

## **The Australian Criminal Justice System**

**The Mid 1990s**

**edited by Duncan Chappell and Paul Wilson; Butterworths, North Ryde, 1994; 327 pp; \$65.00.**

*The Australian Criminal Justice System* first appeared in 1972. This is the fourth edition with a new collection of articles covering a range of issues about crime and criminal justice in Australia. The topics include: trends in crime; crime prevention; juvenile justice; women; and sentencing. One pleasing aspect of the book is that discussion of the relationship between indigenous people and the criminal justice system finds its way into several chapters other than the 'designated' one.

The chapter by Lincoln and Wilson, 'Aboriginal Offending: Patterns and Causes', deals specifically with indigenous issues. It provides a brief but comprehensive review of the criminological literature in the area. The chapter presents a summary of imprisonment rates, types of offences for which Aboriginal and Torres Strait Islander people are charged, sentenced and imprisoned, and an overview of juvenile justice issues. The writers then discuss 'hidden rates of crime' where they draw attention to issues relating to domestic and other forms of violence within Aboriginal communities. In the section on 'Theories of Aboriginal Offending', the discussion focuses on various explanatory models, including 'racism and discrimination', 'history of colonisation and oppression', 'crime as resistance', and 'cultural differences'. All this is fairly well-worn territory for anyone working in the area. However, the chapter is certainly useful as an introductory overview to the material. One positive aspect is that the writers take the time to state categorically that they are not presenting the material in the context of 'an Aboriginal problem: instead it is one of professional accountability and of non-Aboriginal criminal justice methods and processes' (p.62). The chapter concludes with a brief discussion on the need for self-determination and a reference to the role of 'family group conferences'.

It is unfair to criticise Lincoln and Wilson for not seriously looking at the implications of 'family group conferences' for Aboriginal people in what is

essentially a short overview chapter. There is also a brief discussion of 'family group conferences' in the chapter 'Trends in Juvenile Justice' by Naffine and Wundersitz, but not within a context which provides any real depth or critique.

However, in my view, it is imperative that Aboriginal organisations look carefully at what is being offered with the current 'flavour of the month' in juvenile justice reform. The official popularity of 'family group conferences' and the speed with which they are being introduced is enough to ring alarm bells. A real difficulty is whether the state-defined and controlled mechanisms, introduced without consultation, will in reality undermine processes of self-determination at the community level. This, of course, is precisely the opposite outcome to what the official rhetoric is suggesting. Yet the danger is that family group conferences will become another 'community' justice mechanism which is imposed and con-

trolled from above and in a form which Aboriginal people are supposed to accept. And if the process fails, it will no doubt be seen to be the fault of Aboriginal communities.

More fundamentally, the philosophical and political assumptions underpinning discussions about 'restorative justice' and 'reintegrative shaming' need careful deconstruction. These terms are being applied to processes such as 'family group conferences' which have been designed outside of the political, social and cultural world of indigenous people in Australia. Yet they are being held up as solutions to the 'problems' of Aboriginal people in the criminal justice system. How convenient. And how utterly devoid of a commitment to the principles of negotiation and self determination.

These comments on 'family group conferences' are, of course, tangential to a review of Chappell and Wilson's book. The book itself more than adequately fills the task of providing a current overview of relevant issues in contemporary criminal justice administration.

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## **Australian Criminal Justice**

**by Mark Findlay, Stephen Odgers and Stanley Yeo; Oxford University Press, South Melbourne, 1994; 374 pp; \$39.95, softcover.**

It has been a decade since I first selected the Peter Sallmann and John Willis text, *Criminal Justice in Australia*, as the preferred reader for the criminal justice class which I introduced to the former South Australian CAE in 1985.

As it became dated I struggled to find another text that covered the areas I wished my classes to explore. It needed to be an introductory text, expressed coherently and logically, and free of jargon and legalese.

I toyed with the idea of using Elizabeth Ellis' 1988 book written in conjunction with the New South Wales Bureau of Crime Statistics and Research, *Thinking About Crime and Justice* but it was designed to be, essentially, a legal studies text, useful at

the high school level but not for tertiary students.

The various Duncan Chappell and Paul Wilson volumes that make up *The Australian Criminal Justice System* series (Butterworths) had the same problem as the Pluto Press *The Criminal Injustice System* series, the 1983 Allen and Unwin, *Issues in Criminal Justice Administration*, and Law Book Company's *Understanding Crime and Criminal Justice* (1988). That is, the publishers tossed together a range of issues that followed no logical sequence and were chosen for no other reason, often, than they were the current study interests of the writers selected as contributors by the editorial staff. I have no criticism of that style, other than to say that it does not suit students or lecturers