres and the juvenile justice system does not provide a compelling justification for the lack of a special working party to consider issues surrounding young women's involvement in the juvenile justice system when their needs have repeatedly been identified as urgent. In contrast, and properly, given the high proportion of Aboriginal young people in detention centres—over 20 per cent in 1992 (Juvenile Justice Advisory Council of NSW 1993, p. 218)—the interests of Aboriginal young people were clearly addressed by a separate working party which ensured continued emphasis on these special needs, not only in a separate chapter but throughout the Green Paper. (However, it should be noted that no distinction is made between Aboriginal young people and Aboriginal young women. These two sets of young people do not necessarily constitute mutually inclusive categories. (*See*, for example, Goodall (1990) and Carrington (1990b)).

Twenty-three of the 429 recommendations of the Green Paper specifically concern young women. Others are impliedly applicable to young women. These twenty-three recommendations, particularly those on programs within detention centres, draw heavily on the recommendations contained in *Girls at Risk*. This is not surprising, since the working party on sentencing options

was specifically instructed to consider *Girls at Risk* in formulating its recommendations. The source of these recycled recommendations could equally be said to be the Social Issues Committee report, available to all working parties.

While the first "key principle" of the Green Paper recognises the importance of "crime prevention" generally, no recommendations in the chapter on crime prevention refer specifically to the preventative programs for young women recommended by the Social Issues Committee and *Girls at Risk*. I have previously noted that the latter recommendations were directed towards the provision of drug and alcohol programs, housing programs, education, improvement in the nature of police contact and so on. They were measures designed to ensure that young women who had been forced to leave home had the opportunity to develop the skills and resources to establish new lives *before* they left school and became vulnerable to drug addiction and prostitution. The Green Paper's chapter on crime prevention has some sensible comments on the nature and causes of juvenile crime, talks broadly about the establishment of bureaucratic and community structures for crime prevention and makes recommendations which, if implemented will improve cooperation between relevant state government agencies in the "development, implementation and monitoring of juvenile crime prevention strategies" (Juvenile Justice Advisory Council of NSW 1993, p. 85).

However, the overt recognition of the importance of measures directed towards the minimisation of the possibility of criminalisation of young women found in both *Girls at Risk* and the Social Issues Committee report is lacking in the Green Paper. The bulk of the recommendations specifically about young women in the Green Paper are directed towards programs to be established in detention centres *after* the young women have been subject to the processes of criminalisation. Chapter 3 of the Green Paper, "Juvenile Entry into the Juvenile Justice System" largely concentrates on police practices concerning juveniles. It is pleasing to note, however, that one recommendation in this chapter recognises the need for police training in understanding the special needs of young women in an interview situation. The Green Paper contains little discussion focussed on the ways in which young women enter the juvenile justice net. These omissions may well have been remedied by the presence of a specific working party on young women, given the interactive process undertaken in the preparation of the Green Paper. Each working party was required to comment on the drafts from all other working parties and these comments were incorporated into the final version of the document.

Recycled Recommendations?

We have seen that both the Social Issues Committee report and the Green Paper repeat many of the recommendations from *Girls at Risk*, but that only the former overtly addresses the risks of criminalisation of young women through juvenile justice intervention. Only the former acknowledges, by reference to *Girls at Risk*, that these risks are different for diverse groups of young women and young men. Unless the forthcoming White Paper

acknowledges these differences and outlines the steps necessary to implement strategies to minimise these risks, then the outcome of this present "reform" process, at least where young women are concerned, may well be a perpetuation of the present problems.

Gender Issues Within the Process and the Outcomes of Report Writing

This section briefly sketches some of the gains and losses for women which were connected with the production of two of the above reports, *Kids in Justice* and the Green Paper. Connections are then drawn between gains and losses directly attributable to processes or outcomes, and possible gains and losses for young women in the juvenile justice system.

A number of women participated in the *Kids in Justice* project. The research included interviews with young women in and outside of detention centres. A position paper reflecting the observations from this part of the research was prepared by the project coordinator. These observations suggested that young women were victimised as well as criminalised within juvenile justice processes. This material warranted more than mere inclusion in the final report (add women and do not stir?). Any thorough analysis of "the system" would surely reflect the gender biases, in addition to the race and class biases which research implicates as inherent in juvenile justice policies and practices. Whilst this argument was generally accepted by the steering committee, the final report included only one small section on gender issues. Gender issues were not incorporated into the analysis in every part of the report. Consequently, a major failing of the report is that it contains no discussion or analysis of the applicability to young women of findings based on male research samples. For instance, the application of the asserted link between unemployment and crime to women has recently been challenged (Alder 1986; Naffine & Gale 1989). I know of no research testing the assertion that young people "grow out of crime" with young female subjects.

The formation of the JJAC and the preparation of the Green Paper were not accomplished without some compromises. In particular, requests for inclusion in the working parties from some community groups who were concerned that the interests of young women would be marginalised were refused. The outcome is described above. At present, no member of the JJAC specifically advocates for the concerns of young women.

One reading of these responses is that the processes and procedures utilised in formulating reports and the responses to recommendations designed to ensure that the interests of young women are considered in every instance of juvenile justice intervention, are themselves reflective of the shifting knowledge/power relations between men and women generally, and of the negative outcomes for young women in juvenile justice interventions specifically.

Further, the unproblematised presentation in recent reports of young *people* (and, although differently, Aboriginal young *people*) as an aggregate category, "devoid of specificity, context and particularity" has continued the tradition of constructing an essentialist analysis of juvenile justice, based on

"theories, paradigms and accounts of male 'crime'" (Maher 1992, p. 153). By failing to incorporate gendered understandings into juvenile justice recommendations, policies and practices, report writers, politicians and bureaucrats with the power to implement reports contribute to the perpetuation of (mis)understandings about the nature of criminalisation/ delinquency in young women, reinforcing dominant paradigms which present juvenile justice policy formation and practice as androcentric—de-gendered, de-classed and de-raced. The consequences include continued harm to young women.

Concluding Remarks

Girls at Risk drew on empirical and other research information available at the time, was based on extensive consultation with young women, and was grounded in the contexts of their daily lives. This project was fundamentally concerned to give these young women "a voice". However, is it justifiable, eight years on, to continue to reproduce (and misplace) their recommendations? Can we assume that the "little sisters" of the original *Girls at Risk* remain the "little sisters" of today? Do young women today speak in the same voices? Are they similarly positioned within a similar cultural, political and economic context?

The answer is probably no. But more research needs to be done. Certainly, the young women of today face multiple risks; not only the criminalisation of their survival strategies and marginalisation of their issues in the processes and outcomes of reform exercises, but also the possibility of premature death hastened by subjection to juvenile justice practices, as illustrated by the stories set out in the second section of this paper. Since *Girls at Risk* was published much good feminist work has been undertaken in Australia on, for example, prostitution (Allen 1990; Perkins 1991), and we also have more information on child sexual assault and violence against women. All this work was available and could usefully have been drawn on in the preparation of the Green Paper.

We do know that, for the most part, the structural variables identified in *Girls at Risk* remain unaltered, and that violence, poverty, homelessness in the lives of young people generally have worsened. What we cannot yet state with any degree of certainty is the relationship, if any, between these variables and the criminalisation of young women.

Nonetheless, the recommendations in *Girls at Risk* remain valid, since they were grounded in a feminist framework which presupposed a recognition of the need for fundamental shifts in gender relations—especially as they affect the gendered/sexed nature of violence, homelessness and poverty.

Even if these recommendations specific to young women remain valid, their adoption as they appear in the Green Paper is doomed to failure, because they have been removed from the context of the feminist vision in which they were made. To reiterate, until juvenile justice policy and practice specifically acknowledges the multiplicity of gender, together with class and race, issues intersecting this field, young women will continue to be criminalised by these very policies and practices. Until the dominant

power/knowledge paradigm is successfully challenged in the processes of preparing and presenting reports, there can be little hope that this will occur.

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