Project title: Naming and Shaming of Indigenous Youth in the Justice System: An Exploratory Study of the Impact in the Northern Territory

Prepared for: Australian Institute of Aboriginal and Torres Strait Islander Studies

Prepared by: Duncan Chappell and Robyn Lincoln

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REPORT SUMMARY

International Principles

1. Juveniles have had long-standing protection against identification in the justice system including publication of their names and identifying features in the mass media. This has been a practice internationally for decades and is supported by the United Nations Convention on the Rights of the Child 1989 which Australia ratified in December 1990. This convention is incorporated into federal law as a part of the responsibilities of the Human Rights and Equal Opportunity Commission (HREOC). In addition, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) render severe restrictions on the publication of any information which would identify youths found guilty of a criminal offence in the juvenile jurisdictions.

2. With the noted exception of the Northern Territory each Australian State and Territory, as well as the Commonwealth, has enacted privacy protection measures in their respective juvenile justice legislation which meet these standards, and attach related penalties for those who breach such protections. In contrast, in the Northern Territory the principle of open and transparent justice prevails, and unless a suppression order is made by a court the reporting and publication of any details of juvenile justice proceedings is in general permitted.

Research Study and Context

3. This report presents findings from a recent study conducted in the Northern Territory of the nature and impact of this open access to justice approach upon those young persons most affected by it, namely young Indigenous offenders who represent the overwhelming bulk of those appearing in the Youth Justice Court in that jurisdiction. The study has been made possible by a research grant awarded by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), and through the generous assistance and support of the North Australian Aboriginal Justice Agency (NAAJA) as community partner.

4. The study comes at a time when a number of Australian jurisdictions are either considering or have introduced new legislative initiatives designed to remove many of the privacy protections previously given to young offenders.
These initiatives have at their root the desire to ‘name and shame’ such offenders. In New South Wales this issue was recently the subject of a legislative inquiry (NSW Legislative Council 2008) commissioned by the then Attorney General to examine whether these protections should continue. The Committee unanimously recommended that they should — a recommendation which was accepted by the then NSW Government. The Committee noted the lack of research on this issue, and especially that related to its impact. Among its recommendations were uniform laws to ensure that Australia meets its international obligations on this matter.

5. Against this background, the present project provides contemporary research information regarding the impact upon young people of being named in public media fora within the Northern Territory in tandem with its first remit, namely that of documenting the patterns of such public reporting of youthful Indigenous offending. It is hoped that the research will inform public policy and law reform on this important and timely issue for justice systems throughout the country. It is an issue of special relevance given the frequency with which the concept of ‘naming and shaming’ is held up as a panacea to youth crime. It is also of particular significance to Indigenous youth since they are disproportionately affected in the Northern Territory as elsewhere because of elevated levels of contact with the justice system.

**Literature, NSW Inquiry and National Legislation**

6. There is a lack of literature on this topic. While there exists material that examines the international provisions from a legal perspective, and there is a growing body of work on the concept of ‘shaming’ there are no known works that capture directly the impacts caused by the public identification of youthful offenders. By far the most extensive survey of the issues surrounding the publication of names of children involved in criminal proceedings is contained in the 2008 NSW Legislative Council inquiry.

7. The origins of this inquiry can be linked directly to a decision of the NSW Court of Criminal Appeal (NSWCCA 2006). In an unprecedented case, the Fairfax media organisation made application to have a name suppression order removed on two juveniles and their co-offending adult siblings. The prohibition on publishing their names meant that they could only be known by their initials. In a unanimous decision the NSWCCA rejected the application on jurisdictional
grounds but noted that ‘the heinous nature of the systematic course of conduct indicates that this is an appropriate case in which the additional element of public shaming could fulfill the function of retribution and also the function of general deterrence that criminal sentences are designed to serve’.

8. This case generated massive media coverage ranging well beyond the borders of NSW. It was in these circumstances that the then NSW Attorney General referred the entire question of what should be the nature and scope of the current prohibition on the publication of names of young persons under NSW law to the Standing Committee on Law and Justice of the NSW Legislative Council.

9. In its report and recommendations the Committee expressed its support for the international principles and practices which affirm the belief that young people should be dealt with differently from adults and these differences should be reflected in a nation’s system of juvenile justice. In Australia this system is of course fragmented as a result of our federal structure but with noted exceptions, like that of the Northern Territory’s open access to juvenile justice philosophy, most young offender laws are generally consistent with these international norms and practices.

**NT Youth Justice Act (YJA) 2005 and Case Law**

10. The principal legislation, as amended, relating to the administration of juvenile justice in the Northern Territory is the YJA 2005. In the NT a youth is deemed to be ‘a person under 18 years of age’ and if the context requires ‘includes a person who committed an offence as a youth but has since turned 18 years of age’ (YJA S.(6)). It is worthy of mention that in all other Australian jurisdictions, with the exception of Queensland where it is 17 or under, the relevant age of a youth also extends to those who are under 18 years which is in accord with the international principles.

11. The YJA requires that all proceedings under the Act ‘against a youth must be held in open court’ (YJA S.49 (1)). An exception to this rule may occur, however, ‘if it appears to the Court that justice will be best served by closing the Court’ (S.49 (2)). It should be noted that it was not always the case that criminal proceedings involving young persons were conducted in open court. The history relating to this particular provision was considered in some depth in the
Northern Territory Court of Appeal (NTCA) decision of *MCT v McKinney & Ors* (2006).

12. The circumstances in which a court may decide to close proceedings involving a juvenile were also considered in some detail in MCT. In that matter the appellant had plead guilty in the Darwin Youth Court and been sentenced in respect to a number of charges, the most serious of which involved stealing and using violence resulting in a penalty of six months detention fully suspended immediately on condition that he be of good behaviour for 18 months and reside with his aunt. At the time the appellant was 15 years of age. Following this disposition counsel for the appellant made an application to the presiding Chief Magistrate for suppression of his name and image from publication.

13. The Chief Magistrate issued a suppression order but only for the most serious of the charges of which he had been convicted. MCT subsequently appealed against the failure of the Chief Magistrate to prohibit the publication of his name and image in regard to the remaining matters while the prosecutor cross appealed against the decision to suppress these details in relation to the most serious conviction and sentence. The matter ultimately reached the appeal court which concluded that: ‘Publication of the appellant's name or any identifying material, even with respect to the less serious offences, has the potential to be detrimental to his employment prospects and to adversely affect his rehabilitation. There is also a risk that such publication may have psychological consequences’ (MCT: paras 28-32).

**Practice Direction for Child in Need of Protection**

14. Reference needs to be made to the situation involving children who in addition to coming before the youth court on criminal charges are also the subject of child protection proceedings. Section 97 of the Care and Protection of Children Act (NT) makes it an offence for anyone to publish a report or the results of any proceeding under the Act if that publication has not been authorised 'by the Court or any law in force in the Territory'. Section 301 of the same Act also makes it an offence to publish any material that might identify someone who is a child in care and protection, or for whom application for care has been made. To give effect to these provisions the Chief Magistrate issued a Practice Direction in 2008.
Research Design

15. This exploratory project was designed to address a lack of knowledge about the impacts of the provisions in the Youth Justice Act relating to the identification of young persons involved in youth court proceedings. The study originally had three general methodological components: a content analysis of *NT News* newspaper articles where a young offender had been publicly identified, and where feasible coverage in the electronic media; interviews with key stakeholders; and an analysis of a selected sample of up to five cases where young people have been identified in the media. As the study progressed some minor modifications were made to this methodology including a decision to include observations of Youth Justice Court proceedings in Darwin and Katherine. Our entire study was greatly facilitated through the advice and assistance provided by our community partner NAAJA.

Ethics

16. Ethical clearance to proceed with the study was granted by the Bond University Ethics Committee in February 2010. There were attendant ethical dilemmas in how to present information in this report, and we have elected to render names of youth only as initials. This decision was taken on the basis of the protection of youthful offenders’ identities in accordance with international provisions, to prevent identification of such youth involved in criminal proceedings in perpetuity, and with cognisance that some young people named may now be deceased and thus there is a need to respect Indigenous customs.

Methods

17. Two extended field trips were made to the Northern Territory in February 2010 and again in February 2011 during which time the principal investigators liaised with their community partner, NAAJA, conducted observations and undertook qualitative interviews with key stakeholders as per the grant application. In addition one of the principal investigators conducted interviews in Alice Springs in September 2010. The media analysis was conducted largely using electronic databases but during the 2010 field trip searches of the microfilm repositories of back issues of the *NT News* held at the NT State Library in Darwin were carried out for 2005, as well as specific searches on named youth already discerned from earlier work.
Limitations

18. A number of difficulties in executing the research design were apparent. Severe restrictions were encountered in conducting electronic database searches because of the uncertain nature of search engines. Our media analysis strategy also largely failed to take broadcast media into account because of resource constraints. However, all the evidence suggests that the _NT News_ in particular, and the print media in general, still tend to set the agenda in the Territory and are certainly most likely to be implicated in publication of young people's names. Further, while it was not within the remit of the current study to explore the implications of online reporting directly, this is an area requiring further investigation.

Observation Data

19. The observational part of the study was not envisaged in the original research design but it served as an invaluable means of making contact with court and legal agency personnel as well as providing a rich source of data regarding the daily operations of the youth court. A key finding was that the court was closed on a regular basis because welfare matters were involved.

20. Observation sessions revealed the fact that young people involved in criminal proceedings are regularly identified in court lists pinned onto noticeboards outside the courtrooms in the main public lobby area. The youth court list simply followed that of the adult court. Full names and all details of the charges are given. The same information is available publicly on the Department of Justice website (see Appendix F).

21. There appeared to be a great of legal jargon spoken that was potentially incomprehensible to young people. Judicial officers seldom seemed to take the time and display the patience required to explain aspects of the proceedings to young people in simple and understandable terms. Some judicial officers do specialise in juvenile matters in the NT but youth matters can be heard by all the magistrates and there were clearly different approaches among the presiding judicial officers that were observed.

22. Prosecution in the juvenile court is done by police in uniform with sometimes more than one officer present at one time in and outside the youth
court. We witnessed no media present that we could identify at any time at the observed court sessions. Certainly there were no reporters present inside the youth court, and nor were there any general member of the public.

**Media Analysis**

**Search Problems**

23. The main task was to develop the most appropriate methodology for searching relevant media sources in order to extract articles pertaining to the ‘naming and shaming’ of Indigenous youth in the Territory. The search focused on youth under the age of 18 who had been apprehended, convicted or sentenced for crimes beginning from August 2009 and extending to 6 September 2000. The Bond University Library provided access to the Australian media database known as Factiva, and the *NT News* website was also used.

24. There were many problems in conducting these electronic searches. For example, if there were cases where a young person was named, it was not always possible to determine whether that young person was Indigenous or not. This was especially the case as this was a text-only database and so no photographic material was available. It was also complex in trying to determine the age of a suspect of convicted offender at the time of the relevant offence given the protracted nature of legal proceedings. There were many articles that discussed offending by 18 and 19 years olds who were rightly referred to as ‘teens’ or ‘teenagers’ but clearly they are no longer legally juveniles. A paradox was that it would have assisted greatly if the names of the young people involved were known as those could have been entered as search terms. Even conducting a search on ‘name suppression’ yielded no articles relevant to the present study.

**Electronic Database Search Results**

25. All articles referring to juvenile crimes were committed by males, the majority of whom were between the ages of 16 and 17. Articles were deemed relevant if youth under 18 were named, arrested, charged, and/or sentenced for a crime. Most youth were arrested, charged, and sentenced by the time the article was published. Stealing was the most common offence (14) followed by assault (9) and aggravated assault (7) with most other offence types having a single instance (e.g. underage drinking, attempted murder, disqualified driving). Many youth were charged with more than one offence. More media attention was given to serious crimes against the person (e.g. grievous harm, manslaughter, robbery)
as these comprised over half of the articles yielded from the search. A key observation to emerge from this electronic search was that certain individuals did attract sustained media attention. There were nine youthful offenders who were named in more than one article.

Microfilm Data Search Results
26. A direct search was conducted of the NT News held on microfilm at the NT State Library at Parliament House in Darwin for the selected year 2005. The main aim was to seek articles where young people were named in connection with offending, but as a sampling frame all articles that contained any references to youth offending in general were included. A total of 213 articles about youth in were located with 79 (37%) of these deemed ‘relevant’ ie this was for the main category where there was 'naming and shaming' specifically. The other articles which were deemed 'not relevant' fell into the following coding categories were: suppression issues in general eg the Collins case was mentioned; youth crime but not specific case or not identifiable as involving those under 18 years; crime in general or Indigenous specific but not always youth, political type items; and interstate or international cases.

Interviews Data
27. Twenty five open-ended interviews with key stakeholders (see Appendix B for interview schedule) were conducted in February 2010 and February 2011 in person by the principal co-investigators in Darwin, Alice Springs and Katherine. Each session was digitally recorded with the consent of the interviewees and these recordings were transcribed in full. Based on these transcripts a thematic analysis was then conducted and six key areas emerged.

Media Focus on Youth Crime
28. The respondents suggested that there was a significant, sustained and sensationalised coverage of crime in the Territory. In particular they reported an ongoing propensity for the media to focus on youth crime especially. An interviewee (who was a representative from the media) conceded that even though the incidence of serious violent crime had been reducing there was a tendency to embellish crime figures or ignore the decreases in offending rates.

29. Most interviewees at some point offered negative comments about the local daily newspaper — The Northern Territory News. One described the paper as
‘archaic’ and observed that ‘one of the most disturbing things about this whole area is the idea that the welfare of young people could be in the hands of the NT News’. There was a view that ‘the NT News is really against juveniles ... they don’t have a lot of sympathy for any of these kids.’ In the opinion of interviewees the NT News only included ‘information ... that will hype the story and sell papers’. As a result some interviewees said that if a ‘serious response’ were warranted then they would rather approach the ABC and that ‘some of the commercial radio stations are fantastic in their support for publicising real issues’.

**Infrequent Naming**

30. There are surprisingly few cases where youth are named in the print media and even fewer are identified in the electronic media. There are several reasons for this, most of which revolve around practical considerations where print media journalists do not regularly sit in youth court, and radio and television reporters rarely attend justice proceedings at all. Media practices have changed partly as a result of technological changes in the form of digital recordings of hearings, so that when there is an ‘interesting’ or ‘high profile’ case, journalists are able to listen to the matter in the media room at a time that is convenient to them.

31. There was broad consensus that ‘even though there was a right to publish, the press didn’t do it’. Participants alluded to a kind of unwritten ‘agreement here that they wouldn’t do it’ and in this way it ‘saved a lot of young people being identified’. There were also policy constraints, for example, that ‘the ABC has a policy that they do not name juveniles ever’. Some legal and welfare practitioners also noted that many young people are diverted before they go to court and so this means that the naming provisions and practices do not really affect them. The interviewees however said that ‘if they get a case that has become their issue as well’ then this leads to extensive coverage.

32. A somewhat unexpected observation was that there is a possible interactive effect between excessive media attention and name suppression applications. For example, a magistrate observed that about two to three years ago ‘there were quite a lot of applications for the suppression of names or details, at a time when there seemed to be quite a lot of reporting’. Despite the capacity to suppress names under the Youth Justice Act, most participants concurred that it was ‘prima facie for publication’.
33. A further unanticipated but very important finding gleaned was that ‘defacto protections’ against naming exist because many appearances and hearings in the youth court are closed. This is because of provisions in other legislation, namely when youth are under care and protection of the department, then the details cannot be made public. As noted by many interviewees, there would be many occasions when a youth court would be closed because of welfare issues and the discretion to close the court would be exercised.

**Lack of Detail and Context**

34. A key claim by interviewees was that there is little media attention on the Youth Justice Court overall, and where there is media coverage it tends to lack detail, lack context, be superficial and is presented in a sensationalised style. In fact some disquiet was expressed by some participants that the media showed very little interest in juvenile justice proceedings at all and that the upshot of this was a negative outcome. It was as if ‘no-one gives a toss’ as reported by one interviewee. It was deemed that ‘the media only ever turned up to court when there was a cause célébre, yet sometimes we have good stories, great stories’.

**Inconsistent Treatment**

35. Whether a young person is named or not is dependent on many extraneous factors such as presence of journalists, salacious nature of offence, and competing stories. There is also the cyclical nature of focus on youth crime and naming in particular. There was a perception that the naming of young people was worse in the late 1990s and early 2000s during the peak of enforcement of mandatory sentencing in Central Australia at least ‘where people’s names were published left, right and centre all the time’. Certainly there was the view that the naming of youth runs in peaks and troughs where it can be encouraged by political attention or amplified by a particularly serious youth crime offence.

36. This characterisation of ‘great unevenness about the open court policy and the open publication policy’ was also reflected in regional differences. First there is the fact that young people particularly in Darwin and Alice Springs are much more likely to have their names and details reported in the paper than any young person out in a remote area, ‘because the journalists aren’t out there and so they don’t know what is going on out there’. Several interviewees claimed that there were ‘matters in remote areas that would make great fodder for the media but of
course they never hear about it, and so there is a great unevenness about the way in which young people’s matters are reported.’

37. The vagaries are also displayed in significant differences between magistrates where some are more open to applications for suppression and others take more convincing and still others almost never grant the orders. Uneven treatment can arise too when there are stakeholders with media contacts, for example, one crime victim said that ‘they didn’t hand down a severe enough sentence and having the media contacts which we did at the time … [we] set up a few interviews and I went and voiced my thoughts and quite forcefully so after what had happened’. There were also several prominent cases where youth were named and then details suppressed later and still their names generally appeared on the public listings so there is never blanket suppression even where suppression is granted. Inconsistency therefore arises when a juvenile is named (or not) and then at subsequent hearings is not named (or is).

**Indigenous Focus**

38. With respect to differential impact between Indigenous and non-Indigenous youth one interviewee reflected the views of others by noting that ‘it is very hard to tell’. Overall there was little direct evidence from interviewees about differences in media treatment. For example as noted above, if Aboriginal youth are from remote centres then it is likely that there will be scant media attention because of sheer logistics. However if they are living in major centres or in Darwin city then there is a greater scope for media coverage. So in this way the media naming of youth can be both underplayed and overplayed. What interviewees did raise though was that with multiple charges there was always potential ‘to be targeted by the NT News’. Many informants also noted that some families are ruthlessly singled out with the same photographs published on many occasions and that this kind of treatment impacts on subsequent police treatment of the families.

**Views on Naming and Shaming**

39. An unexpected finding was that some interviewees were not fully aware of the provisions under the YJA 2005 ‘that you could name people in the juvenile courts’. Even those who worked in the criminal justice system were not overtly conscious of the specifics of the naming legislation for young people. For example, one police prosecutor was unaware that the NT provisions were different from those in other states. By contrast, a journalist revealed that she ‘was shocked’
when she found out that there was no ban on the naming of juveniles. During her training in the southern states she said ‘we were taken through all the reasons for why juveniles are not named and I thought this was blanket coverage’.

40. The politics of the discourse around naming and shaming was inescapable within the interview sessions. Some noted the tensions between welfare and justice in the juvenile system where ‘there are some sections of government that are trying to encourage parents to reward good behaviour rather than punishing bad behaviour ... and yet another section of government advocating naming and shaming, there is a conflict there that is hard to explain.’ Those who supported publication believed that juvenile crime offended community standards and that ‘the object of the exercise is rehabilitation to effect change in behaviour and to reinforce a community standard’. Other respondents noted that generally victims of crime ‘almost always come out on the side of healing the recalcitrant youth, they are supportive of treatment programs, they are supportive of long-term intervention, they understand that hard-hitting lock-em-up and throw-away-the-key policies don’t work’. Many respondents offered the refrain that the ‘courts are failing young people’ because there is a lack of connection, they don’t acknowledge the harm, that the experience is brief and not understood and thus there was considerable discussion raised about the perceived benefits of more restorative justice style approaches from legal representatives, youth workers, victims’ advocates and politicians.

**Perceptions of the Consequences**

41. As noted in several places in this report, endeavouring to make a direct connection between being named in the media and any subsequent outcomes proved fraught with difficulty. However, interviewees did proffer their opinions about likely consequences, and some described their experience with specific instances or cases. Some of this material has been utilised in the case studies (see Chapter 7) where our interviewees had direct knowledge of the impact of media coverage on Indigenous youth and their families. The major themes to emerge from the qualitative data are presented below.

**Detrimental Impact**

42. One lawyer rightly opined that one is ‘sort of guessing’ when trying to describe what the potential impact is on young people of being named. While interviewees tended to endorse the fact that the ‘international research shows
that rehabilitation is enhanced by not having identification' of young people, it was nevertheless the case that it was difficult to relate instances where ‘publication lead to detriment … because we don't know where a young person ends up’.

43. A significant issue to emerge about the potential for detrimental impact was the immediate as opposed to the long-term consequences of an open access to justice approach which centred on the behaviour of young people while taking part in a court hearing. A legal officer said that when delicate matters were raised in open court a young person might well be reluctant to fully disclose ‘because they don’t want all the details broadcast around the community or there might be limited instructions because the matters are of a sensitive nature and this might impede your ability to run a defence.’ These sentiments were echoed by others who noted that because ‘many [Indigenous] youths from remote and traditional backgrounds are relatively shy’ it may be that if the court is open or if there are media present then they may not speak up on their own behalf or be in a position to fully advise their legal counsel. This shyness of Indigenous witnesses was also noted by magistrates as a constant problem they encountered.

44. Despite the lack of comprehensive evidence, our participants did give accounts of the damaging effects of media publicity for youth involved in legal proceedings. A legal officer said ‘that you definitely see the shut-down of kids’. There were problems with having ‘the court list at the front door and you can look who else is here … it is on the internet with the charges as well’. Another legal officer knew ‘families who have gotten very upset about being named in the paper. And they get named before they are found guilty so if it is an interesting story the media will be onto it the moment someone is arrested, so before they even come to court the media is aware of it’.

45. Overall there was significant anecdotal evidence of naming affecting education, employment, and ongoing contact with the juvenile justice system and that its impact extended well beyond the young person to their siblings and broader family members. The participants also mentioned the lack of evaluation of the policy as no records are kept while it is almost impossible to extract any data from government statistics including even determining the number of suppression of names cases occurring each year.
**Legal and Practical Tensions**

46. In trying to navigate the practical and policy tensions some lawyers said they adopted tactics to avoid media attention. One said that ‘you would adopt your rat cunning and see if there was any media around and if there were you would stand it down till after lunch because they’re less likely to be around then’. Other participants referred to some positive legal protections that flowed from the NTCA decision in the MCT case and observed that it ‘actually seemed to work quite a big change’. But not every lawyer was as encouraged by the case with one observing that it remained the culture in the Northern Territory ‘that every court is public unless you can show special reasons for having it closed … I have applied for courts to be closed where there is a prospect that the child might have some difficulties and we are asking for an inquiry into whether they might be a child in need of care Section 61 of the Youth Justice Act and I asked for the court closed so that I can give the reasons. I need to explain the nasty side of this child’s experience to get the court closed and yet the magistrate would not close the court while I explained this so it was almost like it defeated the purpose. So that happens quite frequently’.

47. Another lawyer said she ‘has done a fair few applications to try and suppress their names. I sometimes feel like it is dependent on who you get because some magistrates take as a strong starting point that unless there is something unusual or exception then in the interests of open justice the courts should remain open. I have had success in getting a lot of names suppressed but never the facts of the case that I can specifically recall. … I think if it is a first offender I think you can convince the court to suppress their name, and the Supreme Court has done it quite a few times, and if you look through the database of the Supreme Court you will see there is a lot who are identified by initials only. So I think they are pretty good at suppressing a lot of names.’

**Dampening vs Exacerbating Effects**

48. Some felt that publicity could encourage (not cause) further criminal behaviour while others felt that it would have a positive impact. Thus it was observed by our interviewees that ‘sensationalising crime can sometimes have that effect on young people providing unwanted attention and reinforcing [negative] behaviours’. The legal representatives generally eschewed an inflationary effect as ‘self-justifying rubbish’ where ‘to think that someone who has never been in the system before would aim for the stratosphere just to get themselves in the paper sounds quite implausible…’ Others felt that there was no
effect because ‘naming and shaming doesn’t have any influence because the community usually knows who the perpetrator is and so it doesn’t have any impact. This is especially if it is an offence that is against traditions or where there might be a pay-back type situation.

49. Particular mention was made of the possible negative consequences of identifying young people to their school peers. As one interviewee noted, ‘the place it might be most problematic is in schools, like we have school groups who come to court and they might look up the names on the court list and I kind of wince whenever we have a school group because I think about which juvie we might have on today and what are they going to cop when they get back to school.’

**Related Issues to Emerge**

*Open Court vs Media Attention*

50. Our interviews and court observations led us to realise that an important distinction needed to be made between on the one hand the potential damaging effects of media publicity regarding cases involving young people and on the other the affects in general of allowing public access to juvenile court proceedings under the open access to justice approach espoused in the Northern Territory by the YJA. As we have already noted having the public and people involved in other matters present when details of offences and backgrounds are given was seen as detrimental to young people involved in criminal proceedings. As one interviewee explained: ‘I think the open courts is an issue as well that is quite distinct from the NT News side of things which is that they go and report their names and everyone knows about it and you can’t help but think that that is not good for them, for their self-esteem, for their capacity to apply for a job, and all that sort of thing, but with the open court you just create this situation where all the young people are in their with all their family members then everyone kind of knows everyone’s business…. So there are these really awful details that come up about a kid’s background that then gets told in a fairly open forum, and even if nothing comes of it. ... I worry how that affects the kids that that story has been told, about their sense of shame and embarrassment with all that being put forward in front of everyone.’
**Lack of Segregation**

51. A related and important general issue to emerge from our interviews and observations is the ongoing absence of a separate system of justice for young people in the Northern Territory with the negative consequences that flow on from that situation. We observed at first hand the problems of the merging of the adult and youth justice systems where even in Darwin there are no separate facilities for youth and so young people wait for bail papers and have their names displayed on public lists in the main foyer of the courthouse.

52. Our respondents were not unaware of this issue and judicial officers in particular referred to attempts to develop better juvenile justice facilities and procedures. It was not; however, part of our remit to examine this challenging area and as explained in the body of our report (see Chapter 8) the Northern Territory has recently conducted an extensive review of its entire juvenile justice system including resourcing and facility matters.

**Other Related Matters: Interpreters and Instructions**

53. The interview and observation process uncovered other problems with the juvenile justice system in the Territory including a lack of interpreters as well as poorly trained interpreters. Some of our respondents, including judicial officers, suggested that interpreters overall had skills that were 'not very highly developed' and that they could benefit from further training. The matter of obtaining proper instructions was also raised by several participants generally in the context that they required specific instructions from their clients about making suppression applications or orders for the court to be closed. While fine in theory this requirement raised many practical difficulties when representing a young Indigenous person in court who was often far removed from community and familial support and was thus ill prepared to offer such clear instructions.

**Case Studies**

54. For reasons explained in the body of the report we decided to restrict our analysis of individual cases to those which seemed to have gained particular attention in the media over the time period that has been the subject of the present study (2000-2011). In particular these are cases that were referred to by key stakeholders who took part in interviews during the project. In this way we have been able to accumulate sufficient material to identify some general case
material as well as four cases of particular significance for analysis and these are described below.

**Publicity Causes Distress**
55. We asked all of our interviewees whether they were able to identify any specific cases where young people had been named, or which attracted particular attention from the media because they involved young offenders, and in particular young. One interviewee in Alice Springs referred to a very serious case where a ‘young woman was murdered at Centralian College. ... it got a lot of national media coverage. Not only did they publish the young men’s names who were only 14 at the time who were involved in the rape of this young girl, they went into graphic detail around the story so it was really impactful for the family who were really distressed because they were trying to put this behind them, because this was two years after’ when the case came up for further hearings. The case referred to above involved the murder and rape of Jenissa Ryan, the great granddaughter of Albert Namatjira, at the Centralian College in Alice Springs in 2006. It encompassed the subsequent inquest, trial and the eventual sentencing of the five young Indigenous offenders responsible in 2008.

**Technology Aids Media**
56. Another case mentioned in Alice Springs by one of our interviewees involved a young woman who was 12 or 14 at the time and who had ‘been charged with sexually assaulting two children that she was babysitting’ and her legal representatives ‘asked for closed court, asked for suppression of the media but the judge wouldn’t do it. So we sat there on tenterhooks looking at the door because at any given time a media person could come in there.’ However it was noted too that the media now ‘can go upstairs and listen to the transcripts so you don’t even know their intentions’, that is whether they are focusing on a case or not because it cannot be ascertained by their presence or absence in the courtroom.

**Youngest Person Named**
57. The youngest person identified and named (RT) in the media to emerge from the present study was an 11 year old Indigenous boy in Alice Springs who was involved in an attack in August 2004 upon a crocodile named Terry, housed in the Alice Springs Reptile Center. The NT News account of the sentencing of RT appeared on the front page of the newspaper on 28 December 2004 under the
headline ‘Croc Thug Gets Jail’. The report stated that RT, ‘an 11 year old boy who attacked the crocodile Terry had been jailed’ for a period of six months.

**Publicity Inflames Community Attitudes**

58. Our Alice Springs interviewees referred to an unnamed recent case ‘that has stirred up a lot of public comment which is two young men, sixteen year olds I think ... on robbery with violence charges and truly an horrific attack on a young chap who was stabbed multiple times by one of them. It has created a lot of public attention, the sentences they were given in the Supreme Court created considerable public comment,’ In this case the Supreme Court issued a suppression order at the time of sentencing on identification of the young offenders involved but by then community attitudes towards the crime and the offenders had been inflamed.

**Legal Reporting of Cases**

59. In order to gain some appreciation of the media reporting of cases, and in particular to be able to locate the names of young people involved in criminal proceedings, a search of the AUSTLII database was conducted on 30 October 2010. Of note is that there are very few cases from the Youth Justice Court that are legally reported (eight were identified during the period 2007-2010).

**Overview**

60. These cases highlight several themes addressed elsewhere in this report—that media attention has the capacity to cause distress to offenders, victims and communities especially given the protracted nature of legal proceedings; that intensive media publicity, can inflame community attitudes and lead to harsher ‘law-and-order’ views; that the application and granting of suppression orders is inconsistent; and the random nature of media attention with practical considerations for legal representatives about how best to protect against this.

**Multiple Media: The Case of DD**

61. DD’s case was the only one which came to our notice solely as a result of the electronic media searching that formed part of the media analysis (see Chapter 5). a total of 14 articles naming him were retrieved (see Appendix E). The name and photograph of this youthful Indigenous offender was published 14 times over four years (from April 2003 to August 2007).. This publicity included two front page stories in the Northern Territory News during 2003 with an accompanying photo as well as adverse editorial comment about his case. By way
of comment it might be said that DD’s prospects of successfully reintegrating into the community and achieving rehabilitation through education and employment opportunities were unlikely to have been improved by this media attention. While none of our interviewees could provide us with any direct information about the subsequent impact this publicity had, in 2007 the young man was back in court as an adult offender charged with a serious robbery offence.

**Suppression Shield: The Case of DH**

62. Among our interviewees no single case aroused more interest and comment than that of the so-called ‘Claw Hammer’ or ‘Home Invasion’ case involving a young Indigenous offender, DH. As one of our respondents observed, ‘the hammer case was pretty rare because even though journalists knew for a long time that they could publish in this jurisdiction they didn't because their own ethical code was against it and so that was a sort of indirect protection that a lot of young people had.’ This case is not only significant because of the media attention it attracted but because it is a rare one where ultimately a successful suppression application was made.

63. It proved to be impossible to interview DH or members of his family in person about the impact all of the publicity had upon his life but we were informed that he had been able to maintain a sports scholarship and had subsequently left the Territory to play football. From this it may at least be conjectured that the suppression order in his case, even though it came late in the entire proceedings, did shield him from the extremes of adverse media comment and scrutiny and made it possible for his rehabilitation to proceed to a successful conclusion.

**Stigmatised Family: The Case of BH**

64. The likelihood of media publicity stigmatising an entire family rather than just the young offender being identified and named arose in the case of BH. When we first interviewed NAAJA lawyers in 2010 they referred to the BH family and showed us a photo of three family members emerging from a Darwin Youth Court hearing. It depicted two of the family members ‘giving the finger’ to the media photographer who took the shot. NAAJA told us the *NT News* had used the same photo four or five times since BH and his family members were attending court frequently. The family was well-known now because of this adverse publicity. ‘They have had problems with housing as a result of this, the publicity, the young boys both of them have been unable to get work because they have been labelled
no matter what they want to do to better themselves or change they're labelled and it is an ongoing thing'.

_Celebrity Element: The Case of RM_

65. At the outset of our report reference is made to the nationwide media publicity associated with the 16 year old male star of the award winning Australian movie _Sampson and Delilah_. On 9 March 2010 the _Centralian Advocate_, an Alice Springs newspaper, announced in a banner headline front page story that RM had been arrested and charged for allegedly jumping on cars and damaging them in an Alice Springs car park. A large full colour photograph of RM accompanied the story. The _NT News_ and the national newspaper _The Australian_ similarly covered the story, although no photograph of RM was published in the latter source. Related versions of the story were also reported on the Nine Television News Network website. But despite close monitoring of the media and ongoing electronic searches we have been unable to discover any further reporting concerning the outcome of the charges brought against RM. We have also been unable to interview RM or any of his family about the incident and its impact.

**Discussion**

_Youth Justice Review 2011_

66. In April 2011 the Northern Territory Government commissioned a review of the Territory’s youth justice system ([Review of the Territory’s Youth Justice System: Report September 2011 [YJS Review]](http://example.com)) The YJS Review was conducted quite quickly and soon after we had completed our field research. Its findings and recommendations were presented to the Northern Territory Government in September 2011. We remained unaware of the YJS Review until after it had concluded and thus failed to make any submission to it directly regarding our study findings. However, the YJS Review does make mention of our work when discussing criticisms made of the Northern Territory’s approach to closed youth justice courts and the publication of proceedings (see Chapter 8) The YJS Review still baulked at issuing a recommendation that the Northern Territory’s youth justice system should fall into line with the rest of the country and give recognition to the international principles contained in instruments like CROC and the Beijing Rules.
**Haphazard Practices**

67. The chance of a young person being named and shamed in the Northern Territory is dependent on a complex mix of factors having little to do with any principle based on the age and maturity of that person. As we have suggested these factors include, not necessarily in any order of importance, the nature and gravity of the offence(s) involved; the presence of a journalist in the court, or a ‘tip off’ about a particular matter’s potential media interest; the location of the court hearing with remote settings receiving almost no media coverage; the stage reached in the ‘electoral cycle’ with a greater likelihood of crime waves and publicity emerging near elections; the policy of the particular media organisation, or even of individual journalists; and the diligence and enthusiasm of legal representatives regarding the seeking of a suppression order.

**Impact Damage and Restorative Justice**

68. A central purpose of our research has always been the desire to provide firmer evidence regarding both the nature and the impact of ‘naming and shaming’ practices of the Northern Territory’s juvenile justice system on young Indigenous offenders. As the YJ Review has once more confirmed it is Indigenous youth who are overwhelmingly represented among the clientele of this system. The data available indicate a worrying and disproportionate level of involvement of Indigenous youth at all stages of the juvenile justice system. But as the YJ Review also emphasised in its report only a relatively small number of young people overall were either caught up or at risk of becoming involved in this system, and most of their offending was of a relatively minor nature. However, public perceptions of the juvenile crime situation in the Northern Territory was very different, largely as a result of the media attention given to offending by young people. Overwhelmingly, our own research findings about the media coverage of youth crime affirm the general accuracy of these observations although as we have noted, over the period of about a decade covered by our media analysis, the actual incidence of media reports which identified young people by name was quite small. Even when named it was also at times difficult to determine whether or not the young person was of Indigenous background.

69. In regard to the impact of such naming the cases we have referred to in some detail in Chapter 7 suggest that when for whatever idiosyncratic reason a young person is identified in the media by name, and possibly with an accompanying photograph or video footage, the likelihood of unpleasant and unwelcome consequences occurring are significantly increased. Such
consequences are likely to include impeding or preventing the successful rehabilitation of a convicted young offender. For those who espouse the merits of both naming and shaming young people in this way these adverse consequences are presumably secondary to the belief that they are part of the process of making young people publicly accountable for their transgressions, and may ultimately persuade them to adopt law abiding values and behaviour. However, most criminologists would counter such views by referring to the substantial body of research evidence which indicates that shaming techniques only work well when they are part of a restorative rather than stigmatising process.

70. In the Northern Territory at present restorative justice processes are infrequently used when dealing with young offenders. Even so one of our interviewees, who we identify with his consent, the Hon Terry Mills, Leader of the Opposition in the Northern Territory Legislature, provided us with a detailed account of his personal experience as a crime victim using restorative justice principles when interacting with an offender who broke and entered his family home.

Reform, Reparation and Vengeance

71. If reform is to occur it should in our view take the form of first restoring the Northern Territory to the position that it was in prior to the introduction of the Juvenile Justice Act 1983 when the open access to justice principle was first mandated in regard to Youth Court hearings, thus placing the Territory at odds with the international norms we have identified as well as with all other jurisdictions in the country. Having achieved this reform, but in tandem with it, the second step should be to introduce restorative justice principles into the Northern Territory’s juvenile justice system in ways which reflect a desire to achieve the rehabilitation of young offenders while acknowledging their wrongdoing and providing reparation for victims. In the wake of the YJ Review, and its recommendations for change which could easily accommodate the reforms we have mentioned, there may well be a profound shift away from a desire for vengeance to a system guided by internationally backed and tested youth justice principles.
ACKNOWLEDGEMENTS

Our prime and most sincere thanks must go to AIATSIS for funding this research project through their research grants scheme. Without such funding and the imprimatur of the Institute our research would never have been able to proceed with the same depth and scope that it has.

Equally important is to acknowledge the significant input of our community partner — the North Australian Aboriginal Justice Agency (NAAJA). Without NAAJA’s backing many doors would have remained unknown to us or otherwise closed. We are hugely impressed with their status as a justice agency working with limited resources over a wide range of services in a professional and dedicated fashion.

We would thank in particular Priscilla Collins, Shahleena Musk, Jared Sharp, Will Crawford, Helen Wodak, Glen Dooley, Chairperson Norman George, Jonathan, Michelle, Marcus and other present and former staff of NAAJA both in the Darwin and Katherine offices. In addition, we acknowledge the Larrakia people, custodians of the land in and around Darwin, where the bulk of this research took place.

Many other professional people in the Territory were extremely generous with their time in taking part in interviews or giving guidance about how best to conduct this research. The Administrator of the Northern Territory, Tom Pauling, very kindly gave of his time; while from media agencies we especially thank Murray McLaughlin, Emily Watkins and Tegan Forder; from the magistracy Sue Oliver, Greg Smith and Jenny Blokland; from the justice arena Marianne Conaty and Stephen Jackson; and from the legal profession Ruth Barson, Mary Spiers and Fiona Kepert.

We also wish to thank the many other defence and prosecution lawyers whom we observed in action in the Youth Justice Court jurisdiction during our (hopefully) unobtrusive observation sessions for they assisted us greatly in this research. At this point it would be remiss of us not to respectfully thank our other research team member, Rhonda Moore, who attended those court sessions and took extensive notes of the observations as well as of the interview sessions.
Acknowledgements also go to Michael O’Donnell from Charles Darwin University; Johnnie Lawrence of CLANT; Mike and Chris from Victims of Crime NT; Katey Foden of the Police Media Centre; Terry Mills, the leader of the Opposition in the NT Parliament; NT Police Prosecutor Paul Woods who was also formerly with the NT Police Youth Diversion program; Lisa Elliott and Joel Mitchell from YMCA and YWCA in Darwin and Katherine; and to Todd Trainer who gave up a significant amount of time to share his views.

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Our research assistant, Wava Doyle, conducted the media database searches in the initial stages of the project and we thank her sincerely for her dedication to sourcing articles, documenting the procedure and then engaging in some media analysis. Similarly, Bond University postgraduate student, Sara Otto, provided earlier assistance in compiling the legislation chart. We acknowledge the support provided by Bond University (library, research office, ethics committee, colleagues and faculty administration) in the overall execution of the grant.

As noted in more detail below, while most of our interviewees freely consented to the association of their names with the contents of their interviews we are mindful that many individuals were speaking from a personal perspective and therefore their views were never intended to be representative of the organisations for which they work. Generally for this reason, along with other ethical considerations in the protection of informants, we have elected as much as possible throughout this report to disguise the providers of information so as to protect their identities.

We trust we have not omitted to acknowledge the assistance of anyone who helped, and if we have, please accept our apologies. We also concede that some who were approached for interview declined to participate or failed to respond to our requests.
ABOUT THE AUTHORS

Professor Duncan Chappell, a lawyer and criminologist, is currently Adjunct Professor in the Institute of Criminology at the Faculty of Law, University of Sydney. During his career Professor Chappell has occupied a number of academic and professional posts both in Australia and abroad including those of President of the New South Wales Mental Health Review Tribunal (2001-2006); President of the Commonwealth Secretarial Arbitral Tribunal (2001-2005); Deputy President of the Australian Federal Administrative Appeals Tribunal (1996-2001); and Director of the Australian Institute of Criminology (1987-1994). He is also a past member of the NSW Law Reform Commission (2003-2006) and Australian Law Reform Commission (1978-1980). In the latter position he was the Commissioner in charge of a reference on the reform of federal sentencing law, and a member of the Commission’s reference groups considering juvenile justice and Aboriginal customary law issues.

Robyn Lincoln is currently Assistant Professor of Criminology in the Faculty of Humanities and Social Sciences at Bond University. She has lectured and researched at Queensland University of Technology and the University of Queensland. She was formerly the Senior Editor (1986-1991) at Aboriginal Studies Press in the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and has also had managing editor roles on a number of academic journals. Her research interests and publications have focussed on Indigenous crime and justice issues, as well as juvenile justice, crime prevention and miscarriages of justice fields. She recently published two major co-edited volumes — *Crime on my Mind* (New Holland Publishers, 2009) and *Crime Over Time* (Cambridge Scholars Publishing, 2010).
CHAPTER 1: INTRODUCTION

Unwanted Publicity

On 9 March 2010 the Centralian Advocate, an Alice Springs newspaper, announced in a banner headline front page story that the male star of the international prize winning Australian film ‘Sampson and Delilah’ had been arrested and charged for allegedly jumping on cars and damaging them in an Alice Springs car park. A large full colour photograph of the named star accompanied the story.

The same story was subsequently taken up the next day by the Centralian Advocate’s sister publication in the Northern Territory, the Darwin based Northern Territory News (10 March 2010) (hereafter NT News) and in the national newspaper The Australian, although in the latter source no photograph was published. Similar versions of the story were also reported on the Nine Television News Network website.

At first sight it might not seem unusual or especially newsworthy for each of these media outlets to report this story concerning yet another apparently badly behaving film star. On closer analysis, however, the story has some troubling dimensions for had the alleged offences taken place in any Australian jurisdiction other than the Northern Territory the whole event would almost certainly have gone unreported, either in the print or electronic media. Why? Because the named Indigenous movie star was just 16 years of age, and as a young person involved in juvenile justice proceedings he was entitled to have his identity and details of these proceedings protected from public scrutiny.


More will be said about these principles below but they represent a reference point for establishing minimum standards regarding the treatment of young persons in conflict with the law. These are standards which recognise that the
paramount concern in such cases is the protection of the 'best interests of the child', defined as a young person under 18 years of age. These best interests include ensuring, in the words of the Beijing Rules, that ‘the juveniles’ right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling’ (UN 1985, 1989, 1990).

With the noted exception of the Northern Territory each Australian State and Territory, as well as the Commonwealth, has enacted privacy protection measures in their respective juvenile justice legislation which meet these standards, and attach related penalties for those who breach such protections. In contrast, in the Northern Territory the principle of open and transparent justice prevails, and unless a suppression order is made by a court the reporting and publication of any details of juvenile justice proceedings is in general permitted, including revealing the identity of a young person like the male star of ‘Sampson and Delilah’. A related stated objective of this naming of juvenile offenders is to shame them in the eyes of the community — a practice believed to be beneficial in reducing re-offending on their part.

**Background to the Study and Project Aims**

Juveniles have had long-standing protection against identification in the justice system including publication of their names and identifying features in the mass media. This has been a practice internationally for decades and is supported by the United Nations Convention on the Rights of the Child (CROC) 1989 which Australia ratified in December 1990. This Convention is incorporated into federal law as a part of the human rights responsibilities of the Human Rights and Equal Opportunity Commission (HREOC).

The Convention recognises that children, 'by reason of (their) physical and mental immaturity, [need] special safeguards and care, including appropriate legal protection'. Article 16 of the Convention protects children from arbitrary interference with their privacy, and Article 40 states that youthful offenders must be treated in a manner ‘which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society’.
In addition, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) render severe restrictions on ‘the publication of any information which would allow the identification of youths found guilty of a criminal offence in the juvenile jurisdictions’ (Cunneen & White 2002: 276).

Reflecting these principles all jurisdictions in Australia, except the Northern Territory have in place, in their respective juvenile justice legislation, provisions to protect the privacy of young people. However, in very recent times there have been proposals to remove these protections in a number of jurisdictions (Queensland, Western Australian and New South Wales). In New South Wales this issue was recently the subject of a legislative inquiry by the Legislative Council Standing Committee on Law and Justice and entitled The Prohibition on the Publication of Names of Children Involved in Criminal Proceedings (NSW Legislative Council 2008).

The NSW inquiry was commissioned by the then Attorney General to examine whether these protections should continue and the Committee unanimously recommended that they should — a recommendation which was accepted by the then NSW Government. The Committee noted the lack of research on this issue, and especially that related to its impact. More will be said about the NSW Legislative Council inquiry below but among its recommendations the Committee strongly suggested that uniform laws are necessary to ensure that Australia meets its international obligations on this matter.

The present report documents findings from recent research conducted in the Northern Territory on the nature and impact of such naming upon those young persons most affected by it, namely young Indigenous offenders and their families who represent the overwhelming bulk of those appearing in the Youth Justice Court in that jurisdiction. The study has been made possible by a research grant awarded by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), and through the generous assistance and support of the North Australian Aboriginal Justice Agency (NAAJA) as community partner.

The study addresses that lacuna identified by the NSW Legislative Council. And, as already noted the study comes at a time when a number of Australian jurisdictions are either considering or have introduced new legislative initiatives designed to remove many of the privacy protections previously given to young
offenders. These initiatives have at their root the desire, already described in the Northern Territory’s approach, to ‘name and shame’ such offenders.

In Western Australia, for example, which has advanced most in this direction legislation has been enacted (Prohibited Behaviour Orders Act 2010) establishing Prohibited Behaviour Orders (PBOs) modelled on the Anti Social Behaviour Orders (ASBOs) created a number of years ago in the United Kingdom by the former Blair Labour Government (see Crofts 2011; Crofts & Mitchell 2011). Somewhat ironically the new Cameron Conservative Liberal Coalition Government in the United Kingdom has at the same time decided to scrap ASBOs because they are considered to be ineffective and because they criminalise otherwise lawful behaviour.

The new Western Australian Prohibited Behaviour Orders rely, like their United Kingdom counterparts, on highlighting the effects of adverse publicity regarding those made subject to such orders. Thus details of these orders will be published on a Western Australian Government website including the name and a photo of the person and where they live. Children as well as adults are subject to this publicity unless a court finds circumstances that justify suppression of some or all of these identification details (S.34 PBO Act 2010).

There are many features of the PBO legislation in Western Australia, as Crofts and Mitchell (2011) have emphasised, that could accelerate the already massive overrepresentation of Indigenous Australians in the criminal justice system of that jurisdiction. In their analysis Crofts and Mitchell do not make specific mention of the publicity provisions contained within the PBO Act 2010, and the impact such publicity may have in particular upon young persons ensnared within the far reaching provisions of this Act. Experience from the United Kingdom with ASBOs would suggest that the consequences could be profound, affecting their prospects of rehabilitation and leading to their further exclusion from mainstream society (Crofts & Mitchell 2011; Crofts & Witzleb 2011).

Against this background, the present project seeks to provide contemporary research based information regarding the impact upon young people of being ‘named and shamed’ in public media fora within the Northern Territory. Although it should be pointed out that its first remit was to document the patterns of that public reporting of youthful Indigenous offending. It is hoped that the research will inform public policy and law reform on this very important and timely issue.
for the relevant justice systems throughout the country. It is an issue of special relevance given the frequency with which the concept of ‘naming and shaming’ is held up as a panacea to youth crime. It is also of particular significance to Indigenous youth since they are disproportionately affected in the Northern Territory and elsewhere through their contacts with the justice system.

Outline of the Report

This monograph commences with a review of the relevant literature, legislation and case law. However, it should be stressed that a comprehensive overview of related literature is not canvassed here but key sources are referred to as required (see Chappell & Lincoln 2007, 2009). The report then describes the overall research design and specifics of the methodology used to obtain the research based information, including ethical and practical considerations, from a range of sources principally in the Northern Territory.

Attention is then turned to our findings which include the observational data from the Youth Justice Court; a media content analysis of the publicity given to youth crime in the Northern Territory; qualitative material derived from interviews with key stakeholders; and finally a more detailed analysis of individual cases. The report concludes with a discussion of some of the implications for the findings and extends this analysis to consider attendant issues such as the implementation of ASBOs, the use of suppression orders and the calls for greater uniformity in general across the juvenile jurisdictions in Australia.

The report includes a substantial number of appendices, for which we apologise, but as this is a technical report covering the execution of the AIATSIS research grant, these are deemed important inclusions. The end material therefore encompasses raw data such as samples of newspaper articles, practice directions operating in courts in Darwin and other listings that provide substance to the research findings. It also includes our ethics committee material which is an essential part of the research process, and other appendices are more extensive forms of that found within the body of the report.
CHAPTER 2: REVIEW OF LITERATURE, LEGISLATION AND CASE LAW

International Principles and the NSW Inquiry

It must first be acknowledged that there is a lack of literature on this topic. While there exists material that examines the international provisions from a legal perspective (see, for example, Spencer 2000; Cipriani 2009), and there is a growing body of work on the concept of ‘shaming’ (see, for instance, Braithwaite 1989; Braithwaite & Drahos 2002; Rubin et al 2006; Macdonald & Telford 2007; Crawford 2009; Kohm 2009), there are no known works that capture directly the impacts caused by the public identification of youthful offenders.

By far the most extensive survey on the issues surrounding the publication of names of children involved in criminal proceedings is contained in the 2008 NSW Legislative Council inquiry mentioned earlier. In what follows we draw heavily on the report and findings from this inquiry, and from two published articles we have co-authored on this topic (Chappell & Lincoln 2007, 2009). While the NSW Legislative Council’s inquiry was initiated by a referral made to it by the then NSW Attorney General its origins can be linked directly to an earlier decision of the NSW Court of Criminal Appeal (NSWCCA).

In what is believed to be a case without precedent in Australia, the media organisation John Fairfax Pty Ltd, publishers of the Sydney Morning Herald and The Age newspapers, made application in the NSWCCA to have a name suppression order removed on two juveniles and their co-offending adult siblings. The prohibition on publishing their names meant that they could only be known by pseudonyms, namely their initials, on the premise that the naming of the adult brothers would automatically identify the younger ones.

In a unanimous decision the NSWCCA (Spigelman CJ, Basten JA and Hislop J) rejected the application on jurisdictional grounds. The decision rested on the fact that current NSW legislation generally empowers a court to grant publication of identity only at the time of sentencing by the sentencing court (NSWCCA 2006). All legal proceedings were in fact exhausted in the matter. The court therefore refused the application by Fairfax stating: ‘it is at the time of sentence that the Court reviews the objective gravity of the offence, considers the impact on
victims, assesses the weight to be given to general deterrence, acquires the full range of evidence about the subjective features of the offender and assesses the prospects of rehabilitation' (NSWCCA 2006:para 16).

In announcing this decision, Spigelman CJ nevertheless remarked that ‘the heinous nature of the systematic course of conduct indicates that this is an appropriate case in which the additional element of public shaming could fulfil the function of retribution and also the function of general deterrence that criminal sentences are designed to serve. There may well be a strong case for the exercise of the discretion under s11(4B) of the Children’s (Criminal Proceedings) Act 1987 (CCPA 1987), on the basis of the test set out in S.11(4C)’ (NSWCCA 2006:para 9).

Section 11(4B/C) states: ‘(4B) A court that sentences a person on conviction for a serious children's indictable offence may, by order made at the time of sentencing, authorise the publication or broadcasting of the name of the person (whether or not the person consents or concurs). (4C) A court is not to make an order referred to in subsection (4B) unless it is satisfied (a) that the making of such an order is in the interests of justice, and (b) that the prejudice to the person arising from the publication or broadcasting of the person’s name in accordance with such an order does not outweigh those interests.’

While unsuccessful, the application by Fairfax raised important public policy issues concerning legal protections for juvenile offenders. These concerns were highlighted by the circumstances of the NSW case that led in the first place to the Fairfax application. A series of rape offences occurred in mid-2002 in Sydney against four female victims, aged from 13 to 17 years, by four brothers plus an adult friend (RS). At the time of the offences, two of the brothers (MSK and MAK) were adults aged 23 and 21 years; and two of them (MMK and MRK) were aged 16 and 17 years. The two younger men claimed they had a dysfunctional family life in Pakistan, prior to their emigration to Australia, in which they experienced considerable violence and regular abuse.

All of the brothers initially pleaded their innocence and were said to have shown little shame or remorse. The sexual assaults included physical injuries and threats of violence to the victims, and the juveniles, in particular, were deemed to have refused to render assistance or were implicated in the procurement of the
victims. The charges included multiple counts of aggravated sexual intercourse, aggravated sexual assault and aggravated kidnapping.

In separate trials in late 2003 each of the defendants was convicted or plead guilty, with sentencing in early 2004 when each offender was given a lengthy sentence and long non parole eligibility periods with the exception of MRK who became eligible for release on parole in 2007 (see in general R v MAK et al 2003; R v MSK et al 2004; R v MMK 2005).

This case generated massive media coverage ranging well beyond the borders of NSW. The coverage revealed extensive details about the ethnic, religious and family backgrounds of the offenders, gleaned from their public trials. In addition a bestselling book, written by a senior Fairfax columnist, was partially serialised (Sheehan 2006). The scope and content of this publicity helped fuel an increasingly intense national public debate about ethnic crime and especially sexual assault.

It was in these circumstances that the then NSW Attorney General, the Hon John Hatzistergos, referred the entire question of what should be the nature and scope of the current prohibition on the publication of names of young persons under section 11 of the CCPA 1987 to the Standing Committee on Law and Justice of the NSW Legislative Council. A copy of the full terms of reference will be found in Appendix B of this report.

In fulfilling its responsibilities the Committee conducted extensive public hearings as well as receiving numerous submissions from interested parties including media organisations, victim groups, law enforcement officials and academics. The Committee also initiated its own comparative legal research on the topic which is reflected in the comprehensive documentation in its ultimate report and findings of both national and international principles and practices relating to this subject. The Committee noted, among other things, that there were:

- five main international instruments that Australia is party to that contain principles relevant to the administration of juvenile justice generally and the privacy of children in the legal system specifically. These five international instruments are:
  - the United Nations Declaration on the Rights of the Child 1959 (DROC)
• the United Nations International Covenant on Civil and Political Rights (ICCPR)
• the United Nations Standard Minimum Rules for the Administration of Juvenile Justice 1985 (Beijing Rules), and

The Committee succinctly summarised the principles, articles and rules contained in these documents and relevant to its terms of reference in the following manner:

• The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally and spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.
• In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
• The juvenile’s right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling.
• In principle, no information that may lead to the identification of a juvenile offender shall be published.
• Rule 8 (of the Beijing Rules) stresses the importance of the protection of the juvenile’s right to privacy. Young persons are particularly susceptible to stigmatization. Criminological research into labelling processes has provided evidence of the detrimental effects (of different kinds) resulting from the permanent identification of young persons as ‘delinquent’ or ‘criminal’.

Rule 8 stresses the importance of protecting the juvenile from the adverse effects that may result from the publication in the mass media of information about the case (for example the names of young offenders, alleged or convicted).
• Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons.
• [I]n the predominant opinion of experts, labelling a young person as ‘deviant’, ‘delinquent’ or ‘pre-delinquent’ often
contributes to the development of a consistent pattern of undesirable behaviour by young persons (NSW Legislative Council 2008: 12).

In its report and recommendations the Committee expressed its support for these international principles and practices which affirm the belief that young people should be dealt with differently from adults and these differences should be reflected in a nation’s system of juvenile justice. In Australia this system is of course fragmented as a result of our federal structure but with noted exceptions, like that of the Northern Territory’s open access to juvenile justice philosophy, most young offender laws are generally consistent with these international norms and practices. A summary of the relevant provisions regarding the protection of the privacy of young offenders in each Australian jurisdiction is shown in the following table. A more detailed version of this table containing information about the discretion which exists in each State and Territory to waive these protections is to be found in Appendix C of this report.

<table>
<thead>
<tr>
<th>Legislation</th>
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| **ACT**     | Children and Young People Act 1999
Sec. 61A(3) A person must not publish an account or report of the proceeding if the account or report - (a) discloses the identity of the child or young person or a family member; or (b) allows the identity of the child or young person, or a family member, to be worked out. |
| **NSW**     | Children (Criminal Proceedings) Act 1987
Sec. 11 (1) The name of any of the following persons must not be published or broadcast in a way that connects the person with the criminal proceedings concerned: (a) any person who: ... (ii) was a child when the offence to which the proceedings relate was committed ... |
| **NT**      | Youth Justice Act 2005
Sec. 50(1) The Court may, in an order under section 49 or by a separate order, direct that a report of, or information relating to, proceedings in the Court, or the result of proceedings against a youth before the Court, must not be published. |
| **QLD**     | Juvenile Justice Act 1992
Juvenile Justice Act 1992, Sec. 301 (1) A person must not publish identifying information about a child ... |
| **SA**      | Young Offenders Act 1993
Sec. 13 (1) A person must not publish, by radio, television, newspaper or in any other way, a report of any action or proceeding taken against a youth by a police officer or family conference ... |
| **TAS**     | Youth Justice Act 1997
Sec. 31 (1) A person must not publish any information in respect of any proceedings that ... may lead to the identification of, a youth who is the subject of or a witness in the proceedings ... |
| **VIC**     | Children and Young Persons Act 1989
Sec. 26 (1) A person must not publish or cause to be published - (a) any particulars likely to lead to the identification of (i) the particular venue of the Children’s Court ... in which the proceeding was heard; or (ii) a child or other party to the proceeding; or (iii) a witness in the proceeding ... |
| **WA**      | Children’s Court of WA Act 1988
Sec. 35 (1) ... a person shall not publish or cause to be published in any newspaper or other publication or broadcast or cause to be broadcast by radio or television a report of any proceedings ... containing any particulars or other matter likely to lead to the identification of a child who is concerned in those proceedings ... |
The Committee resisted any attempt to weaken the protections given to juveniles in NSW, recommending instead certain extensions which would encompass prohibitions on publicity in juvenile matters at the investigatory stage of proceedings. This recommendation was the only one which was not subsequently accepted by the then NSW Government.

We turn now to consider the specific manner in which the Northern Territory’s legislation and case law deals with the issues surrounding the publication of the names of young persons involved in criminal proceedings.

**NT Youth Justice Act and Case Law**

The principal legislation, as amended, relating to the administration of juvenile justice in the Northern Territory is the YJA which was assented to on 22 September 2005 but did not commence until 1 August 2006. In the Northern Territory a youth is deemed to be ‘a person under 18 years of age’ and if the context requires ‘includes a person who committed an offence as a youth but has since turned 18 years of age’ (YJA S.(6)). It is worthy of mention that in all other Australian jurisdictions, with the exception of Queensland, the relevant age of a youth also extends to those who are under 18 years which is in accord with the international principles referred to earlier. In Queensland the relevant age is 17 or under (Bronitt & McSherry 2010).

In regard to the physical facilities that are to be made available for the conduct of criminal proceedings involving a juvenile in the Northern Territory the YJA states that the responsible Minister must ensure that such facilities are ‘adequate and appropriate ... and as far as practicable are separate from the places in which proceedings in relation to adults are being held’ (YJA S.48 (2)a and b). The YJA also requires that all such proceedings under the ‘Act against a youth must be held in open court’ (YJA S.49 (1)). An exception to this rule may occur, however, ‘if it appears to the Court that justice will be best served by closing the Court’ (S.49 (2)).

It should be noted at this point that it was not always the case that criminal proceedings involving young persons were conducted in open court. The history relating to this particular provision in the Northern Territory’s juvenile justice legislation was considered in some depth in *MCT v Mckinney & Ors* (2006).
Prior to 1958 South Australia’s State Children Act 1895-1909, as amended by various Ordinances, applied in the Territory. Under these provisions there was a requirement that proceedings involving children were to be dealt with in a special room, or if in a court facility then outside the normal operating hours of that facility. Power existed for the proceedings to be held in camera but the legislation did not enable a court to prohibit publication of the name of a young offender or other information concerning the proceedings. The only general power to do so was contained in what is now the Territory’s Evidence Act which will be referred to in more detail shortly.

In 1958 the South Australian based legislation was repealed and replaced by a Child Welfare Ordinance that established a Children’s Court. This court was required to sit in camera. It was also made an offence to publish a report or the result of proceedings without the court’s authorisation — a power which was itself removed in 1965.

In 1978 the Northern Territory achieved the status of being a self-governing jurisdiction for most purposes. Until that time the Territory had been administered by the Commonwealth (see Northern Territory Parliament 2012). In 1984 the Child Welfare Ordinance 1958 was repealed and replaced by the Juvenile Justice Act (JJA). It was the JJA that for the first time espoused the principle of ‘open access to justice’ in regard to young offender proceedings. As the responsible Minister stated at the time of his Second Reading speech when introducing the new legislation in Parliament:

The bill establishes a Juvenile Court to deal with offences by juveniles. This replaces the present Children’s Court but does not include its civil jurisdiction which will be exercised by the Family Matters Court established under the Community Welfare Act. The Juvenile Court will be a court of summary jurisdiction and will be concerned with the dispensation of justice to young offenders. Unlike the existing Children’s Court, it will not be closed automatically to the public but the magistrate will have the full discretion regarding the opening or closing of the court and the publication of its proceedings (cited in MCT 2006: para 5).

The circumstances in which a court may decide to close proceedings involving a juvenile were also considered in some detail in the Northern Territory Court of Appeal (NTCA) decision of MCT. In that matter the appellant had pleaded guilty in the Darwin Youth Court and been sentenced in respect to a number of charges, the most serious of which involved stealing and using violence resulting in a
penalty of six months detention fully suspended immediately on condition that he be of good behaviour for 18 months and reside with his aunt in Tennant Creek, a remote small town south of Darwin. At the time the appellant was 15 years of age.

Following this disposition counsel for the appellant made an application to the presiding Chief Magistrate for suppression of his name and image from publication. The application was brought under a provision of what was then the JJA 1984 but which was couched in terms very similar to those of S. 49 of the YJA 2005 which replaced it. In making the application counsel said that while the offences committed by the appellant were very serious:

one of the reporters from the local newspaper has been here, ... that the impact upon his name being published would be extremely detrimental and in fact he has already been named in the paper twice previously in relation to the most serious matter [and] ... I submit to you that you ought ... exercise your discretion to ensure that rehabilitation is assisted and that his job prospects in Tennant Creek are not harmed. [Further, the appellant] ought to be given the opportunity to get back onto his feet given the fantastic opportunities that he has now ahead of him. ... Well, we don't have a problem with the court being open, we don't have a problem with there being reporting on the circumstances and on the disposition. In terms of it having an impact upon the interest of justice, I submit that it has absolutely no — it serves no purpose in addressing the interests of justice by naming young juvenile offenders, who are first time offenders, who have just had their first convictions recorded against their name, who have put up plausible arguments for rehabilitation and that the naming of such juveniles will only be detrimental to the future prospects of rehabilitation. And specifically in respect of MCT, he is going to Tennant Creek, he's looking for work, this newspaper is published and circulated in that region and it will only have a detrimental impact, and that cannot be in the interests of justice or in the interests of rehabilitation (MCT: para 4).

The prosecution opposed the application, contending that the applicant was no different to any other offender and had already been dealt with in open court. The Chief Magistrate responded in the following terms:

I am reluctant to make such orders and there is nothing which makes this young man a great deal different from anybody else, but MCT just stand up for a moment. Are you going to give this a real shot? Well, what I am going to do is this, and I want this to act as an extra incentive for you. I make an order that your name and image not be published in relation to the serious charge, that last charge, whilst you comply with the terms of the suspended sentence. OK?
The Defendant: Yes.

Counsel for the accused: Can I just clarify that it’s only in relation to the last of the files?

Chief Magistrate: The other ones are nothing out of the ordinary, every kid who comes through here is in relation to the same thing. The last one is the one which might cause, in my view unreasoning (sic) and shall I say headline grabbing publications which don’t do justice to the truth of the matter. I know it’s not the reporter’s fault. It’s always the sub-editor’s fault (MCT: para 4).

MCT subsequently appealed against the failure of the Chief Magistrate to prohibit the publication of his name and image in regard to the remaining matters while the prosecutor cross appealed against the decision to suppress these details in relation to the most serious conviction and sentence.

The initial appeal was brought before a single judge of the NT Supreme Court (MCT v McKinney & Ors; McGarvie v MCT (2006)), Justice Angel, who in addition to considering the relevant provisions of the JJA referred to S.57 of the NT Evidence Act which provided that where it appeared to any court that ‘for the furtherance of, or otherwise in the interests of, the administration of justice, it is desirable to prohibit the publication of the name of any party or intended party to, or witness or intended witness in, such proceeding’ the court may make such a suppression order.

Justice Angel then went on to consider numbers of Australian and English cases where similar suppression orders had been sought, concluding that only when there was clear justification for it should the need for open justice and the right of free speech be overridden. No such justification was to be found in the evidence before the Chief Magistrate whether for the purposes of S.57 of the Evidence Act or otherwise:

Embarrassment, fear of exposure, feelings of shame in the face of family members, even damage by publicity of proceedings are not relevant considerations. As counsel for the respondent submitted, shame about wrongdoing and acknowledgment of guilt are factors conducive to the rehabilitation process but not justification for an order forbidding publication of the name of a party to proceedings. As the Chief Magistrate said: ‘... there’s nothing which makes this young man a great deal different from anybody else.'
In my view there was nothing exceptional demonstrated in respect of either the appellant or the proceedings which warranted the exercise of the discretion in favour of suppressing the name of the appellant. In particular there is nothing demonstrated to show that it was desirable or otherwise in the interests of the administration of justice to make the order the Chief Magistrate made, or why freedom of speech, the open nature of justice, and ‘the cathartic glare of publicity’ should not hold sway (MCT and McGarvie: para 32).

Expressions of concern were quickly voiced following this judicial interpretation of the provisions of the YJA and Evidence Act. In June 2006 James McDougall, the Director of the National Children’s and Youth Law Centre at the University of NSW, wrote to the then Northern Territory Minister for Justice and Attorney General, Peter Toyne, calling for change. McDougall noted:

In particular we are concerned as to the current state of the law in respect of the publication of the identities of young offenders. We note the decision of the Northern Territory Supreme Court on 3 May 2006 in MCT v McKinney & Ors; MacGarvie v MCT [2006] NTSC 35 (“MCT”). In MCT, the Supreme Court of the Northern Territory ruled that sections 22(1) and 23(1) of the Juvenile Justice Act 1993 (NT) cannot be used to prevent the publication of names in proceedings before the Juvenile Court. The Court held that only section 57 of the Evidence Act 1939 (NT) could be used for this purpose. Significantly, the Court did not indicate that an offender’s status as a child would be a factor in a court making an order under section 57.

In our view this places children who come into conflict with the criminal law in an unacceptable position. It proves them with inadequate protection. Clearly, permitting the identification of the names of young offenders is inconsistent with Australia’s human rights obligations. As a matter of public policy, it has been extensively argued that people, particularly children, who are labelled as criminals come to view themselves as deviant and behave accordingly. Young people are particularly susceptible to stigmatization. Accordingly, there is a risk that there will be an increase in the criminal behaviour of youth.

The recent Youth Justice Act (NT) 2005 recognises the importance of the aims of rehabilitation in the youth justice system. The law in the Northern Territory must be changed to adequately protect the internationally recognised human rights of children in the justice system and to give appropriate and effective focus to rehabilitation in the youth justice system.

As noted by the Court in MCT (at 11), elsewhere in Australia, there are statutory prohibitions against publication of the name of juvenile
In addition to such criticism it will be noted that Justice Angel made no reference in his decision to the international principles supporting the right to privacy of juveniles in criminal proceedings, nor to the protections afforded to them in other Australian and overseas jurisdictions. Both of these lacunae were to be filled by the NTCA when it came to consider a further appeal by MCT from the decision of Justice Angel.

In October 2006 the NTCA found that Justice Angel had erred in giving precedence to S.57 of the NT Evidence Act over the provisions of the JJA regarding the discretion of a court to make a suppression order. The NTCA also went to some length in its judgement to set out the principles that should apply when a judicial officer exercised his or her discretion to make such an order in proceedings involving a juvenile. Because of the importance of these principles to the issues at stake in the present study it is desirable to consider the NTCA judgement in more detail.

The court observed that the JJA gave no guidance as to the circumstances under which a suppression order should be made. Although the discretion given to a judicial officer was unfettered this power still had to be exercised judicially, taking into account all of the relevant factors. In the case of MCT the Chief Magistrate had failed in this regard, considering that the matter was ‘nothing out of the ordinary’ which was not a correct test. It was also not the test that because the court was open to the public, unless otherwise ordered, there was a presumption in favour of the appellant’s name being published which could only be displaced if there were exceptional circumstances.

The NTCA then turned for guidance to some comparative English court decisions regarding the exercise of the discretion to issue a suppression order in Children’s Court proceedings, and in particular the case of *R v Lee* (1993). The NTCA went on to state:

> The Legislature has chosen not to suppress automatically the identity of children who appear before the court and, recognising ‘the legitimate interest of the public’ in knowing the identities of offenders, good reason must be demonstrated to justify suppressing the identity of a child offender. However, when a court is asked to
exercise its discretion, it is important to weigh in the balance the fact
now almost universally acknowledged by international conventions,
State legislatures and experts in child psychiatry, psychology and
criminology, that the publication of a child offender’s identity often
serves no legitimate criminal justice objective, is usually
psychologically harmful to the adolescents involved and acts
negatively towards their rehabilitation (MCT: para 20).

In further support of this approach the NTCA referred to the provisions of the
Beijing Rules already mentioned above, and then proceeded to apply these
principles to the facts in MCT’s case. They noted the young age at which he had
committed the offences; his lack of prior convictions and the entering of guilty
pleas; his history of abuse and neglect as a child; the positive plans for his
rehabilitation; and the lack of any finding that he continued to present a danger to
the community. The court concluded that:

Publication of the appellant’s name or any identifying material, even
with respect to the less serious offences, has the potential to be
detrimental to his employment prospects and to adversely affect his
rehabilitation. There is also a risk that such publication may have
psychological consequences … In these circumstances, we consider
that the proper exercise of the discretion under s 23(1) of the
Juvenile Justice Act is to make an order prohibiting the publication of
the appellant’s name and of any material that would lead to his
identification … Such an order does not in any way prevent the
media from publishing the details of the offending and every other
aspect of the offences. This is sufficient to balance the very important
requirements that Court proceedings be open to the scrutiny of the
public and that justice is not administered behind closed doors with
the public interest to protect the privacy of children (MCT: paras 28-
32).

**Practice Direction for Child in Need of Protection**

To complete this overview of the current legal framework surrounding the
conduct of court proceedings affecting young people in the Northern Territory
reference needs to be made to the situation involving children who in addition to
coming before the juvenile court on criminal charges are also the subject of child
protection proceedings. Section 97 of the Care and Protection of Children Act
(NT) makes it an offence for anyone to publish a report or the results of any
proceeding under the Act if that publication has not been authorised ‘by the Court
or any law in force in the Territory’. Section 301 of the same Act also makes it an
offence to publish any material that might identify someone who is a child in care and protection, or for whom application for care has been made.

To give effect to these provisions the Chief Magistrate has issued a Practice Direction requiring, among other things, that representatives appearing in a matter in the Youth Justice Court that may possibly involve the identification of a child in need of protection should alert court staff prior to the commencement of proceedings that S. 301 may apply and the court may need to be closed. If a similar situation should occur after a proceeding has commenced the representative must bring S.301 to the attention of the magistrate as soon as possible (Practice Direction 2008, see Appendix E).
CHAPTER 3: RESEARCH DESIGN

Overview of Design

This exploratory project was designed to address a lack of knowledge about the impacts of the provisions in the Youth Justice Act in the NT, and originally had three methodological components:

1. a content analysis of *NT News* newspaper articles where a young offender had been publicly identified for 2005 to 2008, and where feasible coverage in the electronic media, for the period of the solidification of the practice;
2. a series of interviews with key stakeholders who comprise professional, community and justice practitioners; and
3. an analysis (by interview and use of secondary data) of a selected sample of up to five cases where young people have been identified in the media.

While the basic research design did not change throughout the term of the project, there were some minor modifications. The most important of these is that a fourth strategy was added, namely observations of the Youth Justice Court in Darwin and also in Katherine. Other adjustments included the need to broaden the date range of the media search using electronic databases so that it extended to September 2000. In addition, given the severe restrictions of the search capacity of the databases a personal hands-on method was employed to search through microfilm repositories at the NT State Library and, given the time-consuming nature of this enterprise, the date span here was limited to one year (2005) for our detailed searches, but it should be noted that specific cases were extracted from other years.

Community Partner

The collaborator for the project was the North Australian Aboriginal Justice Agency (NAAJA) who assisted with administration and provided local support as well as their wealth of knowledge on the operations of the YJA and the juvenile court.

NAAJA is non-profit private company that was established on 1 February 2006. Their object is to provide high quality and culturally appropriate legal aid services for Aborigines in need of benevolent relief (by reason of poverty,
sickness, suffering, distress, misfortune, disability, destitution or helplessness). They offer legal services in the areas of criminal, civil and family law matters. Their aims are to gain justice for Aboriginal and Torres Strait Islander people; to keep Aboriginal culture, traditions and law strong; and to achieve self-determination.

NAAJA has demonstrated its interest and indeed has been proactive on the issue of the naming of juvenile offenders as part of its analysis of policy and legislative outcomes and how they impact on communities and individuals. Apart from raising the question in individual cases seeking suppression of the names and identification of young people, it has actively lobbied (unsuccessfully to date) for repeal of the legislation and the enactment of principles which are in accord with Australia's international obligations.

For example, its website notes that ‘the NT News and other commercial media in the NT are the only news sources in Australia that publish the names, addresses and images of young people before the Court. This does not just apply to those convicted, but those who have been charged. NAAJA has sought to have a prohibition enshrined in legislation as in other States and Territories. The new Youth Justice Act contains no such safeguards despite continued lobbying by NAAJA, the NT Legal Aid Commission and the NT Law Society that young people in the NT enjoy the same protections as the rest of Australia and other common law countries.’

Our Indigenous community partner was at that time based at 1 Gardiner Street, Darwin. A representative of the agency (Ms Helen Wodak, then Advocacy Manager) noted the extent of the issue in claiming that ‘the public identification of juveniles is an important issue in the Northern Territory. Juvenile offending is currently a major political issue [as at the time of her referee report in January 2009] ... The NT News regularly publishes front page newspaper stories identifying juvenile offenders. Juvenile offenders are also identified in lead stories on local news bulletins.’

NAAJA also indicated that there are direct consequences to the naming policy whereby ‘the media reporting about juvenile offending is having a major impact on NT Government policy, for example the extent of juvenile diversion by Northern Territory police has recently dramatically decreased in response to political pressure arising from particular media reports’.
NAAJA further acknowledged the potential national ramifications as ‘the research has national significance as a number of other jurisdictions have indicated that they wish to proceed to enact legislation to allow for the public identification of juveniles’. The Agency endorsed the methodological approach by noting the change of policy regarding the naming of youth involved in criminal proceedings which, at least according to anecdotal observations, appeared to be more prevalent in the mid to late 2000s. While they were somewhat critical of the focus on print media as opposed to broadcast, there was an acknowledgement of the influential position of the NT News within the Darwin community and beyond in the Territory.

**Ethical Clearance**

An application was made to the Bond University Human Research Ethics Committee (BUHREC) under application number RO 1012 and entitled ‘Interviews with Key Stakeholders Regarding Naming of Indigenous Juvenile Offenders in NT’. The theoretical rationale for the project acknowledged the fact that ‘juveniles have long-standing protection against identification in the justice system including publication of their names’ and went on to cite the international conventions that render ‘severe restrictions on the publication of any information allowing identification of youth found guilty of a criminal offence’. It noted how the Territory was out of step with other Australian jurisdictions, but importantly how there were ‘proposals to remove these protections in a number of other jurisdictions (QLD, WA and NSW)’.

The ethics committee application noted the generous funding of AIATSIS and the three methodological phases: a content analysis of NT News newspaper articles where a young offender has been publicly identified, and where feasible coverage in the electronic media; a series of interviews with key stakeholders who comprise professional, media, community and justice practitioners; and an analysis (by interview and use of secondary data) of a select sample of up to five cases where young people have been identified in the media. It noted though that ethical clearance was only being sought for the second phase of the research which was that involving interviews with key stakeholders. The project was granted final ethics approval on 17 February 2010.
Methodology

There were two field trips in February 2010 and again in February 2011 during which time the principal investigators liaised with their community partner, NAAJA, conducted observations and undertook qualitative interviews with key stakeholders as per the grant application. The basic methods are described below in general terms, but in subsequent chapters of this report where the main findings from each strand of the research design are presented there are more detailed descriptions of the methodological approaches.

Observation Sessions

During the first field trip to Darwin it was noted by the principal investigators as well as by the community partner that observations in the juvenile court would be a fruitful first step in understanding the practicalities in the way that naming of young people might occur. This also served as an opportunity to meet with potential interviewees.

To this end the principal investigators, along with researcher Rhonda Moore, attend the Youth Justice Court twice each week when its sittings were held in Darwin, along with one opportunity to witness the juvenile jurisdiction in operation in Katherine during our second field trip in February 2011. Detailed field notes were taken by all three observers and compared at the end of each observation session (see Chapter 4).

The court lists were consulted for each visit and names of the juveniles listed were taken down but kept on a confidential basis. The data gathered were initially intended to focus on the presence of media personnel, but also to concentrate on the types of offences, the sanctions provided and any context to the proceedings by way of gleaning an appreciation of how the Youth Justice Court operated in Darwin (and later in Katherine).

During the second field trip with the strong encouragement of our community partner organization (NAAJA), it was decided that the research would benefit from observation sessions on the NT bush court circuit which deals with many young Indigenous persons charged with offences in remote communities. Negotiations about arrangements to attend such circuits for juvenile matters were fraught with difficulty in terms of timing and access. It was envisaged that
such travel might provide an opportunity to speak with community and legal representatives about the provisions of the Youth Justice Act.

These plans advanced to the stage where an excursion to Alyangula was arranged during the second field trip 13 to 26 February 2011 to observe the circuit and community courts. Unfortunately the plans had to be abandoned as a cyclone closed airports and all government offices and thus this additional observation stage was precluded from taking place. Despite our inability to attend circuit court this is probably not as an important omission as first thought because our interview material points to the fact that most media attention is in Darwin, Alice Springs and Katherine (ie major centres).

**Media Analysis**

The analysis of the media representation of youthful offenders was first focused on print-based media as the most likely comprehensive source of identification. It was envisaged that from this initial analysis it would be possible to then follow up with a review of related electronic media coverage which may have occurred. Thus an electronic database search was commenced using the online media databases available through the Bond University Library.

A postgraduate research assistant was employed to experiment with search terms and make contact with librarians and news organisations to find the best possible approach. Details of the optimal search sources and search terms are provided in Chapter 5. Suffice to state here that this electronic searching method did not yield as much usable data as first thought, especially as it was impossible to gauge what data might have been omitted in the search process.

Therefore a more direct method of extracting information about the patterns of media reporting of youth crime and in particular the instances where juveniles were named in the media was required. To this end the principal investigators utilised the resources available in the NT State Library and with the assistance of researcher, Rhonda Moore, were able to locate NT News items where youth had been named as well as to systematically search for the year 2005 so that a more rigorous picture of the extent of such naming could be gleaned.
Interviews with Key Stakeholders

The qualitative interviews with 25 key stakeholders was intended to be the main component of the overall research design. It utilised an open-ended approach with questions framed around: opinions about the naming provisions in the YJA; cases where young people have been named; experience of identity suppression in other jurisdictions; perceived consequences for individuals and communities (see Appendix C).

The participants included magistrates, legal officers, youth workers, journalists and media representatives, legal academics, victims’ groups spokespersons, Attorney General’s representatives, prosecution staff, politicians and Indigenous leaders to glean professional, practitioner and community appraisals of the consequences of these provisions. The interviewees offered personal opinion data rather than representing their organisations.

It should be noted that some media personnel and members of the bureaucracy declined to be interviewed, often based on the view that they did not wish to discuss their organisation’s policies. There were a number of others whom we approached who failed to respond to our requests, notably some politicians, and others where it was not possible to conduct interviews given the limited time frame of the field trips, or because the cyclone mentioned above disrupted planned meetings.

The methodology involved recruitment via a snowballing technique, noting that some contacts had already been established from our pilot work in 2008 with others being recommended by our community partner organisation, North Australia Aboriginal Justice Agency. It was noted that there was no power-dependency relations involved as individual professionals were able to freely elect whether be involved voluntarily in the project or not and their confidentiality was assured.

The process was that each potential participant was contacted initially by phone or in person and handed, mailed or emailed a copy of our Explanatory Statement. They were afforded an opportunity to consider their involvement and contacted at a later date and if in agreement a suitable appointment time and location was arranged (names and contact details were kept by the researchers at this time). All interviews were conducted by both the principal investigators, often with researcher present. While there were certainly some omissions in the range and
scope of the interview data eventually gathered this snowball method was both rigorous and appropriate for the present research design.

The process comprised a one hour semi-structured but generally open ended interview (see Appendix C) which were held at a suitable time and location, most often in the offices of those who volunteered to participate (ie courthouse, government departments building, agency office). At the commencement participants were asked for consent to digitally record the interview and at the same time their level of confidentiality was ascertained (ie how much information about them would they prefer to have revealed).

However, as is canvassed in Chapter 5 it was decided to render all identities of the interviewees as anonymous. In this final report of this research project only generalised characteristics (eg a senior print journalist, a magistrate, a youth worker) is given as the designation of the individual providing the information.

**Case Studies**

The case studies were originally deemed to be an essential component of this project as they were intended to illustrate in specific terms the consequences which flow to the young persons, their families and communities from being publicly named. It was always acknowledged though, that the specific approach to this phase of the project was dependent on circumstances of the fieldwork that is undertaken, thus there was of necessity the need to be flexible in the approach adopted. It was noted that it would be challenging to gain access to interviewees because of confidentiality, language and practical considerations.

The type of information anticipated from this phase of the research was meant to be about the personal experiences of young offenders and their families (eg employment, schooling, access to government services, emotional, familial and community consequences). In the end, it was fortuitous that such information was forthcoming via the key stakeholder interviews in addition to public information (secondary sources) about these matters. Thus the case studies were achieved by gathering community perceptions/opinions about the cases rather than direct data from the young people involved or their families, with the attendant ethical and practical dilemmas involved.
Limitations

A number of difficulties in executing the full research design were apparent and generally these are described in subsequent chapters where the findings from each of the methodological strands are presented. As a brief summary though, it first should be noted that there are severe restrictions in conducting electronic database searches as the search engines can be unwieldy. Despite employing a research assistant to identify the most appropriate search terms, it proved difficult (although not impossible) to source directly relevant media items. Furthermore there was the ultimate paradox that the search was to find instances where young Indigenous people were named in the media, but in the absence of having access to their names it was impossible to locate such articles in the print media.

In addition, while we accept the initial criticism of our media analysis strategy in that it failed to take broadcast media into account — something that we had hoped to achieve — it transpired that this was a misplaced critique. All the evidence suggests that the *NT News* in particular, and the print media in general, still tend to set the agenda in the Territory and are certainly most likely to be implicated in publication of young people’s names.

Further, while it was not within the remit of the current study to explore the implications of online reporting directly, this is an area requiring further investigation given its impact on the naming of juvenile offenders, and was briefly mentioned by some of our participants. It certainly has import for its potential to publicise youthful offending beyond the borders of the Territory, and given the nature of the web, to create permanency of such media treatment.

A number of other problems with the media searches are canvassed in Chapter 6 but suffice to say here that it was not always apparent whether a media item was dealing with a young Indigenous or non-Indigenous person; whether the young offender was indeed a juvenile at the time of an offence for in many cases these young people had turned 18 by the time the media were reporting on their matter (ie at sentencing).

There were attendant ethical dilemmas too in how to present this information even in this report, and it has been noted elsewhere that we have elected to
render names of youth only as initials. This decision was taken on the basis of the protection of youthful offenders’ identities in accordance with international provisions, to prevent identification of such youth involved in criminal proceedings in perpetuity, and with cognisance that some young people named may now be deceased and thus there is a need to respect local customs.

Despite our best efforts interviewees gave the definite impression (whether media, justice department, legal agencies) that no data exist for juvenile suppression or naming cases. It may be buried in the system depending on whether a specific order was requested or granted, and it is the case that legal representatives for Indigenous youth do keep some cuttings, but overall there is no way to systematically access standardised information about the operations of the publications provisions in the Youth Justice Act.

However, it was beneficial to modify the research design by adding the observational sessions in the Youth Justice Court and we were fortunate to be able to conduct these during two field trips in Darwin and one in Katherine. Indeed, it might have been useful to make these observations a central part of the research strategy rather than as an adjunct. In this way it might have been possible to obtain details of cases and then follow-up in real time to check for media attention.
CHAPTER 4: OBSERVATIONAL DATA

This observational part of the study was not envisaged in the original research design for the project, nor indeed was it specified in the grant application. However, it served as a means of making contact with court and legal agency personnel and thus we attended the courthouse during the field trips in February 2010 in Darwin and again in February 2011 in both Darwin and Katherine. Both field trips were for two week periods and there were three independent observers to make notes on the courts in both sites.

It should be noted however that the Youth Justice Court did not sit every day in Darwin — usually it was on Tuesdays and Thursdays or Fridays in some instances. In regional centres both adult and juvenile matters are held in the same courtroom and we were able to observe several youth matters during the field study in Katherine.

Main Findings

A key finding that could only have been derived from these unobtrusive observation sessions was that the youth court is closed on a regular basis because welfare matters are involved. A significant proportion of the total number of cases observed during the first field trip in 2010 were closed and we were constantly asked to leave the courtroom. However, during the second field trip in 2011 there was only one closed court youth matter — all the rest were open. This unevenness in treatment was reflected from the interview data as well (see Chapter 6).

This closure seemed to done as a matter of course, with the usual practice being for the prosecutor to announce that there are welfare issues arising in this matter and the court would be instantly closed by the magistrate. There was not a single case where an informal application such as this was contested. However, there were no instances where a formal application to close the court was presented.

In one case there was a request to close the court but the magistrate said it was not necessary as the matter was going to be adjourned and the young person was granted bail. There was some discussion of this from our informants later and the
perception that a change in administration at the court level paralleled less attention being given to protection in welfare matters. This really underscores the unevenness of treatment that our study revealed through other research methods (see Chapter 6).

Observation sessions also revealed the fact that young people involved in criminal proceedings are named in court lists that are pinned onto noticeboards outside the courtrooms in the main public lobby area. The youth court list simply follows the adult court ones. There are full names and all details of the charges are given. In cases where there is an asterisk and no name provided then this signals that it is a sexual offence. The same information is available publicly on the Department of Justice website (see Table 4.1 and Appendix F).

Table 4.1: Sample of daily listing for the Youth Justice Court in Darwin

<table>
<thead>
<tr>
<th></th>
<th>Number</th>
<th>Time</th>
<th>Type</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>C5</td>
<td>AXXXX</td>
<td>10.00 AM</td>
<td>Mention</td>
<td>ROBBERY CAUSING HARM</td>
</tr>
<tr>
<td></td>
<td>JXX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20940454</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C6</td>
<td></td>
<td>10.00 AM</td>
<td>Hearing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>20906236</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C5</td>
<td>BXXXXX</td>
<td>10.00 AM</td>
<td>Mention</td>
<td>Use vehicle and cause damage over $1000</td>
</tr>
<tr>
<td></td>
<td>TXXX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>CXXX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20943310</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C5</td>
<td>BXXXXXX</td>
<td>10.00 AM</td>
<td>Handup Committal</td>
<td>Robbery in company</td>
</tr>
<tr>
<td></td>
<td>WXXX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20940483</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C5</td>
<td>BXX</td>
<td>10.00 AM</td>
<td>Handup Committal</td>
<td>Robbery in company</td>
</tr>
<tr>
<td></td>
<td>XXXXX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20940491</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C5</td>
<td>BXX</td>
<td>10.00 AM</td>
<td>Handup Committal</td>
<td>Robbery in company</td>
</tr>
<tr>
<td></td>
<td>XXXXX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20940735</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C5</td>
<td>CXXXXX</td>
<td>10.00 AM</td>
<td>Plea or Mention</td>
<td>Aggravated assault</td>
</tr>
<tr>
<td></td>
<td>WXXXXX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>LXXXXX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20920148</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Names were also called out as part of announcements to instruct interested parties to attend to the relevant courtroom such as saying: ‘in the matter of…’. These announcements were made in the lobby and waiting areas. In addition, it was not unknown for groups of school children to come to court and they would see names and the faces of the young people who were being dealt with and this was said to cause some embarrassment for the young people according to discussions we had with personnel. We did witness such school groups in attendance.
Of most significance is that there is no designated youth court and usually it is courtroom number 5 or 7 that is utilised for these purposes in Darwin. These courtrooms are situated upstairs in the Darwin court precinct but there are adult courts on either side. All participants in the court — professionals, families and young people — have to walk through all the other general areas of the courthouse such as the lobby and stairs to level one. There is no separate entry, and thus young people are paraded through these public areas. As has been raised elsewhere this lack of separate facilities is in contravention of international standards for the treatment of young people involved in criminal proceedings.

There are apparently similar problems with the holding cells downstairs for there is a lack of separate facilities. This was a fact that we learned late in our second field trip and thus were unable to seek permission to visit this area, and beside the issue of facilities was beyond the remit of the present project. However participants to the interviews and other personnel we talked to complained that juveniles are kept in the same cell area as are adults. Indeed access to the detention cells is used as the rationale for why there can be no separate youth court building at the present time.

Usually there were family members present, often it was the mother with only a couple of fathers, sitting alongside the young person in the public gallery area. Indeed the small courtroom was usually overflowing with insufficient seating. This constant shortage of seating inside the courtroom along with the cramped conditions mean that there was little opportunity for private conversations.

Some of the judicial officers appeared to be more attuned to the use of less formal and legal language when addressing young defendants. Some judicial officers do specialise in juvenile matters but youth matters can be heard by all the magistrates and there were clearly different approaches. Prosecution is conducted by police in uniform in the juvenile court with sometimes more than one officer present at one time in and outside the youth court.

We witnessed no media present at any time at the courthouse as far as we could discern, for any matters during our observational sessions. Certainly there were no reporters inside the Youth Justice Court. Tapes could be listened to upstairs at the convenience of the reporters (see Chapter 6). No other observers or members of the public, other than visiting school children, appeared to be present during
the observations sessions and this tended to contradict the concept of ‘open justice’ that has been espoused as a guiding principle of the Youth Justice Act.

Most of the hearings we observed were ones involving admissions of guilt and comments in relation to outcome/sentencing. Of course serious matters are likely to be dealt with in the higher jurisdiction but we did witness one case involving a homicide where attendant summary matters were being disposed of. All observation sessions involved many matters but often they were just for mention or adjourned to a later date or material was missing from file (eg a corrections report) and so they could not proceed. At one point the Chief Magistrate who was presiding commented on how things in the juvenile court should go ahead expeditiously.

Overwhelmingly the participants in the Youth Justice Court in Darwin appeared to be Indigenous youth and they were mostly young males. All young people appeared to be represented almost exclusively as far we could tell by NAAJA or NTLAC as there were no private legal representatives attending the hearings. The impressions gleaned from these observations sessions were confirmed by our community partner.

**Specific Matters**

An example of the type of proceedings held is drawn from hearings on Tuesday 16 February 2010. This matter involved an Indigenous male (17 then and 16 at the time of the incident) who appeared via video link from Joondalup in WA. His mother was present but he was unrepresented. He plead guilty to spitting at a white adult — a case of male-on-male violence — at Palmerston which occurred in April or May of 2009. He said he ‘just wanted to get it over with’.

He had no previous convictions, and his mother had sent a letter to the court, noting that he had been working for the past seven months doing repairs to escalators and earned $900 per week. The police prosecutor asked for a ‘substantial fine’ and the magistrate agreed that this was a ‘degrading’ offence and of course there were concerns about disease. He received a $400 fine but no conviction recorded (as the magistrate took into account his age at the time) and the magistrate admitted that this was a large fine for a youth but given he was
working he could afford it, and also given that this was a serious offence then it needed to be dealt with severely.

A key aspect to this case was that the young man was drunk and had obtained alcohol from a bottle shop of some sort and when he went back for more he was refused service and this is when the argument ensued and he spat on the white adult serving in the liquor outlet. Both he and his mother raised the issue of his being able to buy alcohol when he was only 16 and the magistrate agreed that this was not good situation.

The case raises concerns about how the courts lack capacity to deal with such wider issues (ie sale of alcohol to minors). In the context of the present research it certainly broaches broad topics that could be picked up by the media for public airing. Yet, as we observed above, there were no media representatives present and so this wider issue was not given an airing under the ‘open justice’ policy.

Another case highlighted the distress of families in attendance at youth court. During one observation session we were approached by one mother after observing a hearing involving her young son. She was quite aggressive and hostile to begin with because she assumed we were recording her son’s name, and initially thought we were from the media. Once we explained the nature of our research project she calmed down and agreed to speak with us in interview.

This mother was vehemently opposed to naming of any kind as she felt that young people ought to have their identities protected. She cited the tragic example of her nephew who committed suicide by gun only recently and while this was not attributed to naming it was about the stress of being in legal trouble, and she feared that her own son might emulate this behaviour.

This mother characterised Darwin as a ‘small place’ and publicity had a negative impact. She, her husband and other family members had ‘good jobs’ (including some who were lawyers) and were respected in the community. She expressed concern if the family name were to be put in the newspapers because ‘this reflects on all of us’. She said they were responsible parents trying hard to ‘keep our kids out of trouble but it wasn’t easy’ and so if the parents too are labelled as irresponsible then the whole family is tarnished. She believed that having the public in court was detrimental — it upset the family as well as the young person and was likely to lead to less disclosure and contrition being exhibited.
CHAPTER 5: MEDIA ANALYSIS

The methodological aspects of the project have been set out in Chapter 3 but some elements will be recapped here for it is important to provide details for the process involved in the media search and analysis phase. Thus, a research assistant was employed under a limited term contract in late 2009 to conduct some preparatory work on the AIATSIS grant on the public identification of Indigenous youthful offenders.

The main task was to develop the most appropriate methodology for searching relevant media sources (especially the *Northern Territory News* and *Sunday Territorian*) to extract articles pertaining to the ‘naming and shaming’ of Indigenous youth in the Territory. The search focused on youth under the age of 18 who had been apprehended, convicted or sentenced for crimes beginning from August 2009 and working backwards. Initially it was to be restricted to a four-year period 2005-2008 but as few articles were found the search parameters were extended to 6 September 2000. The Bond University Library provided access to the Australian media database known as Factiva, and the *NT News* website was also used.

During this phase, the research assistant searched, selected, organised, and printed all of the relevant articles and was also responsible for phone calls or other contacts with appropriate bodies (library staff, news organisations and search engine agencies) as part of the management of this early stage of the project. Finally, the research assistant engaged in preliminary qualitative and quantitative data analysis of the content of these articles.

This analysis specifically examined the headlines, how the names of youth were expressed, what type of language was used regarding the young person, the offence categories of the crimes committed by youth, and any follow-up articles about the youth and their crimes. The methodology developed in this exploratory research project was used in later phases of the project and therefore the documentation of the process was imperative.

While the present content analysis focused on articles in which NT youth under the age of 18 were named, there were many instances where 18 and 19 year olds were referred to as ‘teens’ and ‘teenagers’ in the *NT News*, a sample of articles
pertaining to this group was also gathered (see Appendix G:6). This was one confounding factor in conducting a media content analysis as the specific ages were not always readily identifiable.

**Contemporaneous Search**

In addition to searches of the Factiva database described below, one parallel research strategy included a contemporaneous search on the *NT News* website as a preliminary starting point. Thus a daily search was conducted from 18 August 2009 until 23 September 2009. Articles, which named youthful offenders under 18 at the time of the offence, particularly Indigenous youth, who had been arrested, charged, and/or sentenced, were extracted and stored electronically.

There was an average of two to three news stories per day that dealt with young offenders or offences or discussed aspects of youth offending in general. This provides some indication of the attention paid by the *NT News* to youth crime. Generally though these articles were about ‘teens’ and largely these were those aged 18 or 19 years and thus they are teenagers but not legally considered ‘juveniles’. Most often it seems that these news items come directly from police sources for they make claims such as: ‘12 year old commits robbery’ and are usually very scant on detail and quite ‘factual’.

The headline and first few lines of each article were read to determine whether or not they should be included in the study. If the article mentioned youth, juvenile, or any type of crime, the entire article was read to verify whether or not a youth was named and it was relevant. Although the majority of articles were not relevant, it was noted that the majority of articles that discussed youthful offenders and youth crime did not directly name or otherwise provide personal details about the offender.

In many of these articles, the ages of offenders were provided and youths in general were portrayed negatively (see Appendix G:6). Yet, after 37 days of daily checking of the newspaper’s website, only one article was found that named a youth and it appeared on 4 September 2009. The headline was ‘Dogs nab weapons’ thieves’ and it described the case of a 17 year old male who was charged with a break-in and given bail in the Youth Justice Court. Two alleged co-
offenders, aged 20 and 25, were also charged, and they were similarly named (see Appendix G:8).

**Database Search**

The main search strategy was to utilise the Factiva database that contains *NT News* articles from 6 September 2000 until the present. The searches were conducted from 26 August 2009 until 8 September 2009 and initially covered the period 2005 to 2008 but this yielded only 23 articles and thus the time period was expanded to commence from September 2000 to the present (the extent of the database holdings). During this search process, the search terms were entered, the articles were scanned and then selected, organised and printed on the basis of their relevance to the present study. Relevant articles were selected on whether or not the offender was a youth (under the age of 18) and whether or not their name and/or personal details were provided.

A variety of search terms were used including ‘youth’, ‘juvenile’ along with ‘offender’ and ‘crime’. Because the database would only select results that matched the exact search terms, the plural versions were also input (ie juveniles, youths). From experience in the contemporaneous search it became apparent that certain terms were favoured by the *NT News* such as ‘gang’, ‘teen’, ‘thug’ and so these were utilised as search terms as well. However, the most effective search words, in terms of the yield of positive hits, were ‘youth’ and ‘teenager’. (Both successful and unsuccessful search terms are listed in Appendix G.)

Other search databases were considered such as Murdoch’s Newstext which is an online archive website, which contains about 30 million text articles from 150 newspapers from all over the world, including the *NT News* in Australia. Newstext provides access to *NT News* articles from 20 September 1999 until the present and costs about $1.75 AUD per article. However, there were no research discounts and no guarantee that the search would be more fruitful. Other options were to use a State Library which houses the *NT News* on microfilm. In the end this is the strategy that was adopted for more detailed searching of articles, utilising the services available at the NT State Library in Darwin.
Problems of Database Searching

There were many problems in conducting these electronic searches. For example, if there were cases where a young person was named, it was not always possible to determine whether that young person was Indigenous or not. This was especially the case as this was a text-only database and so no photographic material was available.

It was also complex in trying to determine the age of a suspect of convicted offender at the time of the relevant offence given the protracted nature of legal proceedings. As noted above there were many articles that discussed offending by 18 and 19 years olds who were rightly referred to as ‘teens’ or ‘teenagers’ but clearly they are no longer legally juveniles. In addition, out of the 49 articles found, 12 of them involved offenders whose ages differed between their offence and the article publication, five of whom were juveniles at the time of offence but adult during court proceedings and at the time of publication.

Importantly such text-based formats do not provide a sense of the placement of the article (although the page number is listed), nor how a headline might have been treated in the original newspaper publication. The paradox in using this method was that it would have been assisted in names of the young people involved were known as those could have been entered as search terms. Even conducting a search on ‘name suppression’ yielded no articles relevant to the present study.

General difficulties about the veracity of newspaper accounts must also be raised. There were many occasions where ages were not consistently given (ie age and offence and at sentencing). This kind of discrepancy of course can occur with charge details as well which can change from the original announcement of an offence occurring to the time of trial/hearing. And it should be stressed that many cases mentioned in the newspaper were ones where there were multiple charges and these were not always spelled out precisely.

As noted elsewhere, it was not always possible to determine if the young person alluded to or indeed directly named was Indigenous or not. Sometimes it was impossible to ascertain. However, there were a significant number of cases whereby the newspaper offered information that could be identifying such as the home location of the offender as an Aboriginal community or the fact that the young person was being represented by an Indigenous legal agency.
**Search Results**

All articles referring to juvenile crimes were committed by males, the majority of whom were between the ages of 16 and 17. In total, 49 articles were considered out of 2,360 articles, which were found using eight different search terms. Although some of the offenders were under age 18 at the time of the offence, they were aged 18 or older when the article was published. Table 5.1 displays the search terms in order of yield, the date on which the searches were made, the number of articles found, and the number of relevant articles extracted from the total results. According to date, the majority of articles were published in 2004 with the following yields per year: 2009 (4), 2008 (4), 2007 (3), 2006 (6), 2005 (7), 2004 (12), 2003 (3), 2002 (8), 2001 (6) and 2000 (1).

<table>
<thead>
<tr>
<th>Search Term</th>
<th>Date</th>
<th>Total Yield</th>
<th>Relevant Articles</th>
</tr>
</thead>
<tbody>
<tr>
<td>youth</td>
<td>3/09/09</td>
<td>1287</td>
<td>32</td>
</tr>
<tr>
<td>teenager</td>
<td>8/09/09</td>
<td>788</td>
<td>8</td>
</tr>
<tr>
<td>juveniles</td>
<td>26/08/09</td>
<td>164</td>
<td>3</td>
</tr>
<tr>
<td>thug</td>
<td>01/09/09</td>
<td>59</td>
<td>2</td>
</tr>
<tr>
<td>juvenile offenders</td>
<td>26/08/08</td>
<td>23</td>
<td>2</td>
</tr>
<tr>
<td>youth crime</td>
<td>27/08/08</td>
<td>36</td>
<td>1</td>
</tr>
<tr>
<td>bored thug walks free</td>
<td>31/08/09</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>juvenile justice system</td>
<td>27/08/08</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

**Overview of Content**

Articles were deemed relevant if youth under 18 were named, arrested, charged, and/or sentenced for a crime. Most youth were arrested, charged, and sentenced by the time the article was published. However, some youth were awaiting their sentencing. In addition, one article named a male youth as a ‘thug’ for getting into a fight even though he was never arrested, charged, or sentenced for his behaviour.

Stealing was the most common offence (14) followed by assault (9) and aggravated assault (7) with most other offence types having a single instance (eg underage drinking, attempted murder, disqualified driving), but of note is that many youth were charged with more than one offence. There was definitely more media attention given to serious crimes against the person (eg grievous harm, manslaughter, robbery) as these comprised over half of the articles yielded from the search.

It was instructive to examine where in the legal process the naming occurred (ie at what stage was the newspaper reporting on offenders and offences). Most were at the sentencing stage and these are displayed in Table 5.2 below.
As indicated above, it was difficult to discern from the text-only electronically generated articles whether the young person named was Indigenous or not. There were only three articles where this could be certain. The first article was about a 13 year old Indigenous male youth who was not allowed to spend Christmas with his family in 2007. The magistrate decided that he was at risk of re-offending due to his 14 page criminal record as well as having two suspended sentences. The second article was published on 7 July 2006 and involved a 17 year old Indigenous male youth who was charged with aggravated assault and sentenced to seven months in detention. The third article was about an Indigenous male who was 16 at the time of the offence, and was charged with attempted rape to which he plead guilty. The article reported his five year sentence.

A key observation to emerge from this electronic search was that certain individuals did attract sustained media attention. There were nine youthful offenders who were named in more than one article. An example is a 17 year old who was 16 at the time of the offence, was labelled as a recidivist offender and he was featured in five different articles over a 27 month period. However, it should be stressed that most of the articles naming the same offender were following-up on cases between the initial arrest and the charge, trial and sentencing. Table 5.3 outlines the distribution of articles that discuss the same youth more than once along with the amount of time between articles.

While this electronic search provided a useful overview of the incidence and prevalence of naming of youthful offenders, it was deemed essential to view back issues of the *NT News* in their original published format.

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**Table 5.2** Stage in legal proceedings where naming occurred

<table>
<thead>
<tr>
<th>Status</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detention</td>
<td>14</td>
</tr>
<tr>
<td>Suspended sentence</td>
<td>10</td>
</tr>
<tr>
<td>Remanded</td>
<td>7</td>
</tr>
<tr>
<td>Adjudged</td>
<td>4</td>
</tr>
<tr>
<td>Convicted, but released on good behaviour</td>
<td>1</td>
</tr>
<tr>
<td>Good behaviour bond</td>
<td>1</td>
</tr>
<tr>
<td>Mental health facility</td>
<td>1</td>
</tr>
<tr>
<td>Summoned</td>
<td>1</td>
</tr>
<tr>
<td>Warrant for arrest</td>
<td>1</td>
</tr>
<tr>
<td>Pre-sentence</td>
<td>1</td>
</tr>
</tbody>
</table>
Microfilm Library Search

Thus a direct search was conducted of the NT News held on microfilm at the NT State Library at Parliament House in Darwin from Sunday 14 February 2010. The method was simple, the year 2005 was selected and proceeded to go systematically and chronologically through each edition of the newspaper and when an article that mentioned youth crime was found it was printed out. Of course the main aim was to seek articles where young people were named, but as a sampling frame all articles that contained any references to youth offending in general were included. The following is a sampling of such articles where the name however has been rendered here as initials.

### Table 5.3  Multiple articles about the same named young person

<table>
<thead>
<tr>
<th>Number of Articles</th>
<th>Age</th>
<th>Time Span</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>17 (16)</td>
<td>Jan 2005 — Apr 2007</td>
</tr>
<tr>
<td>3</td>
<td>16 (15)</td>
<td>Mar 2004 — Jul 2004</td>
</tr>
<tr>
<td>3</td>
<td>17</td>
<td>Feb 2006 — Jun 2006</td>
</tr>
<tr>
<td>3</td>
<td>17</td>
<td>Sept 2001 — Apr 2003</td>
</tr>
<tr>
<td>2</td>
<td>17 (16)</td>
<td>Apr 2002 — Jun 2002</td>
</tr>
<tr>
<td>2</td>
<td>17</td>
<td>Dec 2008 — Mar 2009</td>
</tr>
<tr>
<td>2</td>
<td>17</td>
<td>Apr 2002 — Jun 2002</td>
</tr>
<tr>
<td>2</td>
<td>18 (17)</td>
<td>Jul 2001 — Sept 2001</td>
</tr>
</tbody>
</table>

YOUTH GETS SECOND CHANCE AFTER SPENDING HOLIDAYS JAILED

Wednesday 5 January 2005, page 4, age 17, Indigenous, named, photo, assault, bail

KT is named and there is a large photo of him although he is shielding his face with a baseball cap. Justice Trevor Riley presided in the Supreme Court. KT had breached a curfew which is from 9pm to 7am to stay at his home address in Moulde. Riley said ‘If you breach bail conditions again you will be in custody until the trial’. The lead par is ‘Youth who spent five days over the New Year holidays in detention after breaching a curfew was granted bail again yesterday after a stern warning from a Supreme Court judge’.

THREATS UTTERED SAY TEENS: COURT CASE DRAMA

Thursday 6 January 2005, page 8, age 14, Indigenous, named, assault, trial

This is a quarter page story in two columns about evidence at trial where ‘A man threatened three girls who were giving evidence against his daughter in an assault case, Darwin Magistrates Court heard yesterday’. The father DI is named and then it says ‘His daughter N has been put on a good behaviour bond after being convicted of assaulting one of the girls’. Of note is that in this article the presumably 14-year-old witnesses are all identified as well (BM, KL, BR and a friend called R as well as the wife/mother being named).

MORE THREATS BY SERIAL BULLY: SNAPPER PURSUED BY FAMILY

Saturday 8 January 2005, page 4, age 14, Indigenous, named, photo, assault, trial

This half-page article continues that about DI (who is an adult) threatening 14-year-old witnesses for which he was found guilty. On this occasion the article talks about him chasing NT News photographers outside the courthouse but again the article names his daughter N, the victim BM, a friend RS who gave evidence and all the girls are aged fourteen. The photo in this article is of the father.
As has been noted earlier, there were very few articles where youth were named, but there were numerous articles mentioning youth crime. The following are some examples of this kind of media coverage. These examples demonstrate that the race of some youthful offenders is directly noted in the press. The second and third articles related to the same case and are noteworthy because it was a page one story but also there was a name prohibition granted following an application by NAAJA.

The following is a list of headlines and publication details and all of these articles contained named juveniles. These were derived from our direct search of the NT News at the library on microfilm.

### WHEELCHAIR MAN ROBBED
*Tuesday 11 January 2005, page 2, age 14-16, Indigenous, not named, no photo, bag snatch, police*

This small article reports a bag snatch in Katherine against a ‘crippled pensioner’ and claims the store owner, who asked not to be named for fear of reprisals, said the youths were part-Aboriginal and aged 14 to 16. “It’s disgusting that they should be stealing,” she said, police appeal for assistance.

### A TEEN WHO BREACHED HIS BAIL 18 TIMES APPEARED IN COURT YESTERDAY. GUESS WHAT? HE GOT BAIL
*Wednesday 2 February 2005, page 1, age 15, Indigenous, no name, no photo, NK, bail*

Story is about ‘a 15-year-old boy who has breached bail 18 times in the past six months was granted bail again yesterday’ and police were opposing his application, this links to article below which was a continuation on page 2.

### DRAINED AFTER 18 BREACHES
*Wednesday 2 February 2005, page 2, age 15, Indigenous, no name, no photo, bail breach, bail*

The youth was said to have shown ‘complete disregard’ for justice when recently charged for a ‘gang bashing’. The chief magistrate said he had never experienced 18 breaches and also ‘prohibited publication of the boy’s name in reports of yesterday’s bail application’ but no reasons are given. The young man was given a curfew and the magistrate said ‘this is your last chance’. His mother was in court and said he kept out of trouble when he was at school.

### 5 CHARGED IN PACK RAPE: 13-YEAR-OLD NT BOY FACES COURT OVER BRUTAL ATTACK
*Friday 21 January 2005, page 9, age 13, Indigenous, no name, no photo, rape, charged*

This quarter page story at top of page is about a rape attack that occurred in Adelaide and significant details are given of the attack, the article notes the five included ‘two sets of brothers’ and they are ‘from a remote community outside Alice Springs’ and the ‘13-year-old boy was granted bail for $100 and released into the care of his mother’ – this is one example of a story where the Indigenous status of offenders is surreptitiously revealed.

The following is a list of headlines and publication details and all of these articles contained named juveniles. These were derived from our direct search of the *NT News* at the library on microfilm.
A total of 46 articles were discarded from our 2005 direct NT News search where there was only mention of the ages of youth. However, we kept the following 12 articles because they exemplified special features worthy of discussion.

The following are the initials of those Indigenous youth named in the NT News and gleaned from our library search. Not all are Indigenous for in many cases we have been unable to ascertain this; some had already been picked up in our electronic database search, but most comprise additional data.

MA
DOGS NAB WEAPONS’ THIEVES: CROSSBOWS AND SWORDS STOLEN NTN FRIDAY 4 SEPTEMBER 2009 P 7
AJA
GANG BOYS, WOMAN PLEAD GUILTY TO RIOT NTN TUESDAY 30 JULY 2002 P 4
SA
‘THUG’ SAYS HE HAD TO DEFEND SISTER NTN MONDAY 24 DECEMBER 2007 P 4
GJMB
BASHING SENTENCE HANDED DOWN TODAY NTN WEDNESDAY 14 JUNE 2006 P 2
CAB
YOUTHS JAILED OVER BASHING OF BLACKS NTN WEDNESDAY 19 JUNE 2002 P 4
ASSAULT JUST DAYS AER PON BOND: TEEN GUILTY OF VICIOUS ATTACKS NTN WEDNESDAY 1 MAY 2002 P 5
ANGER LED TO ASSAULTS: YOUTH, 17, TELLS COURT OF ATTACK BY ABORIGINE NTN WEDNESDAY 24 APRIL 2002 P 5
TEEN TRIO’S CASES SET FOR NEXT WEEK NTN WEDNESDAY 24 APRIL 2002 P 5
GJB
THEIF STOLE FROM CHURCH: YOUTH, 17, HAS 13-PAGE RECORD NTN THURSDAY 30 SEPTEMBER 2004 P 5
C
YOUTHS JAILED OVER BASHING OF BLACKS NTN WEDNESDAY 19 JUNE 2002 P 4
KAC
TEENAGER STILL ON RUN NTN WEDNESDAY 23 APRIL 2003 P 8
SRC
YOUTH IN CARJACKING, GROG THEFT NTN FRIDAY 7 SEPTEMBER 2001 P 5
CARJACKER JAILED FOR THREE YEARS NTN MONDAY 10 SEPTEMBER 2001 P 3
MD
CAR THEIF SORRY FOR HIT-RUN NTN SATURDAY 6 NOVEMBER 2004 P 8
JM
COMMUNITY LET DOWN – EDITORIAL NTN MONDAY 19 APRIL 2004 P 12
DD
DIFFERENT CASES, SAME PATHS (OPINION) NTN TUESDAY 10 JUNE 2003 P 11
LICENCE TO BE A THUG (LETTER) NTN FRIDAY 6 JUNE 2001 P 19
PUNISHMENT DESERVED (LETTER) NTN MONDAY 2 JUNE 2003 P 10
COWARDS NEED GANGS (LETTER) NTN TUESDAY 22 APRIL 2003 P 12
NO LENIENCY FOR THE CRUEL (LETTER) TUESDAY 22 APRIL 2003 P 12
GANG OF 30 BASHES 3 TEENS: SKATEBOARDS AND METAL BAR USED AS WEAPONS NTN WEDNESDAY 16 APRIL 2003 P 1
MOB ATTACKS TRIO NTN WEDNESDAY 16 APRIL 2003 P 2
BORED THUG WALKS FREE: THIS TEEN HELPED TO SAVAGELY BASH THREE PEOPLE. HIS PUNISHMENT? NTN WEDNESDAY 28 MAY 2003 P 1
BORED THUG WALKS FREE NTN WEDNESDAY 28 MAY 2003 P 2
DMG
CAR TORCHING YOUTH HAS LITTLE HOPE OF REHAB NTN MONDAY 19 JULY 2004 P 5
JMG
YOUTH JAILED FOR FAMILY ASSAULT NTN FRIDAY 7 JULY 2006 P 9
DSH
ROBBER HIGH ON CAFFEINE DRINKS: ‘FROM MODEL YOUTH TO DELINQUENT’ NTN WEDNESDAY 15 AUGUST 2001 P 1
TEEN ROBBER HIGH ON CAFFEINE DRINKS NTN WEDNESDAY 15 AUGUST 2001 P 2
KJH
ONE-YOUTH CRIME WAVE GETS JUST 4 MONTHS NTN TUESDAY 13 JULY 2004 P 5
BURGLAR HAS BUSY CAREER: TEENAGER TOLD COPS HE DID IT FOR THE ADRENALIN RUSH NTN MONDAY 21 JUNE 2004 P 6
SH
HOME INVAADER JAILED: THREE-YEAR SENTENCE OVER NULLA-NULLA ATTACK NTN FRIDAY 12 APRIL 2002 P 9
HOME INVASION WITH A NULLA NULLA OVER 14-YEAR-OLD GIRLFRIEND NTN THURSDAY 4 APRIL 2002 P 1
WHY A FATHER WANTED TO KILL HIS DAUGHTER’S BOYFRIEND NTN FRIDAY 5 SEPTEMBER 2003 P 7
THE HOME INVAADER WHO BASHED A MAN WITH A NULLA NULLA OVER HIS 14-YEAR-OLD GIRLFRIEND THURSDAY 4 APRIL 2002 P 5
DH
RETURN TO COURT ON THREAT CHARGE NTN WEDNESDAY 29 OCTOBER 2008 P 6
HAMMER ATTACK BUNGLE: ACCUSED TEEN MAY BE RE-CHARGED AS DPP BLAMES COPS FOR MISTAKE NTN WEDNESDAY 1 OCTOBER 2008 P 3
‘KILL THREAT’ TEEN BACK IN COURT NTN TUESDAY 28 OCTOBER 2008 P 2
HAMMER ATTACKER SET TO BE RECHARGED NTN FRIDAY 10 OCTOBER 2008 P 2
NEW CHARGES OVER HAMMER ATTACK NTN FRIDAY 10 OCTOBER 2008 P 1
PAIN HAS TWO SIDES NTN SATURDAY 23 AUGUST 2008 P 24
‘SOMETIMES IT’S NOT THE PHYSICAL PAIN THAT HURTS MOST’ NTN SATURDAY 23 AUGUST 2008 P 19
DPP ‘DID NOTHING WRONG’ NTN FRIDAY 22 AUGUST 2008 P 7
HAMMER ATTACK DECISION APPEALED NTN THURSDAY 21 AUGUST 2008 P 5
HAMMER ATTACK VICTIM ‘GUTTED’ NTN WEDNESDAY 20 AUGUST 2008 P 5
HAMMER ATTACKER WALKS FREE: PROSECUTION BUNGLE GETS YOUTH OFF NTN WEDNESDAY 20 AUGUST 2008 P 1
JUDGE HARSHLY A SOFT DECISION: EDITORIAL NTN THURSDAY 17 APRIL 2008 P 12
SENTENCE HAMMERED: CHIEF MINISTER SUPPORTS APPEAL AGAINST TEEN’S RELEASE NTN THURSDAY 17 APRIL 2008 P 3
48 NAMED IN U16 THUNDER SQUAD FOR NATIONAL TITLES NTN TUESDAY 24 APRIL 2007 P 37
CLH
SENTENCE SOON FOR RUFFIANS NTN FRIDAY 14 JUNE 2002 P 4
YOUTHS JAILED OVER BASHING OF BLACKS NTN WEDNESDAY 19 JUNE 2002 P 4
ASSAULT JUST DAYS AFTER PUT ON BOND: TEEN GUILTY OF VICIOUS ATTACKS NTN WEDNESDAY 1 MAY 2002 P 5
ANGER LED TO ASSAULTS: YOUTH, 17, TELLS COURT OF ATTACK BY ABORIGINAL MAN NTN WEDNESDAY 24 APRIL 2002 P 5
TEEN TRIO’S CASES SET FOR NEXT WEEK NTN WEDNESDAY 24 APRIL 2002 P 5
LLH
YOUTH JAILED FOR SEX ATTACK NTN TUESDAY 2 DECEMBER 2003 P 7
GH
TAXI DRIVER SLASHED: TEEN PUT ON BOND NTN SATURDAY 22 SEPTEMBER 2001 P 9
CJ
GANG BOYS, WOMAN PLEAD GUILTY TO RIOT NTN TUESDAY 30 JULY 2002 P 4
GJK
12-DAY TERM FOR BASHING ITINERANT NTN WEDNESDAY 5 JUNE 2002 P 5
SENTENCE SOON FOR RUFFIANS NTN FRIDAY 14 JUNE 2002
YOUTHS JAILED OVER BASHING OF BLACKS NTN WEDNESDAY 19 JUNE 2002 P 4
ANGER LED TO ASSAULTS: YOUTH, 17, TELLS COURT OF ATTACK BY ABORIGINAL MAN NTN WEDNESDAY 24 APRIL 2002 P 5
TEEN TRIO’S CASES SET FOR NEXT WEEK NTN WEDNESDAY 24 APRIL 2002 P 5
CL
VIOLENT KILLER GETS LIFE NTN THURSDAY 1 JULY 2004 P 5
WM
SENTENCE SOON FOR RUFFIANS NTN FRIDAY 14 JUNE 2002 P 4
YOUTHS JAILED OVER BASHING OF BLACKS NTN WEDNESDAY 19 JUNE 2002 P 4
ASSAULT JUST DAYS AFTER PUT ON BOND: TEEN GUILTY OF VICIOUS ATTACKS NTN WEDNESDAY 1 MAY 2002 P 5
ANGER LED TO ASSAULTS: YOUTH, 17, TELLS COURT OF ATTACK BY ABORIGINAL MAN NTN WEDNESDAY 24 APRIL 2002 P 5
TM
Overall the main findings from the three types of media searches undertaken, and the subsequent analysis of the data yield from those searches is summarised in the following three points:

**Inconsistency** — the problem with the NT legislation is that it does not accord with international standards and the situation in other Australian jurisdictions and yet sentencers are trying to establish more standardised guidelines as one of the main aims in the 21st century. There is also inconsistency between cases, as our analysis is suggesting that only some cases of youthful offenders get singled out as being emblematic and for having sustained media attention in the form of shaming. There is also inconsistency within cases, such as where a young person can be named in the first instance but then is afforded protection later on, so this makes a mockery of the protections.

**Insidiousness** — another theme to emerge which really relates to previous empirical studies in this area (see Sercombe for example) which is that while there is no overt racism or discrimination that can be extracted from the media coverage we are still left with the overriding notion that ‘the face of the youthful offender is an Indigenous one’. That is, media items are able to covertly imply that young people who come into contact with the juvenile justice system are overwhelmingly Aboriginal. Often these come from police reports where a Crimestoppers type article will state that the person being sought is ‘of Aboriginal appearance’ and this leaves a lasting impression for media consumers.
Initiation Stage — most of the media coverage of crime, again as has been found in so many media analysis studies both here and overseas, is initiated by police sources, ie press releases about Crimestoppers type articles or media releases about arrests. The present analysis has yielded the usual frame that most crime stories are at the apprehension phase of a justice process with a much smaller proportion dealing with conviction or sentencing phases. Some might call this ‘lazy journalism’ but it does mean that, at least in our early analysis, many of the articles list ages and racial background but do not name. However, when names do appear it is most likely to be around the sentencing stage of legal proceedings.
CHAPTER 6: INTERVIEW MATERIAL

Introduction

While the overall research design for the study is outlined in Chapter 3, some salient methodological points are reiterated here to serve as an introduction to the main qualitative component of the project — the interviews with key stakeholders (see Appendix B for interview schedule). These open-ended interviews were conducted in February 2010 and February 2011 in person by the principal co-investigators in Darwin, Alice Springs and Katherine. Each session was digitally recorded with the consent of the interviewees and these recordings were transcribed in full.

A total of 25 interviews were conducted involving lawyers, journalists, police officers, youth workers, politicians, statisticians, public servants, crime victims and magistrates as volunteer participants. There was, of course, a particular emphasis on engaging with those working in Indigenous organisations. On occasion there were multiple interviewees present at a single interview session but generally participants were interviewed alone, and the extent of the interviews ranged from 30 minutes to 1.5 hours.

Following the transcription of the digitally-recorded data a thematic analysis was conducted and several key areas emerged that: (a) directly related to the questions from the original interview schedule; or (b) derived from additional comments made by the interviewees. These qualitative data are presented below under three headings: opinions on media and naming, perceptions of the consequences and other related issues, with sub-themes being canvassed in each of those areas (see Table 6.1).

None of the interviewees are named directly in this report nor are they linked to their specific comments, because even though most participants provided permission to attribute their quotes, the goal here is to offer more synthesised responses. It is also imperative to note that interviewees participated as individuals rather than as representatives of their organisations, and this is a further reason why their responses have been rendered anonymous. Some individuals however may be identifiable because of their unique professional positions particularly in the limited legal landscape of the Northern Territory.
Opinions on Media and Naming

The key stakeholders were asked about their perceptions of the media attention given to youth crime, to Indigenous youthful offenders in particular, and of course they provided their opinions on the issue of ‘naming’ in general. In line with the interview schedule, the participants spent considerable time in describing the type and intensity of media attention given to juvenile offending in the Northern Territory. In eliciting the interviewees’ opinions about the provisions of the Youth Justice Act and how they thought it was manifest, their overall descriptive responses were categorised under the six areas discussed below.

Media Focus on Youth Crime

The respondents suggested that there was a significant, sustained and sensationalised coverage of crime in the Territory. In particular they reported an ongoing propensity for the media to focus on youth crime especially. An interviewee (who was a representative from the media) conceded that even though the incidence of serious violent crime had been reducing there was a tendency to embellish crime figures or ignore the decreases in offending rates.

Several participants commented about media over-representation of youth crime particularly in Central Australia at the time when most of the interviews for this study were being conducted. They observed that ‘people seem to be up in arms about youth offending ... . Whether that is an accurate response to what is going on is another question, but the climate does not seem to be particularly sympathetic.’ Others made similar observations because during February 2011 there was a series of articles and much political attention given to youth property crime in Alice Springs. One participant from the judiciary said ‘there is a bad problem’ but that it had been overblown where, for example, the case of an
An American woman who was assaulted when her party was gate-crashed had received extensive media coverage. Thus there was an admitted cyclical nature to the reporting exemplified by peaks and troughs in the attention paid to youth crime by the media.

In providing their views of the media interest in youth crime, most interviewees at some point offered negative views about the local daily newspaper — *The Northern Territory News*. One interviewee, reflecting the sentiments of others, candidly said ‘I don’t have a lot of time for the *NT News*’ and went on to suggest that this was quite a widespread view in Darwin and beyond. Those working in the justice system tended to ‘avoid speaking to them’ claiming that the individual reporters or journalists were ‘okay and relatively professional’ but at the editorial level their ‘editing style … means that key information is left out of stories’.

In the opinion of interviewees the *NT News* only included ‘information … that will hype the story and sell papers’. As a result some interviewees said that if a ‘serious response’ were warranted then they would rather approach the ABC and that ‘some of the commercial radio stations are fantastic in their support for publicising real issues’. A telling criticism from a victims’ advocate described the paper as ‘archaic’ and observed that ‘one of the most disturbing things about this whole area is the idea that the welfare of young people could be in the hands of the *NT News*’. There was a view that ‘the *NT News* is really against juveniles … they don’t have a lot of sympathy for any of these kids’.

In addition participants were of the opinion that the print media, especially a daily newspaper with little in the way of direct competition like the *NT News*, tends to set the agenda for the news cycles. This was thought to have been exacerbated in the new media age. For example, one legal practitioner suggested that ‘the broadcast media now all have their web pages and so I think they are a bit more inclined to follow the print media with what they put on those web pages’.

The sensationalised and superficial nature of crime reporting was raised by most participants. One judicial officer observed that ‘it is a complete waste of time [talking to the media] because they are not really interested in reporting what goes on in the courts. They are about sensationalising as much as they can and the more judicial officers try to go and talk to them the more they will treat you like you are a buffoon. They’ll have you living in ivory towers at the drop of a hat.’
Another said that ‘in Katherine there is lots of talk about youth crime, because youth are often an easy target. The Katherine Times is probably a more balanced paper than many of the others and tries to promote good news stories, although the headline of last week’s paper was something like “we’ve had enough” when the shop owners in the CBD were complaining about broken windows. It did not name the young person but gave a bit of a description of him and what he was in town for — he was visiting a sick grandmother from memory, so it would not have taken much effort to work out who he was, it was not sensationalist but expressing a concern. ... Similarly there has been concern about crime rates in Alice Springs recently and lots of press about how dangerous it is, and talks of curfews and ASBOs. There is frustration in the community and different views about what might curtail them.’

Clearly the interviewees’ opinions accord with the broader media-crime literature in stating that there is an elevated focus on crime stories in the press and broadcast media, that there is over-representation of youth crime and Indigenous youthful deviance especially, that there is a proclivity for sensationalised and superficial reporting which is cyclical in nature, and that news media are powerful agenda setters in any community (Jewkes 2011).

**Infrequent Naming**

As demonstrated in the previous chapter, the present research has revealed that there are surprisingly few cases where youth are named in the print media and even fewer are identified in the electronic media. There are several reasons for this, most of which revolve around practical considerations where print media journalists do not regularly sit in youth court, and radio and television reporters rarely attend justice proceedings at all. Media practices have changed partly as a result of technological changes in the form of digital recordings of hearings, so that when there is an ‘interesting’ or ‘high profile’ case, journalists are able to listen to the matter in the media room at a time that is convenient to them.

The participants highlighted the scenario that there was indeed very little ‘naming and shaming’ of Indigenous youthful offenders taking place in the Northern Territory. One magistrate observed that there had been no suppression applications in the last six months. Others concurred that, in recent times, ‘the media ... might report cases but they don’t report details, there hasn’t been
reporting of names’. A youth worker observed: ‘I can’t think of a front page where a specific young person was named’. Media personnel recalled that ‘the number of juvenile offenders that the [local newspaper] has named over the last two decades you could count on one hand, it is very rare to do it.’ And, certainly those involved in juvenile justice said that ‘we don’t see journalists sitting in that court very much anymore’.

Those in youth diversion could not recall specific cases of youth who had been named in the media. ‘There are many times when I read in the paper about a young person who has reoffended and their name is in the paper. I think a lot of the more sensitive issues generally the defence lawyers put forward to block their names. And generally they get these, I mean I don’t know how many they put forward and how many they get but I know there are many people who come through and their names are not released.’

We were informed that there are only two occasions when the police would name a young person directly: when they are on the loose and causing trouble then they may provide a photograph and their name to be publicly released; or when the young person has allegedly gone missing and therefore there is concern for their welfare. Generally they avoid any identifying information about youth, such as naming a school where trouble has occurred or specifically naming small communities or suburbs where it could identify only a few people. Police personnel were not sure if this was policy or just their usual practice.

So there was broad consensus among participants that ‘even though there was a right to publish, the press didn’t do it’. They felt that there was a kind of unwritten ‘agreement here that they wouldn’t do it’ and in this way it ‘saved a lot of young people being identified’. Interviewees reiterated this by claiming that ethical considerations by journalists meant that ‘they wouldn’t name or identify them and that held up for years. Now I think it still holds for a lot of the time they don’t publish the name or identify them.’

There were also policy constraints. We were informed, for example, that ‘the ABC has a policy that they do not name juveniles ever’. Thus for both radio and television the ABC has a blanket directive not to name youthful offenders and this appeared to be widely known in media circles in Darwin. However it ‘is really only an informal policy — it is not written down anywhere. I don’t know how it happened, it has just really been accepted practice but I have never seen it in
writing.’ Other unwritten policies included that journalists claimed that they don’t name ‘oncers as we call them, that is first-timers in court’ and that they therefore ‘do not go about gratuitously naming young people’. In spite of this it seems that the defacto protections did not extend to recidivists because ‘it’s only the hard core little shits who have 60 or 70 convictions that we name’.

Nevertheless, as is known about media treatment of crime news in general there are certain cases or individuals or causes that are singled out for heightened attention (Surette 2011). The interviewees noted this by saying that ‘if they get a case that has become their issue as well’ then this leads to extensive coverage. Or, as others observed, ‘occasionally when there is something that is fairly controversial we might see someone sitting in [court] but not as a regular feature anymore.’ Our interviewees acknowledged that some cases were singled out. This was ‘generally when the community is outraged and it is a vent for the community but of course then the community can get further outraged especially if the offender is going like that [giving the finger].’

A court reporter said that ‘generally I don’t attend the youth court unless I have heard or know of something that might be interesting’. This was the case even though her media organisation had a policy to ‘name them’. It was suggested that the local daily newspaper is the ‘only outlet that covers a lot of court. Channel 9 only do stories that they have pictures for and the ABC doesn’t go to court every day. ... I do not as a practice sit in the youth court and I have a relationship with orderlies and lawyers and I may get a tip off from one of them and so I go and listen to the tape of the court proceedings but it is too late by then to get a photograph.’ Journalists said that AAP and The Australian rarely cover local courts.

Some legal and welfare practitioners noted that many (possibly up to 90%) young people are diverted before they go to court and so this means that the naming provisions and practices do not really affect them. One youth justice worker claimed that naming ‘doesn’t impact at all on our program’. In further explaining this viewpoint she said that naming in the newspapers ‘wouldn’t make one iota of difference because young people don’t read newspapers anyway and most people in town know who the offenders are anyway’. Nor did she believe that it would impact on completion of a diversion program, once a youth was signed up. Indeed this welfare officer said that she felt that ‘harsher penalties is what we need’ and
that as far as I’m concerned they should name them all – maybe there should be more publicity’.

Another somewhat unexpected observation was that there is a possible interactive effect between excessive media attention and name suppression applications. For example, a magistrate observed that about two to three years ago ‘there were quite a lot of applications for the suppression of names or details, at a time when there seemed to be quite a lot of reporting’. Despite the capacity to suppress names under the Youth Justice Act, most participants concurred that it was ‘prima facie for publication’. Yet, with respect to suppression one legal practitioner noted that the sheer fact of having a suppression order can engender media attention: ‘Sometimes there is reporting on the actual suppression order itself so when the application is made it certainly does arouse their interest, there’s no doubt about that.’

A further unanticipated but very important finding which was also gleaned from our observation sessions is that ‘defacto protections’ against naming exist because many appearances and hearings in the youth court are closed. This is because of provisions in other legislation, namely when youth are under care and protection of the department, then the details cannot be made public. As noted by many interviewees, there would be many occasions when a youth court would be closed because of welfare issues and the discretion to close the court would be exercised. In particular a magistrate noted that when youthful (or indeed adult) offenders are under some kind of care order ‘it is a matter of law’ that names and details cannot be published.

To that end there is a ‘practice direction, because we don’t always know that a youth before us is in care or going to be in care, to basically say that lawyers need to bring this to the attention of the magistrate …. So that is precautionary and it is up to the magistrate whether to close the court or not. That does happen a lot that we do close the court and certainly under other legislation the press would not be able to publish the fact that a young person is in care or is going to be in care. But of course there are other issues too not just the care ones.’

‘There is a practice direction that says if there are welfare matters that are going to be mentioned then you just tell the court and it will be closed. But the practicalities of it and the inconvenience of it mean that it is fairly loosely interpreted. … it is such a pain to close the court, to boot everyone out, to get
everyone back in. ... The legislation says you are not allowed to publish any information about an order or whether someone is having an assessment for an order, temporary order or anything like that’ observed a practising lawyer. Some indeed expressed disdain at the reluctance of magistrates to indeed close the court when welfare matters were being addressed.

To that end participants from the legal sector said that if a child is under care and protection it ‘is readily done’ to close the court whenever it is brought to their attention, or even when there is anything slightly sensitive about the case and rarely are there ‘any objections from prosecutors’ and ‘besides the media never comes to our court’. Others said though that not all magistrates were familiar with the practice directions and ‘we had to dig them out and draw them to their attention’.

Finally, there are some other circumstances that impact on the newsworthiness of cases. For example, many Indigenous people plead guilty and therefore there is no contest and thus few details are put before the court that could be reported on. It was also suggested that when diversion is being requested this can affect the level of detail of material being read out. So there is a range of practical, technological and policy-based reasons for the evidence that juveniles are infrequently named in the Territory media. However some cases do draw media attention and these can involve those in which a suppression order has been applied for or granted.

**Lack of Detail and Context**

As has been shown in a myriad of international crime-media studies (see Surette 2011; Jewkes 2011), most stories focus on the initial phase of proceedings (ie police or apprehension stages), with less interest in court processes and even less attention on the sanction phase (especially relating to prisons). This decreasing attention as cases move through the justice processes was also reflected by participants’ comments in the present study. Thus a key claim by our interviewees is that there is little media attention on the Youth Justice Court overall, and where there is media coverage it tends to lack detail, lack context, be superficial and is presented in a sensationalised style.

With respect to the lack of detail and lack of context for crime events, one of the interviewees discussed a specific case. He said: ‘one of the things the news reports didn’t report on was that he had obviously been here for quite a while because he
had been next door and the neighbours had shooed him out but our phones were on silent. He jumped over the fence and started going through our place. ... He had been here for a while but that didn't make it into the press. He obviously knew what he was doing ... and that didn't come out in court. ...'

One journalist said that media practitioners rarely ‘follow up on any of the young people to see what happens to them unless they come up on the court list again and of course some of them do graduate to the adult court. If I recognise a name then I might follow up and go and have a look, but generally this is not the rule, it is only if the case details themselves are interesting. The more outrageous the better, in the Territory, when they are young up here, like stealing cars at 13.’

In fact some disquiet was expressed by some participants that the media showed very little interest in juvenile justice proceedings at all and that the upshot of this was a negative outcome. It was as if ‘no-one gives a toss’ as reported by one interviewee. It was deemed that the media only ever turned up to court when there was a cause célèbre, yet ‘sometimes we have good stories, great stories, they are indicative of the way racism works’ but these rarely garner any media attention.

As one participant opined: ‘of course I can understand, if you’ve got a constant diet of Aboriginal people beating up on each other and you know if you are running the NT News and your readership is “white Darwin” then essentially they are not very interested in hearing about people beating each other up and raping each other and stabbing each other and all the rest of it. So there seems to be very little interest in reporting’ these crimes.

**Inconsistent Treatment**

Whether a young person is named or not is dependent on many extraneous factors such as presence of journalists, salacious nature of offence, and competing stories. There is also the cyclical nature of focus on youth crime and naming in particular. For example, participants in this study have suggested that media attention on youthful offending was heightened in the late 1990s to early 2000s and then again in 2005 and later in 2008-2009, and many say that this resulted partly from the electoral cycle but also was sparked by the occurrence of major cases.
There is a perception, especially from our participants in Alice Springs, that the naming of young people was worse in the late 1990s and early 2000s during the peak of enforcement of mandatory sentencing in particular in Central Australia at least ‘where people’s names were published left, right and centre all the time. So like it was very common in The Advocate’. As a result the Central Australian Youth Justice Committee was formed and ‘started getting a bit of a focus on suppressing of people’s names in the media’. Certainly there is the view that the naming of youth runs in peaks and troughs where it can be encouraged by political attention or amplified by a particularly serious youth crime offence.

It was really a member of the bench who was most emphatic in alerting us to the fact that there is such unevenness of treatment firstly in the way that the media approach youth crime matters. It was observed that there ‘has been an on-again off-again pattern of media reporting’ and in 2011 it was felt that there was little concern that juvenile justice matters will make it into the media.

This characterisation of ‘great unevenness about the open court policy and the open publication policy’ was also reflected in regional differences. First there is the fact that young people particularly in Darwin and Alice Springs are much more likely to have their names and details reported in the paper than any young person out in a remote area, ‘because the journalists aren’t out there and so they don’t know what is going on out there’. Several interviewees claimed that there were ‘matters in remote areas that would make great fodder for the media but of course they never hear about it, and so there is a great unevenness about the way in which young people’s matters are reported.’

Part of the unevenness of media treatment includes the observation that rarely do media personnel attend bush courts or other justice processes: ‘Well there’s hardly any kids out in the bush, at least in the communities that I’m at’. So it seems that most media attention would occur ‘in town, you never see the media out in bush court [although] I think the Law Report has been out to Yuendumu a couple of times, but not the mainstream. … and there’s good reason for that’ because generally ‘any higher level offending whether adult or juvenile just gets shipped straight into town. So there’s rarely any juvenile matters and when there are they are really of quite a minor nature.’

Moreover, it was noted that publicity is serendipitous, dependent on whether a journalist is present and whether the person has a high profile, such as a
footballer, or ‘the seriousness of the charges of course anything involving serious harm, gang violence especially there is significant publicity’. The vagaries are also displayed in significant differences between magistrates where some are more open to applications for suppression and others take more convincing and still others almost never grant the orders.

Another form of unevenness is that when a young person is ‘under a protection order, the Care and Protection of Children’s Act makes it a criminal offence for any information regarding that child’s status being published. So ... the lawyer will say that this is a matter your honour that would require the court to be closed. ... That means that for young people who are in the care of the CEO who are in fact often the worst recidivist offenders (for all sorts of reasons), their names are never published; whereas young people who are still in the care of their parents have the potential to have their names published.’

One participant suggested that there was ‘a big turnover’ of staff at the *NT News* and this could contribute to inconsistent practices. Nevertheless naming ‘raises its head from time to time and the *NT News* sometimes does cross the line’ reported one respondent. Such a turnover of staff in any news organisations can mean that policies or practices could change. One television journalist said that newer staff members ‘came to me and there was a bit of push on the floor to name that kid [RM] and I said listen you know rules are rules ... we just can’t break it. There was a bit of clamour from young journalists who hadn’t really thought it through.’ Clearly there are significant differences across media outlets too although overall the media in the Territory was characterised by one legal practitioner as ‘reactionary in nature’.

Uneven treatment can arise too when there are stakeholders with media contacts, for example, one crime victim said that ‘they didn’t hand down a severe enough sentence and having the media contacts which we did at the time ... [we] set up a few interviews and I went and voiced my thoughts and quite forcefully so after what had happened, you know someone breaks into your home and assaults you and gets away with a good behaviour bond, we were quite well upset by it all’

In terms of an appropriate time to ‘name and shame’ one interviewee concludes that it is difficult to know when to name and shame because ‘you’ve obviously got rights that need to be protected and innocent until proven guilty and that is probably a fine line until guilt is proven and that was preserved in this instance
his identity was reasonably protected but when he plead guilty that is when it came out’. This same interviewee also talked about a ‘fine balance’ in knowing how much media exposure was enough and certainly suggested that any salacious reporting was not in anyone’s interest. He was just trying to stress the need to know who did the crime.

There are several prominent cases where youth are named and then details are suppressed later and still their names generally appear on the public listings so there is never blanket suppression even where suppression is granted. Inconsistency therefore arises when a juvenile is named (or not) and then at subsequent hearings is not named (or is). For example the courts ‘were obviously trying to gauge the impacts of it about the naming, he walked away with the same good behaviour bond because there had been so much naming in the media, that was mentioned as a punishment that he had already received, and that was unquantifiable’. With regards to suppression or closed court orders there are of course times when an application is more appropriate than others such as for bail applications and adjournments and mentions whereas at the plea phase or at sentencing, details may arise that ‘the media might jump onto it’ says a lawyer.

One issue about diversion is that the young person is often already named in the court lists and makes an appearance as was witnessed in the observational phase of this project. ‘These kids get hauled before the court and then get diversion. It raises big alarm bells about why police haven’t identified them earlier.’

This inconsistency is evident when cases move between court jurisdictions so that ‘it is very rare to see any report of a young person’s matter where they are named, they use initials’ in Supreme Court cases, according to a judicial officer.

**Indigenous Focus**

With respect to differential impact between Indigenous and non-Indigenous youth one interviewee reflected the views of others by noting that ‘it is very hard to tell’. Where the matter is dealt with at the regional level on circuit then there may be little publicity or ‘it’s really not going to make much difference. I don’t think there is going to be a huge impact in town, [because] no-one is going to know them.’ However, others raised the point that some family names are well-known and this could create additional problems although ‘people in that community probably already know them. The difficulty would be if for some
reason that they want to stay in the city, if they have extended family here or whatever and that would be difficult.’

For some who supported open court and open publication policies there were suggestions of leniency. For example, one interviewee observed that ‘the community sentiment was pretty much in line with what had happened was that justice was not colour-blind, like it did seem to be easy on these kids if they were black. Community sentiment was that if it was a white fella who did it’ then the treatment would have been harsher. This interviewee said that Aboriginal youth have high crime levels from the statistics and he imbued the statistics with veracity as ‘it's all down in black and white’.

With respect to any greater impact for Indigenous youth by being named an interviewee suggests that ultimately the damage would be the same, with the exception that for an Indigenous child to be shamed would be more hurtful. One aspect to this was the view that shame in Indigenous communities is ‘very very real’. Another take on it was that there is less capacity to deal with it in terms of fewer support services or at least access to them, especially ‘as there is trouble reaching kids on community’.

Overall therefore, there was little direct evidence from interviewees about differences in media treatment. For example as noted above, if Aboriginal youth are from remote centres then it is likely that there will be scant media attention because of sheer logistics. However if they are living in major centres or in Darwin city then there is a greater scope for media coverage. So in this way the media naming of youth can be both underplayed and overplayed. What interviewees did raise though was that with multiple charges there is potential ‘to be targeted by the NT News’. Many informants also noted that some families are ruthlessly single out with the same photographs published on many occasions and that this kind of treatment impacts on subsequent police treatment of the families (see later sections).

**Views on Naming and Shaming**

It was surprising that there were some key players in the juvenile justice and media spheres in the Top End who were not aware of the capacity to name youth under the Youth Justice Act. Even those who worked in the criminal justice system were not overtly conscious of the specifics of the naming legislation for
young people. For example, one police prosecutor was unaware that the NT provisions were different from those in other states. So an unexpected finding was that some interviewees were not fully aware of the provisions under the Youth Justice Act ‘that you could name people in the juvenile courts’.

By contrast, a journalist revealed that she ‘was shocked’ when she found out that there was no ban on the naming of juveniles. During her training in the southern states she said ‘we were taken through all the reasons for why juveniles are not named and I thought this was a blanket coverage ... so it was hard ethically to resolve that at first. But after a while of working at a tabloid newspaper you come around to their way of thinking whereby the media have a role to play in the open administration of justice and that one of the fundamental things about that is the ability to name individuals’. So at the NT News ‘we are in favour of naming juveniles unless there is a good reason not to and newspapers and the media generally quite often will refrain from naming someone if it is going to damage their work, put them in danger or damage their reputation and journalists like to think that they are ethical’.

The politics of the discourse around naming and shaming was inescapable within the interview sessions. Some noted the tensions between welfare and justice in the juvenile system where ‘there are some sections of government that are trying to encourage parents to reward good behaviour rather than punishing bad behaviour ... and yet another section of government advocating naming and shaming, there is a conflict there that is hard to explain.’ It was acknowledged by some that the Territory ‘is terribly out of sync with the rest of the country’ because of its naming and shaming provisions. Those same interviewees were the ones like to call for ‘a little more intelligent discussion on this rather than a politicised beat-up because there are angry people out there who think it might be worth a few votes’.

Those who supported publication believed that juvenile crime offended community standards and that ‘the object of the exercise is rehabilitation to effect change in behaviour and to reinforce a community standard’. It was suggested that it is ‘offensive to conceal and shield’ where the consequence would be that individuals, families or communities had ‘no real knowledge about the violation’. Thus, there was plenty of evidence of a hard-line approach where it was deemed important that ‘we are courageous and we don’t just step away from these things because it might hurt someone’s sensibilities in naming someone’. And despite
some misgivings there was little political support for changes to the publication laws because ‘the offender has family and that message may at least jolt someone to say well come on, this is going to be shameful for the family to have your name in the paper’.

Interviewees also acknowledged that the term ‘name and shame’ is used with abandon without any specific meaning attached to the term. One said ‘we know what the naming is but shaming is something that we are not really familiar with’. It was felt by some that ‘the emotion of shame is a very powerful one and if correctly used can bring about change in behaviour’. However, ‘if the person who has offended or trespassed doesn’t have the capacity for shame then the naming and shaming can’t be used’. And even politicians conceded that the whole concept of ‘name and shame’ can tip over into ‘a populist area’ and so it was often about ‘balance’ that they spoke. It was recognised that it is ‘not a simple matter of name, shame, fix problem’.

Respondents noted that generally victims of crime ‘almost always come out on the side of healing the recalcitrant youth, they are supportive of treatment programs, they are supportive of long-term intervention, they understand that hard-hitting lock-em-up and throw-away-the-key policies don’t work’. Victims ‘are aware, they are not stupid, they know what works and what doesn’t work, and even though they have been victims and sometimes sure they will have that reaction about “those little bastards” but in general they are wise enough to know that there is a welfare response that is needed not a punitive one.’

One victim’s advocate made reference to the brutal gang rapes in New South Wales and the media attention that those cases had generated (Chappell and Lincoln 2007), especially ‘where all five could not be named because some of them were juveniles’. This advocate conceded that some victims ‘would feel cheated’ under such circumstances because their offenders were not publicly named but it was not possible to ‘see how being able to publish the name of a youthful offender would be of any benefit to victims of crime.’

Many offered the refrain that the ‘courts are failing young people’ because there is a lack of connection, they don’t acknowledge the harm, that the experience is brief and not understood and thus there was considerable discussion raised about the perceived benefits of more restorative justice style approaches from legal representatives, youth workers, victims advocates and politicians. One example
quote is ‘what's that bloke wearing a wig telling you something that is weird. But if you are sitting in front of the old person whose house you broke into and you've got your family around you — pffaww!’ — alluding to the power of a youth justice conference.

‘I think here in terms of naming and shaming in youth justice court it happens not just in relation to the young people this particular magistrate is very interested in shaming families, and will make really insidious comments about “your parents are hopeless, they’re alcoholics, they don’t care about you, you’re in the care of the Minister, you’re going to be the same as them”.

We were told that ‘It is all well to name and shame but if you are not providing decent services then the society is to blame and not many people say that. I have got problems with the education department and how it deals with remote communities, like the recent move to stifle bilingual education in places like Lajamanu have been catastrophic and attendance rates have gone from very high to very low, it is very traditional, it is isolated, they don’t have a lot of grog there, and the community elders are strong and involved, and it has a relatively low crime rate, those elders were assistant teachers and no longer are [because of the axing of bilingual ed]. Getting community engagement is going to have a heck of a lot more cultural significance than putting someone in a court or naming them.’

A youth worker said that the ’current government has been supportive lately but usually when elections come up then youth crime hits the front page, the whole fear campaign about YP out of control was in the last election, getting tough on crime and family responsibility orders, no more soft diversionary options and those kinds of pamphlets were being flung around but Paul Henderson seems to be supportive, I am not sure about Terry Mills.’

Again the point about the aim of shaming was raised by several participants. In small communities ‘the coppers just walk out and ask someone and “they’ll say oh yeah that Johnnie he’s down the creek” ... they know exactly where they are going to be’ – again referring to the ease at which police can clear-up matters in general and thus aiming to tease out the goal of shaming.
Perceptions of the Consequences

As has been raised elsewhere in this report, endeavouring to make a direct connection between being named in the media and any subsequent outcomes is fraught with difficulty. However participants did proffer, not only their opinions about likely consequences, but had experience with specific instances or cases and they reported these in the interviews. Some of this material has been utilised in the case studies (see Chapter 7) where our interviewees had knowledge of the impact of media coverage on Indigenous youth and their families. The themes to emerge from the qualitative data here were around a detrimental impact, tensions between legal and practical matters, and whether publicity had a dampening or exacerbating effect and these three themes are presented below.

**Detrimental Impact**

Clearly there is great difficulty in trying to decipher the consequences of the naming laws. One lawyer rightly opined that one is ‘sort of guessing’ when trying to describe what the potential impact is on young people of being named. While interviewees tended to endorse the fact that the ‘international research shows that rehabilitation is enhanced by not having identification’ of young people, it was nevertheless the case that it was difficult to relate instances where ‘publication lead to detriment … because we don’t know where a young person ends up’.

Some called for greater attention to this and the need for specific research. As noted by one legal practitioner: ‘there is a failure to evaluate across the board in the Northern Territory or even consider, like whenever they bring in a new piece of legislation here, as far as I can see, there isn’t actually a proper evaluation’. So there is no repository of information to which one can turn. A magistrate concluded that it was hard to tell whether there was a differential impact on Indigenous versus non-Indigenous young people with respect to the naming provisions; but one factor was certainly the high over-representation of Aboriginal youth so it is differential in that way at least, she said.

Another main issue to emerge here about the potential for detrimental impact was immediate as opposed to long-term consequences, and that centred around the behaviour of young people while taking part in a court hearing. A legal officer said that when delicate matters are raised in open court it may be that the young
person will be reluctant to fully disclose ‘because they don’t want all the details broadcast around the community or there might be limited instructions because the matters are of a sensitive nature and this might impede your ability to run a defence.’

These sentiments were echoed by others who noted that because ‘many youths from remote and traditional backgrounds are relatively shy’ it may be that if the court is open or if there are media present then they may not speak up on their own behalf or be in a position to fully advise their legal counsel. This shyness of witnesses was noted by magistrates as a constant problem. This is especially problematic in a small community, ‘it is not like Melbourne or Sydney where you can disappear into the background, here there is nowhere to go’.

Another lawyer said she was sure that some youth do not disclose because they are worried about the media reporting along with ‘the embarrassment of other people being there. ... When you ask them about their home life they most often reply “pretty good” (even when it is clear to all that it is not). ... If they know it is going to get into the media then of course they don’t want that reported.’

A related claim is that ‘in Darwin there are more staff and facilities and a dedicated youth court ... this is why closed courts are good ... there is also the situation of playing up to an audience and this is very much the case for young people particularly vulnerable to that at times and it can disadvantage their sentence, being cocky because they are in front of others, having that veneer because they are surrounded by other people and might not help them ... it is a distraction to have people in the court when there are very serious messages being relayed from the bench ... I think open court should be the exception rather than the rule.’

Despite the lack of comprehensive evidence, our participants did give accounts of the damaging effects of media publicity for youth involved in legal proceedings. A legal officer said ‘that you definitely see the shut-down of kids’. There were problems with having ‘the court list at the front door and you can look who else is here ... it is on the internet with the charges as well’. He went on to say that ‘if one goes into the communities say like Ngukurr the court is right across the road from the store and the court is attached to the council building so as soon as they put the list up that is the space where everyone hangs out and people would go over and they would check out the list to see who was on it, have a bit of a giggle, but
maybe in a town of only a thousand people they have probably already seen what you did, but it’s still very public.’

One legal officer knew ‘families who have gotten very upset about being named in the paper. And they get named before they are found guilty so if it is an interesting story the media will be onto it the moment someone is arrested, so before they even come to court the media is aware of it. ... So sometimes you attend court and the media are already aware of your case. ... I have had family say “why is he in the paper and how come he got named” but I have never had a kid comment on how it affects them.’

Lawyers noted that ‘the situation of an Indigenous young person appearing in court with family and friends is enough to signal the gravity of the situation and so the naming of that youth in the media doesn’t really add and indeed could be counterproductive. The problem with this legislation is that it requires defence lawyers and magistrates to be on the front foot about things.

A youth worker said about the naming legislation that it could make young people feel worse and this would affect whether they could change or not. Many young people offend because ‘they don’t feel good about themselves’ and so ‘the effects of shame within relationships’ needs to be taken into account. ‘I cannot see in any way how further isolating a young person is actually going to change their behaviour. In a public forum ... shame is a good thing because it tells you that there is something wrong but unless there are people around you who care for you it is difficult for any good to come out of it.’

‘Surely the basis of it is that it is damaging to the kids or it is harmful for everyone to know those details ... it is all about the psychological harm to the kids I would have thought that both might damage in equal amount’. Instead participants advocated a ‘sensitive approach’ for they were ‘horrified that the NT News can splash young people up on the front page’ where individuals can be ‘easily identified by peers’. Some talked of the ‘trauma’ that can result from ‘this ridiculous legislation [for] the terrible notion of naming and shaming.’

Some participants expressed extensive sympathy for victims in cases where the media had sensationalised a story. They were acknowledging that it is not just named offenders who can be harmed by targeted media attention. For example, ‘I felt a bit sorry for him and what had happened, he’d been attacked, [the media]
had taken the ball and run with it and they were a bit you know in his face, so yeah he did get a little bit hard done by the whole scenario.

Another interviewee reflected on how people’s perceptions can be distorted by media representations. A participant who had been the victim in a crime event was shocked to find that there was a community view that he had been aggressive because someone said recently ‘oh, you bashed the guy didn’t you’. The victim therefore was also being unrealistically portrayed in the media and this impacted on how he was viewed by others. Although he did also note that the notoriety he received had some beneficial aspects for his business and ‘any positive spin-off from something like that has got to be a good thing’.

Others were appalled that these practices continued. ‘I find it all very disturbing to be honest, the thought that after all this time, way back 25 years ago we knew that if you treat children in this manner you will destroy their lives, now we are talking about the most vulnerable group in society, those who are so disadvantaged in every way, not just children but Indigenous children.’

‘I think there is an implicit assumption that because they are Aboriginal people and because there is a low literacy rate so that really what do they care, so really it is the literate white community that’s gonna know about this and they should know about it, like I think there’s a strong implicit racism around these people who aren’t even going to know what’s happening, which I don’t think is the case.’

Overall there was a lack of knowledge of what happens to youth as they move through the system so the bottom line is that no-one really knows. Despite this lack of information, there was anecdotal evidence of naming affecting education, employment, and ongoing contact with the juvenile justice system and that the impact extends beyond the young person to their siblings and broader family members. The participants certainly raised the issue of the lack of evaluation of the policy as no records are kept and indeed almost impossible to extract from government statistics at least in terms of the number of suppression of names cases.

**Legal and Practical Tensions**

In trying to navigate the practical and policy tensions some lawyers adopted tactics to avoid media attention. One said that ‘you would adopt your rat cunning
and see if there was any media around and if there were you would stand it down till after lunch because they’re less likely to be around then, and if you are so concerned about those things being reported on that day you would adjourn the matter if it was going to be of such significance. Just because these things have a habit of being very topical and newsworthy today but not necessarily in a week’s time. So if you can roll it over sometimes you can escape their blowtorch, but usually after lunch worked.’

Other participants referred to some legal protections that flowed from the MCT vs McKinney case and observed that it ‘actually seemed to work quite a big change’. They said that ‘the supreme court decision was that name and shame was legitimate and that was overruled and they basically said you don’t need something particular to know that it is going to be damaging to their future you can just look at it, close it if it is appropriate.’ So it was deemed an important case that wrought direct outcomes because afterwards one was ‘less likely to come across a judge or a magistrate who just says “nuh, leave it open”’.

One legal aid lawyer discussed sections 49 and 50 noting the ‘restriction of publication of proceedings where open court is the first principle for youths, but fallback position is that if justice is best served then the court can be closed and no persons remain. Then there is restriction of reporting for a closed court ie once section 49(1) comes into play and then there are other limits if the child is in or could be in protection.’

That legal officer went on to say that ‘it is the reverse position where it is only if the practitioner or the court makes an application and the reality is that in busy court it would tend to be more the exception than the norm especially in serious matters. There is a situation where the magistrate might not believe it is in the interests of justice and so it relies too heavily on individual magistrates and so if one is serious about the protection and development of young people then you wouldn’t get those outrageous cases occurring.’

Another opined: ‘It is the culture in the Northern Territory that every court is public unless you can show special reasons for having it closed . . . I have applied for courts to be closed where there is a prospect that the child might have some difficulties and we are asking for an inquiry into whether they might be a child in need of care Section 61 of the Youth Justice Act and I asked for the court closed so that I can give the reasons. I need to explain the nasty side of this child’s
experience to get the court closed and yet the magistrate would not close the court while I explained this so it was almost like it defeated the purpose. So that happens quite frequently.’

Journalists also claimed it was difficult to stand up in court and question a magistrate about why a court should be closed — they were young, and inexperienced and it was an unnerving situation). ‘In other places in my experience the judge or magistrate would ask for submissions from the media, so this is quite daunting. ... It is very frightening, the court process is removed from everyday life especially in the Territory which is very laid back and here you are in a very formal setting and [it is] quite scary to have to interrupt and interject into the proceedings to ask why the court is being closed.’

On the other hand defence lawyers said it was just as difficult and unnerving to run a suppression application and almost impossible to demonstrate what the impact might be. Thus applying for suppression is not easy for some lawyers claim they have had ‘the book chucked at me simply because the argument is that it is a public court and the public deserve to know and need to see what is being done and the court will go through all the relevant case law like MCT v McKinney but unless you can show there will be direct harm to the youth, like they really need you to put material before the court, specific information about prospects for work, impact on travel, things of that nature and it is so hard.’

One lawyer said she ‘has done a fair few applications to try and suppress their names. I sometimes feel like it is dependent on who you get because some magistrates take as a strong starting point that unless there is something unusual or exception then in the interests of open justice the courts should remain open. I have had success in getting a lot of names suppressed but never the facts of the case that I can specifically recall. ... I think if it is a first offender I think you can convince the court to suppress their name, and the Supreme Court has done it quite a few times, and if you look through the database of the Supreme Court you will see there is a lot who are identified by initials only. So I think they are pretty good at suppressing a lot of names.’

She went on to say that ‘there is a lot of interest in youth crime because there is that perception that the youth are running amok, and so definitely lots of people get their name reported and I guess the hard one is when someone has already been in trouble before and by that stage the court says well, no, you’ve had your
opportunity you've been in trouble before what good would it do for us to suppress the name now. ... So I have had quite a few kids had their names suppressed but it is almost always because it is very early on in the piece like their first offence.’

It was relayed to the researchers on many occasions how difficult it is to secure suppression orders. One said that ‘I think if you looked at the stats I would not be surprised if the numbers of orders granted under the section were relatively limited.’ In addition ‘there are no records or statistics kept on the number of applications made nor the number of suppressions granted. ... The vast majority of cases are open.

One legal officer said: ‘I have made a couple of applications and it is the top-end stuff say like discussing abuse but I should probably do it more. I don’t think there is a reluctance by magistrates but rather that they don’t make them very often.’ Nevertheless there were some magistrates who are ‘now closing the court more often’ but this reflected the personality or idiosyncratic view of the judiciary members and ‘so it doesn’t happen uniformly.’ Sometimes this was done without any formal application by the young person’s lawyer, and so this is a defacto casual rule that applies in juvenile matters in some jurisdictions. This too reflects upon the inexperience of defence lawyers who are ‘thrown in often with very little training’ observed one magistrate.

Lawyers also claimed that they would sometimes deliberately avoid making a suppression application because it might antagonise the magistrate at a time when they were more focused on trying to get a successful bail application for their clients. So they would try not to get the magistrate offside. It was noted however that ‘there is Section 50 which does allow for the prohibition of publication of certain records, which is essentially second-best’, so they do not always ask for full suppression.

Suppression is applied for, but rarely, a legal person recalled an application to close the court. ‘I actually remember applying, and I remember I just looked around and saying “your honour you know there’s still some people in the court” and just raised this with the magistrate and I remember waiting, just assuming that it would be closed, and for the court orderlies to whisk people out ... and then [being] slammed down and [being told] “we don't do that here”. So you ended up just taking it up with people quietly.’
Overall it seemed that journalists supported open justice, politicians felt that naming was an important part of prosecutions to reflect community standards, victims groups felt little direct benefit to victims, and lawyers found it interfered with justice (human rights vs public right to know). As one interviewee said: ‘The tension that arises between human rights and the public right to know is always a difficulty and the classic paradox that journalists deal with every day and even within individual reports you are always deciding what is important [and] what might interfere with someone’s privacy but also what the public might want to know so this is always a balancing act. It is one of those things where you have to strike a balance and it is often hard to know where that balance lies.’

**Dampening vs Exacerbating Effects**

Some felt that publicity could encourage (not cause) further criminal behaviour while others felt that it would have a positive impact. For example, one lawyer described the scenario where ‘young men come into town from their community and may have a bit of an attitude … they say “oh there’s no law here” so they think they can do what they like but if it gets into the newspapers and then their community hears about it and that actually brings in serious shaming, constantly being growled at.’

Thus it was observed by our interviewees that ‘sensationalising crime can sometimes have that effect on young people providing unwanted attention and reinforcing [negative] behaviours’. So, as one participant said: ‘some people might see this as a badge of honour and it may in fact make their behaviour worse. Well everyone looks at me I am the tough guy and having their name in lights might not be the best thing because that’s their personality whereas having it privately done protects the sensitive individual and reduces the capacity of that slightly more flamboyant person from taking great pride in whatever it is that they have been charged with.’

Participants often made claims such as the following: ‘the NT News is a shocker for hyping things up, blowing things out of perspective. I know that there was this issue about gangs like the CAS boys and the Malak boys that there were names released in that whole process, you know front page, this person has been arrested and that person has been charged, you know it kind of turned them into mini-Gods you know it didn’t really help, they were quite happy for them to be
getting that kind of publicity, kind of generating this name for themselves that wouldn't have happened without that whirlwind of the press getting involved.'

The legal representatives generally eschewed an inflationary effect as ‘self-justifying rubbish’ where ‘to think that someone who has never been in the system before would aim for the stratosphere just to get themselves in the paper sounds quite implausible, it just doesn't fit in with the way things happen in real life. It is not like you can concoct a situation where there is going to be this massive flare-up’. However, upon some reflection by others there was a contrary view too that ‘there might be something in that about the exposure, the publication of people’s names in that context, there is a bit of a status among the kids. I’ve noticed that there is almost like a club mixing with your mates down there.’

Others felt that there was no effect because ‘naming and shaming doesn’t have any influence because the community usually knows who the perpetrator is and so it doesn’t have any impact. This is especially if it is an offence that is against traditions or where there might be a pay-back type situation. The place it might be most problematic is in schools, like we have school groups who come to court and they might look up the names on the court list and I kind of wince whenever we have a school group because I think about which juvie we might have on today and what are they going to cop when they get back to school.’

A journalist however observed that ‘they have a criminal record so a media record is not going to make much of a difference’. Nevertheless, she did express concern that such publicity could encourage bad behaviour: ‘we like that sort of behaviour because it gets lots of hits on the website and lots of comments on news.com and so that is a concern to me.’ She said it was the ‘same thing with those swimming in croc-infested rivers but lots of them do it to get their picture in the paper and sure we call them idiots but we are really encouraging them to do this. So that is a similar dilemma to the youth-crime issue, as long as it gets hits on the website, as long as it increases advertising or circulation, personally I don’t think it is ethical to be playing encourager to unethical behaviour.’

There is a view that juveniles are ‘getting off lightly’ with relatively ‘no punishment at all’ and this is where a belief in the value of naming and shaming kicks in ‘so it is one of the things that they feel they have got a protection against, like don’t put my name out there because I don’t want people to think I’m bad, but
if you’ve done something bad the associate cause is that people know you’ve done something bad in a small community like what we’ve got then it ensures that they be a bit more of a model citizen afterwards.’

And as the victims’ advocate said ‘So yeah the naming and shaming thing is one tool you’ve got to keep them away from the harshness of the rest of the system. From a victim’s perspective you think all you want is justice so from a community perspective as well you ask why won’t they name who this person is, why are they protecting this person who has committed such a crime.’

A point to raise here that was touched upon tangentially by participants is that aboriginal youth are likely to plead guilty and indeed as one magistrate observed, likely to break into a shop and get some chips or cigarettes and then stay there until the police arrive’. So it is not quite clear what the naming and shaming is aimed at achieving – certainly not about remorse for these young people are not trying to deny their guilt in any way. If it is aimed at recidivism then that is a different measure and has to be addressed differently.

**Related Issues to Emerge**

**Open Court vs Media Attention**

Two distinct issues emerged about whether courts are open or not which is deemed a quite separate matter from the media publicity that is given to some cases, having the public and people involved in other matters present when details of offences and backgrounds are given was seen as detrimental to young people involved in criminal proceedings.

‘The court was closing a lot for FACS matters, if FACS was involved, but some of the magistrates have got a bit more relaxed about that and they seem to leave it open. … I think the open courts is an issue as well that is quite distinct from the NT News side of things which is that they go and report their names and everyone knows about it and you can’t help but think that that is not good for them, for their self-esteem, for their capacity to apply for a job, and all that sort of thing, but with the open court you just create this situation where all the young people are in their with all their family members then everyone kind of knows everyone’s business. These young people are sitting in court and they’ve got a bunch of strangers behind them whom they don’t know, and they don’t even know if they know anyone that they may know and you are telling some pretty tragic stories to
the magistrate that this person was sexually abuse or that this person’s father has just died or is dying of cancer, this person’s sister has committed suicide, or mum’s an alcoholic. So there are these really awful details that come up about a kid’s background that then gets told in a fairly open forum, and even if nothing comes of it. ... I worry how that affects the kids that that story has been told, about their sense of shame and embarrassment with all that being put forward in front of everyone.’

‘When it is about your family, that embarrassment about hearing how bad your mother is, no kid wants to sit there and have the magistrate or their lawyer talk about how hopeless their mother is. So it is finding a balance between the magistrate having a good picture of that kid’s home life but not shaming them into closing off, closing off from their sentencing proceedings, closing off from their lawyer, closing off from the police, kind of going back into that burrow of it’s my family. ... You will see kids and that start sitting like this [indicates shirt collars pulled up over heads or really slinking down in seat] shoulders up and heads goes down – it is embarrassment. I had one kid and he would be about 11 and he just pulled his shirt up over his face and he just bawled, he just sobbed and sobbed and so it is already so confronting – you’ve got a magistrate, you’ve got a guard, you’ve got a police officer, a defence lawyer, someone from family services, someone from corrections – it’s already a massive process for the really little ones.’

A judicial officer talked about the problems of naming young people in general in terms of publishing court lists: ‘once the cat is out of the bag, there is not much point in redressing that by suppression’. She then discussed the practical difficulties of the court building and the architecture in separating youth from adult matters and so she is trying to get a separate youth court out the back which would be a designated youth justice court, there is no access to the cells and so would have to take them in handcuffs around the street.

‘I make the argument that if in the youth jurisdiction the court accepts that the interests of justice lie in the young person’s rehabilitation and if there is already a clear indication from the media that they are interested in this matter then obviously the young person’s rehabilitation is not going to be served if their materials are published and so the court should be closed. I have had to make that application, but in some ways it would be ideal to have a client who gave me instructions that were “no I don’t want you to tell the court this stuff unless it is
closed” but I have never had those instructions, so possibly if I said I am not able to put my client’s full circumstances before the court I am instructed not to unless it is a closed court, that would be a stronger argument but I have never had those instructions, they have always said “yeah tell em”.

*Lack of Segregation*
Problems of the merging of adults and children were observed where there are no separate facilities for youth even in Darwin and so youth wait for bail papers and have their names displayed on public lists in the main foyer of the courthouse.

With respect to separation of jurisdictions (adult vs juvenile) it has been tried where youth would appear on only one day say from 11am ‘but it was just hopeless, no-one was ever ready, I mean the lawyers do their best but they are under the gun/pump in terms of the numbers they’ve gotta deal with, many are inexperienced with no serious supervision’.

The Chief Magistrate also discussed the practical issues around the siting of the current youth court within the main court building. She noted that the current practice is to use Court 5 or 6 on the second floor whereas most adult criminal matters are heard in courts on the ground floor. She said that there is a courtroom (No 7) that is at the back and has a separate entrance and it is envisaged that this will become the dedicated Youth Justice Court. However the ‘problem is that the court is not linked to our cells so whilst it might be quite good for youths not in custody to be around in that slightly protected area’ it is not yet feasible when there are youthful offenders needing to be brought up from the cells. ‘It is also a very small court so there is not much space between the witnesses and defendant and so there are those sorts of issues’. Other practical issues occur given that the magistrates regularly (at least once per month) sit in ‘thirty places in the Northern Territory and in most of the places they are not even in courtrooms and so we are not going to get … a separate entrance for youth. I mean we have youth justice work on every circuit we go to.’

Many could understand why there could not be separate facilities in the regional areas but were not convinced that this could not be achieved in Darwin where it could have ‘been done at the outset, having a separate court, a separate entrance. ... they need to be dealt with differently.’ This lack of separation extends to the holding cells beneath the courthouse where there are 6 to 8 cells all in rows along two walls, they have doors with bars on them, so you can hear, or you can see
everything. This point was raised by several legal officers of there being no division between adults and juveniles.

It was also mentioned how sometimes they have to walk juveniles through the main court area when Court 5 is being used. Given that the youth court only sits on Tuesdays and Fridays and so if arrested and need to appear on other days then the juveniles will be in Court 1 – ‘this means your matter gets heard in among the regular list. They don’t generally like closing Court 1 because there’s a lot of people to boot out and it generally slows the process down. So if you are picked up during the week so you could through the regular main court.’

**Other Related Matters**

The interview process uncovered other problems, one specifically mentioned above is the lack of a truly separate juvenile justice system in the Territory as discussed above; but others include lack of interpreters or inactive interpreters. Some suggested that interpreters overall had skills that were ‘not very highly developed’ (magistrate) and there needs to be greater training. Silence is an important linguistic marker in Aboriginal society but of course silence by witnesses and interpreters is not helpful to the court, yet this is what one judicial officer complained of.

The matter of ‘instructions’ was raised by several participants generally in the context that they required specific instructions from their clients about making suppression applications or orders for the court to be closed, but this raises so many difficulties about how a young Indigenous person in court and often removed from community and familial support is going to be able to execute such clear instructions.

The publishing of the court lists on the website and within the court precinct is a serious matter that requires revisiting. We were informed that these lists were used by those working in the cjs (ie youth diversion program personnel). Although it should be noted that in sex offences matters, for example, the names of the offenders are not given.

A magistrate from a regional court was unaware that the juvenile names were on the list posted outside the court. ‘I have not heard a word about that’, but it was deemed not necessarily a ‘bad thing’ given the scenario that ‘someone else was
down the courthouse and looked up the list and see someone else's name there and they go back and tell them oh you are on the list'.

A related issue is where ‘juvenile and adult matters [are heard] in the same court, same courtroom, hearing the stories'. It was suggested that there were differences between Indigenous and non-Indigenous because it is a “foreign” system and is difficult to navigate and remote clients have poor language skills, and they talk about a “shame job” but clients especially those who are younger are less assertive, but a more private environment would promote better instructions and more candour in the courthouse. If for example that they are not afraid to show genuine remorse then that could be a good thing but if they are surrounded by adults they may be less likely to break-down, they wouldn’t want to because there are lots of other people watching, they might feel terrible but less likely to do it in a room full of people. Bundling young people in with older people is never a good idea and they should be separated in the courtrooms, that cross-contamination is not a myth, it can drive people to have a certain world view. ... isolating them from undesirable influences.’

An anomaly is that the Youth Justice Act falls under the Department of Health but ‘all the other bits of it like facilities belong to justice, and so there is overlap, a real mix,’ observed one lawyer. On the one hand this was good as it recognised that youth justice was a welfare matter but it did create problems with resourcing and sharing of information.
CHAPTER 7: CASE STUDIES

In the original research grant application to AIATSIS we included among our proposed research methods and techniques that of undertaking in-depth case studies (up to five were proposed) as an essential component of the project. It was indicated that these cases would be used to illustrate, in specific terms, the consequences which flow to young persons, their families and communities from being publicly named.

The specific approach to this phase of the project was left dependent on the circumstances encountered once fieldwork commenced in the Northern Territory. It was recognised that of necessity there needed to be flexibility in the research strategy that was ultimately adopted. We were very much aware from our earlier preliminary visits to the Territory that it would be especially challenging to gain access to interviewees because of confidentiality, language differences and practical considerations. There were also overriding concerns about the ethical considerations involved which were noted in our HREC application, as canvassed in more detail in Chapter 3.

When fieldwork did commence it soon became apparent that conducting any interviews with young offenders and their families would be both logistically difficult and very resource intensive. Many of the young offenders who were originally named in the media had become adults in the interim period and their present locations and circumstances were unknown to NAAJA or other legal representatives who had appeared on their behalf during youth court proceedings. There were also obvious ethical concerns expressed by these legal representatives and thus they were unable to reveal any details concerning their clients’ current whereabouts, or information about their family connections.

After due consideration of these various challenges to the reach of our research, and discussions with NAAJA, we decided to restrict our analysis of individual cases to those which seemed to have gained particular attention in the media over the time period that has been the subject of the present study (2000-2011). In particular these are cases that were referred to by key stakeholders who took part in interviews during the project. In this way we have been able to accumulate sufficient material to identify four cases of particular significance for analysis and these are listed below.
In addition there emerged a sampling of other cases that deserve attention under the heading of ‘General Cases Mentioned’, and it is this section which is presented first. This section includes data obtained from legal reporting sources. Then we consider the four individual cases selected for analysis, dealing with them in a consecutive time sequence, noting that the names of those identified in the media have been rendered as initials only in this report.

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**General Cases Mentioned**

As noted earlier in this report (see in particular Chapter 6) we asked all of our interviewees whether they were able to identify any specific cases where young people had been named, or which attracted particular attention from the media because they involved young offenders, and in particular young Indigenous people. Some interviewees were unable to recall any specific cases where juveniles were named but agreed that there had been such instances. As one person remarked, ‘I don’t recall photographs, you rarely find photographs of them from a case in the criminal courts unless there is something pretty salacious about the case that has particularly caught their eye.’

**Publicity Causes Distress**

One interviewee in Alice Springs referred to a very serious case where a ‘young woman was murdered at Centralian College. ... it got a lot of national media coverage. Not only did they publish the young men’s names who were only 14 at the time who were involved in the rape of this young girl, they went into graphic detail around the story so it was really impactful for the family who were really distressed because they were trying to put this behind them, because this was two years after’ when the case came up for further hearings.

Apparently the names were not mentioned during the trial but rather at the time of sentencing of the offenders in 2008 (see Martin CJ, The Queen and Warren Angus, Victor Donald, Noeleen McNamara, Lloyd Taylor and Alvin White, Supreme
Court of the Northern Territory, Sentencing Remarks [Unreported], Alice Springs 8 May 2008. ‘In the case of that family that are a very literate family, they are very well educated and they were able to see that story in its full entirety and were deeply distressed by it. This is why we complained to the editor of The Advocate ... like I said we had that national media coverage. They got terrible facts wrong, misusing names like it was just a terrible, terrible, distressing time for people, the family in particular.’

The case referred to above involved the murder and rape of Jenissa Ryan, the great granddaughter of Albert Namatjira, at the Centralian College in Alice Springs in 2006. It encompassed the subsequent inquest, trial and the eventual sentencing of the five young Indigenous offenders responsible in 2008. In addition to the description of this case from one of our interviewees this matter attracted widespread media attention and comment both locally, nationally and overseas (see, for example, Behrendt 2006; Skelton 2006).

**Technology Aids Media**

Another case mentioned in Alice Springs by one of our interviewees involved a young woman who was 12 or 14 at the time and who had ‘been charged with sexually assaulting two children that she was babysitting’ and her legal representatives ‘asked for closed court, asked for suppression of the media but the judge wouldn’t do it. So we sat there on tenterhooks looking at the door because at any given time a media person could come in there.’

However it was noted too that the media now ‘can go upstairs and listen to the transcripts so you don’t even know their intentions’, that is whether they are focusing on a case or not because it cannot be ascertained by their presence or absence in the courtroom. This practice was also referred to by media personnel who took part in interviews, and while they see it as advantageous it has repercussions for those representing youth in not knowing whether there is likely to be reporting of a matter.

**Youngest Person Named**

A further sensationalised Alice Springs story was ‘where the reptile centre was broken into and some young people were being cruel to the animals ... and sure enough there were photos; they had CCTV there. So they had captured photos and it was clear who these young fellas were. You could tell who they were from the
photos, so they had the photos but they didn’t have the names, these were 11 and ten year old kids.’

A subsequent media search regarding this case revealed that both the *NT News* and the Alice Springs based *Centralian Advocate* newspapers did publish the name of at least one of the young Indigenous persons involved in this attack in August 2004 upon a crocodile named Terry, housed in the Alice Springs Reptile Centre. The youth who was named, RT, was 11 years of age at the time which makes him the youngest person identified and named in this way that has emerged from the present study.

The *NT News* account of the sentencing of RT appeared on the front page of the newspaper on 28 December 2004 under the headline ‘Croc Thug Gets Jail’. The report stated that RT, ‘an 11 year old boy who attacked the crocodile Terry had been jailed’ for a period of six months. That particular story did not contain any photograph of RT but did include a photo of the sentencing magistrate who was quoted as saying that he had no option but to remove RT from an unhappy home and impose some discipline. He said RT ‘is aged only 11 years but he’s committed a large number of offences along with other youths in Alice Springs’.

**Publicity Inflames Community Attitudes**

A recent controversial case referred to by one of our Alice Springs interviewees ‘that has stirred up a lot of public comment which is two young men, sixteen year olds I think ... on robbery with violence charges and truly an horrific attack on a young chap who was stabbed multiple times by one of them. It has created a lot of public attention, the sentences they were given in the Supreme Court created considerable public comment, partly because I think people don’t understand the nature of the non-parole period.’

However in this case ‘their names have been suppressed from publication. ... [where] the suppression order must have come when they pleaded guilty in the Supreme Court’. The legal representative nevertheless implied that there had been widespread media attention to this case, despite the suppression order, and had generated community calls for harsh punishment.

**Legal Reporting of Cases**

In order to gain some appreciation of the media reporting of cases, and in particular to be able to locate the names of young people involved in criminal
proceedings, a search of the AUSTLII database was conducted on 30 October 2010. The methodology used was to read all cases listed for the Northern Territory and Youth Justice Court (the two search terms used) and then determine whether they were from the criminal jurisdiction or not. Of note is that there are very few cases from the Youth Justice Court that are legally reported. The following eight (8) cases were sourced using this comprehensive strategy, although given the nature of electronic searches there is no guarantee that this search strategy was exhaustive of all such youth matters reported in AUSTLII: 2010 — 2 cases; 2009 — 1 case; 2008 — 2 cases; 2007 — 3 cases.

Of course there are considerations such as whether the matters are reserved and whether there is a written judgement. The Youth Justice Court operates at the lower court level and is therefore high volume and most matters are dealt with summarily in the sense that the entire matter is disposed of at the court hearing itself. Only where there is some legal dispute and/or the matter has some complexity is it likely to be reserved for a subsequent written or oral decision.

Which cases end up being fully reported is usually based on whether there is a policy for each particular court and what kind of reporting arrangements they have made with AUSTLII. Details of the references to these cases are presented below for the purposes of future research reference. It is an instructive finding that in most of these cases the names of the young people involved are rendered as initials, perhaps because of welfare provisions discussed earlier. To our knowledge, none involved suppression orders, at least these were not mentioned directly in the published judgements.

Cahill v M [2010] NTMC 11 (9 February 2010)
Marinov v Noble [2007] NTMC 82 (30 November 2007)
Police v JS [2007] NTMC 83 (3 December 2007)
Summary
While not attempting to extrapolate too widely from these brief mentions of cases by interviewees, combined with direct media searches, these cases highlight several themes that have been addressed elsewhere in this report. One is that media attention has the capacity to cause distress to offenders, victims and communities especially given the protracted nature of legal proceedings. Intensive publicity, which tends to be high on sensationalism but low on detail, can inflame community attitudes and lead to harsher 'law-and-order' views. A third factor is that the application and granting of suppression orders is inconsistent. A final feature is the random nature of media attention and thus there is a serendipity about which cases will receive publicity along with practical considerations for legal representatives about how best to protect against this. We turn now to consider each of the four cases we identified as being of particular significance.

Multiple Media — The Case of DD

DD's case was the only one which came to our notice solely as a result of the electronic media searching that formed part of the media analysis which is described in Chapter 5. After locating one article in which his name appeared, it was able to be used as a search term on the media database (Factiva) and a total of 14 articles naming him were retrieved (see Appendix E). The name and photograph of this youthful Indigenous offender was published 14 times over four years (from April 2003 to August 2007). Eight of the articles were highly opinionated and were especially focussed on criticising the sentence he received in court because it was deemed 'too lenient'. His case is also the earliest of the four to be described.

DD, an Indigenous youth, was said to be 15 years of age when he was involved with up to 30 other young offenders in an attack in December 2000 on several young skateboarders at a park in the Darwin suburb of Palmerston. DD's case did not come up for trial until April 2003 when he appeared in the Darwin Youth Court and was found guilty of three counts of aggravated assault.

The NT News reported the case on its front page of 16 April 2003 alongside a large photo of DD and with the headline 'Gang of 30 bashes 3 teens. Skateboards and Metal Bar Used as Weapons'. The article continued on page 2 under the
caption ‘Why? Because there was nothing to do’. The report went on to state that when asked why he had joined the mob at the park, DD said ‘everybody was going there’ and ‘there was nothing to do’.

Sentencing took place a few weeks later when DD was released on a suspended penalty of 10 months imprisonment. On the day following this sentence the *NT News* again featured a front page story and photograph of DD under the headline ‘Bored Thug Walks Free’. The story stated that ‘a young thug who took part in a savage gang bashing of three youths because he was bored walked free from court yesterday. DD, 17, and his 30-strong mob used skateboards, rocks, rollerblades and a metal trolley handle in the attack.’

It was further reported that ‘Darwin Magistrate Daynor Trigg admitted: “I think the victims will feel rightly aggrieved if you do not serve some time.” But he said the court must look at the ultimate aim for juveniles — rehabilitation. D yawned and stretched his arms before the magistrate gave him a 10-month suspended detention sentence. And when D showed irritation, Mr Trigg snapped: “Don’t get angry or I’ll change the order. Don’t play games”’ (see Appendix E).

DD’s case, and especially the sentence imposed, provoked a storm of protest from *NT News* readers in the correspondence column of the paper as well as an editorial on 30 May 2003 which also criticised the sentence and suggested that while rehabilitative ideals were fine ‘juvenile offenders must walk into court fearing they will be jailed. Otherwise they will have little incentive not to re-offend.’

By way of comment it might be said that DD’s prospects of successfully reintegrating into the community and achieving rehabilitation through education and employment opportunities were unlikely to have been improved by appearing twice in such a short time frame and negative circumstances on the front page of the sole local newspaper. While none of our interviewees could provide us with any direct information about the subsequent impact this publicity had, in 2007 the young man was back in court as an adult offender charged with a serious robbery offence (see Appendix E).
Among our interviewees no single case aroused more interest and comment than that of the so-called ‘Claw Hammer’ or ‘Home Invasion’ case involving a young Indigenous offender, DH. As one of our respondents observed, ‘the hammer case was pretty rare because even though journalists knew for a long time that they could publish in this jurisdiction they didn’t because their own ethical code was against it and so that was a sort of indirect protection that a lot of young people had.’

A journalist who took part in this study said that ‘in fact I remember the last occasion on which we did name and it sticks in my mind because of the nature of the crime. The young person broke into a dwelling house that was occupied, the husband in the house was attacked, the attack occurred while the wife was upstairs breastfeeding, the DPP appealed against the sentence that was imposed. It was sent back to the magistrates court where a prohibition was placed on the person. It was a waste of time because we had already named him before. ... He was in the NT Thunder team, and apparently this went that far into the circles that he was involved in they thought he was a bit of a hot potato and so mate you’re off the team. It created a few waves toward the end of it.’

Another reporter referred in more detail to the chequered legal history associated with this matter and the way in which it had attracted political comment. ‘Because of [an] administrative error he was re-charged and got a lot of publicity the first time and comments from the Chief Minister and Leader of the Opposition and he was named and he was 15 I think. But a second magistrate ruled the court should be closed and the name suppressed which is a case we were interested in and one where open justice should prevail. People were really interested in it, not just voyeuristic but a genuine interest in law and order in the Top End and so then when it was suppressed, the court was closed and so we were unable to say anything, no details about the attack in general terms. Our lawyers said we could not say anything. There were ABC journos in the court with me and I regret not standing up and opposing it but it was too intimidating.’

One interviewee who knew the victims said ‘when you hear the nature of actually what happened, it was unbelievable what that person [DH] did. He was told to go away and he came back and attacked a man with a star picket and a claw hammer and it just seemed to drag on.’ The case however was caught up in ‘an election
cycle’ where it was alleged that ‘people had become so concerned about the rising crime and it was such a shocking case and the legal system seemed to be such a clumsy instrument to try to deal with such a delicate matter’.

Another participant suggested that ‘the media buggered that one up’ while others noted that the 'legal system didn't serve the interests of the community and even that child very well. There were technicalities that caused it to be derailed.’ Another interviewee concurred about the legal problems but reflected on how these affected the victims in the case. He said that the legal processes were ‘so clinical and so removed that [the victims] got no satisfaction and their intents were good in spite of their pain physical and psychological.’

Some measure of the level of publicity that surrounded this case before the name suppression order was imposed can be gleaned from the front page headline and accompanying story which appeared on 22 August 2008 in the NT News — ‘Hammer Attacker Walks Free. Prosecution Bungle Gets Youth Off’. The headline was followed by a story on pages 1 and 2 of the paper which named DH as an ‘AFL hopeful’ who had ‘pleaded guilty to nine offences of terrorising a family in their own home’.

It went on to report that ‘He admitted bashing 30 year old [TT] with a claw hammer after he was caught rifling through a house in Malak, Darwin, in the middle of the night on December 18 last year. Mr [T], covered in his own blood, fought off the drunken teen to protect his wife [L], who was feeding their newborn baby upstairs. But 10 minutes later the [T’s] were terrified again when [DH] threw a star picket through their front door, yelling “I’m going to kill you”.

This case is not only significant because of the media attention it attracted but because it is a rare one where ultimately a successful suppression application was made. A lawyer involved in the case described how it was ‘almost like extracting teeth, having to get all these letters of reference, talking about the impact on his scholarship, [that] it was a real threat that he would lose it, but the sports institute that was behind the scholarship said they can’t be seen to be involved with youth who are committing violent offences and being accepted into their program. They want good role models and there is an expectation that the youth they take on will become good citizens.’
This interviewee talked about the difficulties involved in mounting a suppression application because they ‘had to produce so much’ information, not only about the young person but how publicity might affect ‘the public interest as well, maintaining the reputation of the school or the veracity of the scholarship. The magistrate didn’t seem to really care too much about the impact on the youth himself which I thought would have been the major criteria, like psychological impact’. She said ‘I felt like I was suffocating. There was so much to go through to try to demonstrate what the risks were to this youth. And it was this kid’s future and whether I said the right thing or the wrong thing or whether I said too little. … He [DH] was so grateful afterwards.’

It proved to be impossible to interview DH or members of his family in person about the impact all of this publicity had upon his life but we were informed that he had been able to maintain his sports scholarship and had subsequently left the Territory to play football elsewhere. From this it may at least be conjectured that the suppression order in his case, even though it came late in the entire proceedings, did shield him from the extremes of adverse media comment and scrutiny and made it possible for his rehabilitation to proceed to a successful conclusion.

In the case of DH we were however able to interview one of the victims who had been the subject of his hammer attack. The victim said that after the attack his family did think about moving from the house that had been invaded during the night by DH and that his wife was ‘quite thrown’ for a while afterwards when she heard any noises but ‘she has now moved back into life and so have I. It is still part of your life, but [I am] happy to talk about it especially if there is going to be some change come out of it.’

The victim said when it came to the reporting of the verdict in his case, ‘the court was closed, it was one of the few where Crown prosecution got involved. Not a lot of the break-and-enters or assaults have ever been represented by Crown Prosecution. … Initially there was a police prosecutor but what happened [was] that it went before the court and justice didn’t hand down a severe enough sentence. Having the media contacts which we did at the time, you see my wife … set up a few interviews and I went and voiced my thoughts and quite forcefully so after what had happened, you know someone breaks into your home and assaults you and gets away with a good behaviour bond. We were quite well upset by it all.’
Further he reported that ‘After that they lodged an appeal, a Crown appeal [against leniency of sentence]. The court asked me to adjust my victim impact statement for presentation to the court and I thought that was a little bit strange at the time, but they had also asked him [DH] to do it so they thought that was fair, and they were obviously trying to gauge the impacts of it about the naming and bits and pieces. He walked away with the same good behaviour bond because there had been so much naming in the media. That was mentioned as a punishment that he had already received, and that was unquantifiable. ...’.

Despite TT’s belief that the ultimate sentence DH received was still unduly lenient he went on to express the following interesting and rather unanticipated views about the circumstances surrounding the case:

But one of the things having been brought up here and knowing the sort of things these Indigenous kids go through, they’re a bit behind the eight-ball and so I felt a bit sorry for him and what had happened. He had been attacked [by the media] and they had taken the ball and run with it and they were a bit you know in his face. So yeah he did get a little bit hard done by the whole scenario, but everyone I spoke to said well he got no punishment at all, ... so name and shame.

So it is one of the things that they feel they have got a protection against, like don’t put my name out there because I don’t want people to think I’m bad, but if you’ve done something bad the associate cause is that people know you’ve done something bad in a small community like what we’ve got then it ensures that they be a bit more of a model citizen afterwards.

One of the things like they had a diversion program but I don’t know how well it works, and so any of these Aboriginal youths who get into strife, then they go through diversion and so that brings them away from the normal justice system and puts them in a program of rehabilitation and I said well that’s fantastic if it means he is not going to do anything silly again. He hasn’t done anything similar beforehand. Well take it away from the naming and shaming thing.

Well rehabilitation is probably the key. But there wasn’t a lot of room for that because there were already so many in the program and the gaols were full, so not a lot of options. ... He was apparently known to police but didn’t have a prior criminal history...
So yeah the naming and shaming thing is one tool you’ve got to keep them away from the harshness of the rest of the system. From a victim’s perspective you think all you want is justice so from a community perspective as well you ask why won’t they name who this person is, why are they protecting this person who has committed such a crime. ... The community really got behind us because they [the defence lawyers] were trying to protect him to start with and then it came out who he was. ... The community said it was good to know who has done something horrific and that was good, but then it went a bit too far. So that is where the fine line is drawn...’

A final perspective on the case of DH came from separate interviews with two judicial officers who also recalled it as being a matter which became a cause célèbre. One of these interviewees told us that the young person involved ‘was drunk and broke into a house I think to get more grog but beat up very badly the owner-occupier. There was a really big backlash over the crime as there was a baby in the house.’ He continued by noting that the youth was placed on a suspended sentence because he was ‘reasonably young youth still going to school ... and it ended up going to the Supreme Court where the first appeal judge said it was all a cock-eyed sentence but didn’t change the sentence himself but stayed the proceedings’.

He then observed that ‘it went to the Court of Appeal. Then we found another error in the way that the charges had been laid, and then the magistrate who dealt with it afresh basically suppressed a whole lot of information. ... There is a huge public interest’ in such cases and on this occasion the youth ‘was photographed many times but it is difficult to discern what the impact of such naming and publishing of images had on the young man.’

Our second judicial officer interviewee told us that in this case a fellow magistrate had said that ‘a fair bit of time had passed and the young person was trying to change his life and so [the magistrate] took the rehabilitation approach. I think that the victim had some connections to [a political party] or something so they made a big hullabaloo and [the media] ran with it ... Often they only take interest when football is involved.’
Stigmatised Family — The Case of BH

The likelihood of media publicity stigmatising an entire family rather than just the young offender being identified and named arose in the case of BH. When we first interviewed NAAJA lawyers in 2010 they referred to the BH family and showed us a photo of three family members emerging from a Darwin Youth Court hearing. It depicted two of the family members ‘giving the finger’ to the media photographer who took the shot. The photo was attached to a story concerning 17 year old BH who was accused of stealing more than $12,000 of goods from Darwin businesses. His older brother, an adult, was also said to have been involved while his mother was accused of being in possession of stolen property.

NAAJA told us the NT News had used the same photo four or five times since BH and his family members were attending court frequently. The family was well-known now because of this adverse publicity. ‘They have had problems with housing as a result of this, the publicity, the young boys both of them have been unable to get work because they have been labelled no matter what they want to do to better themselves or change they’re labelled and it is an ongoing thing. Every time one of the family members come into court they recycle the same photo so even if your court matter was a year ago it is not forgotten you still carry the label with you. Our service appeared for the youth, and there is another matter for him before the courts …’.

They claimed that there were other consequences that appeared to flow from this media attention by stating that ‘It is not just about the publicity but about their housing, education — he was blocked out of a lot of schools. The interaction with police [and] the family are highly visible and they seem to be targeted by police a lot more than other youths. Because they have been in trouble once they think they will be involved again for matters of the same sort.’

NAAJA also told us about another Indigenous family who had experienced significant problems of this nature following adverse media coverage and naming of one of its youthful members in juvenile court proceedings. Any time any incident or any allegations involving youth with an unlawful use of motor vehicle occurred their doors were knocked on: ‘the police would come around at all hours of the night and there was this real perception that if it was anything to do with some dishonesty offending they were if not the ringleaders they would be playing some role in it’.
Celebrity Element — The Case of RM

At the outset of the introductory chapter to this report there is reference to the nationwide media publicity associated with the young male star of the award winning Australian movie *Samson and Delilah*. As noted earlier, on 9 March 2010 the *Centralian Advocate*, an Alice Springs newspaper, announced in a banner headline front page story that RM had been arrested and charged for allegedly jumping on cars and damaging them in an Alice Springs car park. A large full colour photograph of RM accompanied the story.

The same story was subsequently taken up the next day by the *Centralian Advocate’s* sister publication in the Northern Territory, the Darwin based *Northern Territory News* (Wednesday 10 March 2010 by Cameron Boon, page 5). The headline was **‘Samson star arrested on car damage’** and the text of the story included the naming of the youth in the first paragraph:

International movie star RM has been arrested and charged for allegedly jumping on cars in an Alice Springs car park. The 16 year-old star of *Samson and Delilah* fame was allegedly spotted in the car park across the road from the Memorial Club jumping on the roofs of six cars on Friday night. ... RM (pictured) was arrested by police near the car park.

The article went on to list all the types of cars that were damaged (eg Honda Civic, Ford Laser etc) and then discussed the film in detail including the awards received by the film and the young star, noting in the last paragraph that he ‘travelled to Cannes for the festival’.

The national newspaper *The Australian* similarly covered the story, although no photograph was published. This two column piece (Wednesday 10 March 2010, by Lex Hall, page 3) contained the same details although the text had been redrafted with the young person’s name beginning the piece:

RM, the teenage star of the award-winning Australian film *Samson and Delilah*, has been charged with criminal damage of six cars outside an Alice Springs night spot. ... M has been charged with six counts of unlawfully damaging property and bailed to
appear in the Alice Springs Youth Justice Court on April 6. ... “The damage was broken and cracked windscreens and dents on bonnets,” a police spokesman said. Memo Club manager Andrea Sullivan said she was unsure how many people were involved in Friday’s incident. But she said it was it was [sic] common for groups of up to 50 teenagers to hang around the carpark until dawn. “It’s an ongoing occurrence,” she said. “The kids just don’t go home. They hang around in town and just across the road up until four of five [sic] in the morning.”

The remaining paragraph discussed the Warwick Thornton film and the awards earned by it and its youthful star.

Related versions of the story were also reported on the Nine Television News Network website. But despite close monitoring of the media and ongoing electronic searches we have been unable to discover any further reporting concerning the outcome of the charges brought against RM. We have also been unable to interview RM or any of his family about the incident and its impact.

However, we did speak with one person who had connections to RM’s family who told us they had spoken ‘to the family after the newspaper [reports] and his picture and they were really embarrassed about it and I told them to talk to someone else about it. But life is so chaotic so that in terms of prioritising and getting the resources, and a full understanding you know, how this impacts on RM. ... There are so many other things going on in his young life that this is just one element. If all this other stuff weren’t going on in his life and family circumstances, you would get some really good feedback from him but I don’t doubt that down the track you would get some good feedback from him because he is a very articulate young man. ... It would be very interesting down the track and his mum and dad are very articulate. ... I know that there are a whole bunch of people who are really worried about RM, people from Adelaide and those who worked on the movie with him.’

It seems quite feasible that the reason we have been unable to find any contemporary publicity associated with RM’s case is that a successful application has been made for a suppression order prohibiting further naming of this young person and publication of details associated with his case. However, it is still rather strange that no mention can be found of the making of such an order which it might be thought would be of interest to the media in its own right.
Mention should also be made of comments made by another of our interviewees who told us that the judicial climate in Alice Springs was such as to make it very difficult to achieve a successful application for a suppression order. This respondent speculated ‘that the group of magistrates down in Alice Springs would be pretty hard to get suppression orders out of.’ He then ran through each of them and observed that some are ‘gaol men’ and others are relatively inexperienced in criminal matters. ‘Alice Springs is a pretty tough little town and the severity of the violence, like there are not many people who don’t go to Alice and say geezus, so it is pretty understandable how reasonably quickly you become hardened.’
CHAPTER 8: DISCUSSION

Breaching International Principles

As emphasised at the commencement of this report on our research study the Northern Territory stands alone among Australian jurisdictions in allowing ‘access to justice’ issues to prevail over those of privacy protection when it comes to dealing with young people in conflict with the criminal law. Contrary to well established and widely accepted international principles affecting juvenile justice the Northern Territory’s YJA allows open access to Youth Court proceedings including permitting publication of the details of hearings and the identification of those involved. A residual and discretionary power remains in judicial officers presiding over Youth Court proceedings to issue a suppression order regarding such publication and identification. A prohibition also exists on the publication of details of cases and the identity of offenders if the young person involved is subject to a care and protection order (see Chapters 1 and 2).

We suspect that many if not most of those responsible for the administration of juvenile justice in the Northern Territory are very well aware of this breach of international principles. Quite apart from our study findings on this topic reported above a recent Northern Territory Government commissioned review of the Territory’s youth justice system (Review of the Territory’s Youth Justice System: Report September 2011 [YJS Review]) acknowledged this breach under the heading of ‘Closed Courts and Publication of Proceedings’. The YJS Review was conducted quite quickly and soon after we had completed our field research. Commissioned in April 2011 its findings and recommendations were presented to the Northern Territory Government in September of the same year.

Regrettably we remained unaware of the YJS Review until after it had concluded and thus failed to make any submission to it directly regarding our study findings. However, the YJS Review does make mention of our work when discussing criticisms made of the Northern Territory’s approach to closed youth justice courts and the publication of proceedings (see YJS Review 2011: 63). The YJS Review also noted that:

Submissions called for Youth Justice Courts to be closed on the basis that the closed court environment is more therapeutic, enables positive interaction between the court and the individual youth, and
enables the court to deal with the youth in a manner ‘consistent with his or her age and maturity’. It was also suggested that the court is able to inform itself about all aspects of a child's life, including family circumstances, drug and alcohol abuse, whether the child is also a victim of crime and other welfare related matters when the court is closed. There is no evidence to demonstrate that publicly naming children who offend assists in their rehabilitation’ (YJS Review 2011: 63).

The YJS review went on to observe that child protection matters are dealt with in a closed court; that many of the issues judicial officers hear in those proceedings are similar to those heard in the Youth Justice Court; and that some young offenders are also the subject of statutory protection orders (see YJS Review 2011: 63).

Despite making these observations the YJS Review still baulked at issuing a recommendation that the Northern Territory’s youth justice system should fall into line with the rest of the country and give recognition to the afore mentioned international principles contained in instruments like CROC and the Beijing Rules. The YJS Review seems to have been influenced in taking this stance by a submission made by the Territory’s Magistrates that ‘in the case of youth 15 years or under, the court should be closed consistent with the principle set out in section 4(d) [of the YJA] that a youth must be dealt with in the criminal law system in a manner consistent with his or her age and maturity’ (YJS Review 2011: 64).

The YJS Review concurred with this view while noting that magistrates could and should be encouraged to close the court under S.49(2) of the YJA if it appeared that justice would be best served by such closure.

It is important to keep in mind the offending patterns of most juveniles and how significant it is to keep them on a trajectory to age out of crime where possible. For example a recent Canadian study takes up the consistent finding that there is a large proportion of young people who are involved in minor criminal activities, but a small group who are persistent offenders and may continue offending into adulthood (Yessine & Bonta 2009). They are contrasted with the ‘late-onset desisters’ who ‘begin offending sometime during adolescence and desist in early adulthood. These offenders represent the majority of offenders in a given age cohort, those who acts, usually less serious forms of offending, may be characterized as “rebellious”’ (p. 437).
This Canadian study found that more Indigenous youth were likely to be in the chronic offending group and to have engaged in more violent offences (Yessine & Bonta 2009). Similarly, Hua, Baker and Poynton (2006) studied over 81,000 people who were born in 1984 up until 2005 to examine their offending careers. They found almost ten percent had appeared in court before 21 years, 15% of all males and 4% of all females, but of interest is that ‘a significant proportion (25.3%) first appeared before the Children’s Court’ (page 4).

Likewise in Canada it was noted that the 'Youth Criminal Justice Act (2003) was enacted with the intent of decreasing the use of courts and restricting the use of custody for adolescent offenders, while improving the effectiveness of the responses to serious violent youth offenders (Bala, Carrington & Roberts 2009). Because prior to the act ‘Canada had one of the lowest rates of youth diversion and one of the highest rates of youth custody in the world’ (p. 132).

The ‘Court emphasized that youth are to be treated differently from adults and ruled unconstitutional provisions of the YCJA that created a presumption of adult sentencing for the most serious offences by young offenders, limited the effect of provisions of the act directed act serious violent offenders’ (Bala et al 2009, 132). The strength of the Act, according to this evaluation, is that is separates juveniles from adults, and despite all the changes the rate of youth crime did not change at 8,000 per 100,000 between 2000 and 2007 which is at the mid-1980s levels.

Thus, the international perspective and empirical evidence reinforce the view to ‘do no harm’ given the propensity for young people to ‘age out of crime’ and at the same time to ensure that there are separate facilities and options for youth to ensure they are treated differently from adults in the criminal justice system.

**Haphazard Practices**

Our study findings indicate quite clearly that even if the guiding principle espoused by the Magistrates and the Youth Justice Review of youth being dealt with in the criminal law system ‘in a manner consistent with his or her age and maturity’ has any merit, in practice it is a principle that at present is exercised in the Northern Territory in a most haphazard way. Thus even at the stage of the listing of Youth Justice Court cases for hearing it appears to be normal practice to
publish the full name, regardless of age, of each young person involved as well as the charges to be dealt with. This publication takes place on the general Magistrate’s Court web site where all criminal and civil cases listed for hearing are regularly displayed. The list includes a separate category for Youth Justice Court matters. In addition a hard copy of the same list is posted on each hearing day in a prominent place at the entrance to the Magistrate’s Courts in Darwin, and we presume in other centers across the Northern Territory where such courts are convened.

Quite apart from this open disclosure of the identity and charging details of all young persons appearing in the Northern Territory’s Youth Justice Court we could not fail to notice during the observations we made of this Court in operation in Darwin that the physical layout and design of its facilities made it virtually impossible to segregate young persons, and their families and friends, from the adult offenders and their associates being dealt with in the same extremely busy and crowded court complex. While one court room was dedicated to Youth Court matters, gaining access to it required walking through the general court complex entrance and through floor space occupied by adult courts. There was little room for any private conversations and interactions and always the risk of young persons having potentially harmful encounters with ‘undesirable persons’. Additionally, as we observed on several occasions, groups of school children came to sit and observe court hearings, including those of the Youth Court. In a small community like Darwin it was always possible that these school children would recognise fellow schoolmates who were in trouble with the law.

As our interview data discussed earlier illustrates there is an official awareness of the deficiencies of the Youth Court facilities but the willpower and resources required to remedy the situation do not seem to be available. The Northern Territory’s small population also suffers from the tyrannies of isolation and remoteness which make it doubly difficult to provide separate facilities for any court proceedings involving young people which take place outside the major population centers of Darwin, Alice Springs and Katherine.

In addition to these challenges our research findings show that whether or not a young person does get ‘named and shamed’ through media publicity is dependant on factors which have little to do with ‘their age or maturity’. As mentioned earlier an 11 year old boy was the youngest recipient of media attention for an animal cruelty charge in a front page story which appeared in the NT News. A
number of other children under the age of 15 involved in more serious charges were also the subject of media stories and identification without any apparent attempt by the presiding judicial officer to close the court of their own volition, or as a result of an application for a suppression order. Indeed, as relayed by several of our lawyer interviewees most were reluctant to seek such an order because of the perceived high threshold set for success by the Northern Territory Supreme Court in the matter of MCT discussed in Chapter 2.

It might really be said that the chance of a young person being named and shamed in the Northern Territory is dependent on a complex mix of factors having little to do with any principle based on the age and maturity of that person. As we have suggested these factors include, not necessarily in any order of importance, the nature and gravity of the offence(s) involved; the presence of a journalist in the court, or a ‘tip off’ about a particular matter’s potential media interest; the location of the court hearing with remote settings receiving almost no media coverage; the stage reached in the ‘electoral cycle’ with a greater likelihood of crime waves and publicity emerging near elections; the policy of the particular media organisation, or even of individual journalists; and the diligence and enthusiasm of legal representatives regarding the seeking of a suppression order.

**Impact Damage**

A central purpose of our research has always been the desire to provide firmer evidence regarding both the nature and the impact of 'naming and shaming' practices of the Northern Territory's juvenile justice system on young Indigenous offenders. As the YJ Review has once more confirmed it is Indigenous youth who are overwhelmingly represented among the clientele of this system. The YJ Review contains an excellent and contemporary overview of the nature of juvenile offending in the Northern Territory which does not need repeating here. Suffice it to note the following succinct YJ Review summary of key youth justice trends:

- Young people involved in the youth justice system are mostly male and Indigenous (76%).
- Property offences such as theft and unlawful entry with intent are the most common type of crimes committed by young offenders. Traffic and motor vehicle offences represent the second biggest category of youth crime.
The number of young offenders is small compared to the number of young people in the overall population: 639 young people were apprehended by police in 2010–11; 1192 matters were lodged in courts of which 665 were finalised; and 39 young people were in juvenile detention on any given day during this period. There are around 53 100 young people under the age of 15.

The number of young people involved in the justice system has increased in recent years. The number of young people apprehended by police increased from 587 in 2006–07 to 797 in 2009–10.

Males are more likely to have been apprehended for property crime. Females are more likely to have been apprehended for acts intended to cause injury, traffic and motor vehicle offences.

The number of traffic and vehicle convictions increased by nearly 100% from 2006-07 to 2009–10.

Young people aged 15 to 16 years are the most likely group to be apprehended.

Indigenous offenders are more likely to commit their first offence at a younger age than non-Indigenous offenders, and are more likely to have been charged multiple times.

The number of young people in juvenile detention is small but has increased from an average daily number of 18 in 2005–06 to 39 in 2010–11. There is an increasing number of children under the age of 15 being detained.

Indigenous youth are much more likely to be in detention than non-Indigenous youth, and they are being placed into detention for more serious crimes, such as acts intending to cause injury.

Young people in detention are more likely to be on remand than serving sentences. The number of juveniles on remand is increasing (with an average daily number of around 23 on remand in 2010–11 compared with around 11 in 2005–06).

While the literature suggests that mental health, and alcohol and other drugs affect many young offenders, there is little data in the Territory on these issues.

There is little evidence to suggest that culturally diverse groups in the Territory are a target offending group’ (YJ Review 2011: 11-12).

As will be seen these trends indicate a worrying and disproportionate level of involvement of Indigenous youth at all stages of the juvenile justice system. But as the YJ Review also emphasised in its report only a relatively small number of young people overall were either caught up or at risk of becoming involved in this system, and most of their offending was of a relatively minor nature. However, public perceptions of the juvenile crime situation in the Northern Territory was
very different, largely as a result of the media attention given to offending by young people. In the words of the YJ Review:

Media coverage plays a key role in defining how the public perceives the seriousness of youth crime: a perceived or actual 'youth crime spree' attracts varying degrees of print and television media attention, and is often reported as ‘youth gangs on the loose’, or claims that youth crime is 'spiralling out of control'. To compound the problem, rates of crime can be exaggerated by sections of the public, the media and politicians for a variety of reasons’ (YJ Review 2011: 41).

Overwhelmingly, our own research findings about the media coverage of youth crime affirm the general accuracy of this observation although as we have noted earlier, over the period of about a decade covered by our media analysis, the actual incidence of media reports which identified young people by name was quite small. Even when named it was also at times difficult to determine whether or not the young person was of Indigenous background.

What of the impact of such naming? The cases we have referred to in some detail in Chapter 7 suggest that when for whatever idiosyncratic reason a young person is identified in the media by name, and possibly with an accompanying photograph or video footage, the likelihood of unpleasant and unwelcome consequences occurring are significantly increased. Such consequences are likely to include impeding or preventing the successful rehabilitation of a convicted young offender.

For those who espouse the merits of both naming and shaming young people in this way these adverse consequences are presumably secondary to the belief that they are part of the process of making young people publicly accountable for their transgressions, and may ultimately persuade them to adopt law abiding values and behaviour. However, most criminologists would counter such views by referring to the substantial body of research evidence which indicates that shaming techniques only work well when they are part of a restorative rather than stigmatising process (see references in Chapter 1 above, and particularly Braithwaite 1989;

In the Northern Territory at present restorative justice processes are infrequently used when dealing with young offenders. Even so one of our interviewees, who we identify with his consent, the Hon Terry Mills, Leader of the Opposition in the
Northern Territory Legislature, provided us with a fascinating account of his personal experience as a crime victim using restorative justice principles when interacting with an offender who broke and entered his family home. Terry Mills explained to us that as a former teacher he was very familiar with these principles and a strong believer in using them in the school disciplinary process. Here is part of what he said:

I really appreciate the opportunity to talk about it because in one context politically the matter can be wheeled out in an election campaign as something the punters says “yeah good stuff” because most people want offenders to be punished in some way. And it does get hijacked by that more than anything and I appreciate the opportunity to talk about it because connected to the naming is shame. Now we know what the naming is but shaming is something that we are not really familiar with, it is not a concept or an emotion that we are that familiar with, but I believe that the emotion of shame is a very powerful one and if correctly used can bring about change in behaviour. So I come at it from a restorative justice angle. I come at it from the point of view that there is a standard that a community holds dear, and someone not holding that standard or violating that standard should be ashamed, there should be shame. Now if the person who has offended or trespassed doesn't have the capacity for shame then the naming and shaming can't be used.

As a former school principal I used shame when shame could be used, when that emotion could be effectively and powerfully used to promote change but you don't just use it as a crude instrument because shame has got to be respected.... It is a very powerful tool [reintegrative vs stigmatising shame] and we have to be very careful, skilful in how we use that, in its implementation because the other shame is the go to the Palmerston markets and you've got them in the stocks and you can throw your rubbish at them, I mean what’s that gonna do.

Terry Mills then went onto discuss the circumstances surrounding his own crime victim experience:

Conferencing is not being used much, it is used in an ad hoc way, from time to time. I’ve been involved in some – that didjeridoo over there for example is the result of a young bloke who broke into my home. He broke into my home, I caught him, and he was 17 or 18 and of course I scared the living daylights out of him, pulled him up, my wife phoned the police, the police were there in a flash, but I thought I would follow him all through the system to see what actually happens.
I said “you’re bloody lucky you broke into this house”. I hadn’t been broken into before, he was an Aboriginal kid who lived in the same suburb not far away. I followed him through the system and I noticed it was a long time between breaking into my house and when he gets court and that was not acceptable. I made representation to the court saying that I’m a victim and my wife has now second thoughts about things, we changed our security, we bought a dog, so all sorts of things flowed from your visit to our home. Not only that you would hate it if someone broke into your home and took stuff from you. That’s how we feel. If someone took something from your mum how would you feel.

So I went to court, where would he go, he’d go to Don Dale [correctional center for young offenders], now I know that everyone who goes in there, at great expense, goes back in there, they don’t mind it, it actually hardens them, so I wrote this paper about the sort of things that should occur. Someone told me about a similar program and in the end I spoke up in the court and asked that he be sent to this particular program.

His lawyers then went and checked that program out and I said I would be happy if he was directed to go to that. He went to that and it was subject of an ABC documentary actually JTV two years ago, it was a nice little piece. They had taken these Aboriginal kids in, they took him, it was like he had been given a second chance, he showed real leadership skills, I went across there but tried to keep my distance. He came over and gave me a didjeridoo and I said what is that for [the young person mumbled in response] and I said I think I know what this is about but I said you don’t give it to me, you give it to me and my wife. Because it is not just me, you can come to my house and do that. Now we had a chat and he wasn’t too happy but I said I’m not going to make it easy for you because this is the right thing to do.

He then came to the house, his mum came, the two Aboriginal mentors came, and he sat at the end of the table and said and looked around. I said well you’ve called the meeting – he was sitting in the same chair as the one on the night when I pushed him into the chair - so it’s in your court. He pulls up this didjeridoo and puts it out and says Terry, Ros I want you to forgive me for breaking into your house and then he burst into tears. It was a powerful, powerful moment.

Now since then that’s well over two years, since then he has been working He went to the program and wanted to have an ordinary house, be married to a nice girl, and have an ordinary job and live in the next suburb – those were his goals – and now he is on his way to doing that. But he wouldn’t if he hadn’t gone through that process. Yet I had people saying to me “oh if that bastard had
broken into my house I would have beaten the shit out of him” and I said “then what – what would happen then?” As a result this guy has gone down a different path altogether, and there’s a lot of good people out there who want to be involved in those sorts of good programs. But it takes a lot of leadership to make sure you stick to it. Huge amount of skill.

So that is the core of my stance on this issue, really. I can use the vehicle as a politician or a community leader you can wheel something out and people come out when I talk about “name and shame” and people goes “yes” but then that helps you communicate because I believe the key issue here is to get people to understand. Now I believe that people in the Territory are coming to a better place about this where they know that it is not one or two dimensional, they are lots of layers to this, and it is this notion of community and it is standards and values and for those who don’t have much recognition, how do you get them to there so that they want to make reparation, they want to come back, they want to get on the right side of the ledger, they want to make a contribution, they want to be restored, you want closure, it is not about vengeance, it is about getting the show on the road, getting values respected and getting the apology, get them off the ledger and moving on. That is not an easy thing. Most people want blood, but I don’t reckon they really do.

A Closing Comment: Reform, Reparation and Vengeance

As researchers we perhaps run the risk of being accused of political bias in concluding our report with this interview material gleaned from the Leader of the Opposition in the Northern Territory Parliament. It is a risk we are prepared to wear since in our view Terry Mills personal espousal of the principles of restorative justice provides an influential expression of hope about the eventual possibility of reform occurring in the Northern Territory's approach to the issues surrounding the naming and shaming debate.

This reform should in our view take the form of first restoring the Northern Territory to the position that it was in prior to the introduction of the Juvenile Justice Act 1984 when the open access to justice principle was first mandated in regard to Youth Court hearings, thus placing the Territory at odds with the international norms we have identified as well as with all other jurisdictions in the country.
There are very good reasons why these norms emphasise among other things the need for a separate and closed system for the handling of young offenders. As our own research has reaffirmed an open forum precludes or severely hampers the ability of young people to participate fully in proceedings. In particular, because of potential embarrassment concerning the exposure of sensitive personal and family related information in a public courtroom setting, their ability to give full and frank instructions to their legal representatives is much affected. To speak of the need to expose children in trouble with the law to the ‘full glare of publicity’ in the interests of an open access to justice principle, as has been suggested in some legal circles in the Northern Territory, also runs counter to the well established and research based knowledge that most children mature out of crime if appropriately dealt with by the juvenile justice system. Stigmatising naming and shaming provided by open youth courts is not among the measures shown by this research to lead to rehabilitation. On the other hand restorative justice measures have been shown to work.

Thus having achieved this reform of separate and closed youth courts, but in tandem with it, the second step should be to introduce restorative justice principles into the Northern Territory’s juvenile justice system in ways which reflect a desire to achieve the rehabilitation of young offenders while acknowledging their wrongdoing and providing reparation for victims. The ‘selling’ of such reform will require strong and motivated leadership at both the political and community level as well as the adequate resourcing of the surrounding mechanisms needed for restorative justice hearings. In the wake of the YJ Review, and its recommendations for change which could easily accommodate the reforms we have mentioned, there may well be a profound shift away from a desire for vengeance to a system guided by internationally backed and tested youth justice principles.
REFERENCES


Application by John Fairfax Publications Pty Ltd re MSK, MAK, MMK and MRK [2006] NSWCCA 386 (1 December 2006).


R v MAK; R v Ram Chandra Shrestha; R v MSK; R v MRK; R v MMK [2003] NSWSC 849.

R v MSK; R v MAK; R v MRK; R v MMK [2004] NSWSC 319.

R v MMK NSWCCA [2005].


R v Lee (1993) 1 WLR 103 at 110, Court of Appeal.


8th August 2007

To Whom It May Concern:

RE  Duncan Chappell & Robyn Lincoln

This is to confirm the North Australian Aboriginal Justice Agency (NAAJA) supports Duncan Chappell and Robyn Lincoln’s application for funding to evaluate the naming provision in the Youth Justice Act.

NAAJA is a non-profit private company that was established on 1 February 2006. NAAJA provides high quality and culturally appropriate legal aid services for Indigenous people in the Top End of the Northern Territory. Previously NAAJA was known as NAALAS and has been delivering legal aid services for Indigenous people in the Top End for 34 years. NAAJA has offices in Darwin, Katherine and Nhulunbuy.

NAAJA has major concerns over naming Indigenous youth in the media and the impact this has on the youth and their families.

We will work collaboratively with Duncan Chappell and Robyn Lincoln to research the effects of the provisions in the Youth Justice Act.

Duncan Chappell and Robyn Lincoln will work closely with our Advocacy Manager and Lawyers to examine the law and legal system and the effects it has on the Indigenous community.

We will provide sample cases where young people have been identified in the media and what the consequences have been.

Duncan Chappell and Robyn Lincoln’s project is extremely important to analyse media and stakeholders responses to the naming provisions in the Youth Justice Act.

If you require any further information, please do not hesitate to contact me.

Yours sincerely

Priscilla Collins
CEO
30th June 2006

To Whom It May Concern:

RE Duncan Chappell & Robyn Lincoln

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Duncan Chappell and Robyn Lincoln’s project is extremely important to analyse media and stakeholders responses to the naming provisions in the Youth Justice Act.

If you require any further information, please do not hesitate to contact me.

Yours sincerely,
Norman George
Chairperson

32 Katherine Terrace
GPO Box 1044
KATHERINE 0855
08 89721133

Frenzy Street
PO Box 120
Nhulunbuy 0861
08 89871300

Offices:
1 Gardiner Street
GPO Box 1004
DARWIN 0801
08 89871100
APPENDIX B: NSWLC TERMS OF REFERENCE

The prohibition on the publication of names of children involved in criminal proceedings
Standing Committee on Law and Justice
Report 35, April 2008

Terms of Reference

That the Standing Committee on Law and Justice inquire into and report on the current prohibition on the publication and broadcasting of names under section 11 of the Children (Criminal Proceedings) Act 1987 (the Act), in particular:

1. The extent to which the policy objectives of the prohibition remain valid, including to:
   (a) reduce the community stigma associated with a child’s involvement in a crime, thereby allowing the child to be reintegrated into the community with a view to full rehabilitation;
   (b) protect victims from the stigma associated with crimes; and
   (c) reduce the stigma for siblings of the offender and victim, allowing them to participate in community life.

2. The extent to which section 11 of the Act is achieving these objectives.

3. Whether the prohibition on the publication and broadcasting of names under section 11 of the Act should cover:
   (a) Children who have been arrested, but who have not yet been charged;
   (b) Children, other than the accused, who are reasonably likely to be involved in proceedings; and/or
   (c) Any other circumstance.

Any other relevant matter involving the prohibition on the publication and broadcasting of names, including consideration of prohibitions in the Young Offenders Act 1997 and the Crimes Act 1900.

The terms of reference for this Inquiry were referred to the Committee by the Attorney General and Minister for Justice, the Hon John Hatzistergos MLC on 16 October 2007.
Juveniles involved in criminal proceedings are usually not publicly identified by having their names and identifying features publicised in the mass media. Generally in Australia, with the exception of the Northern Territory, there are legal protections in place to protect the privacy of young people. However, in very recent times, there have been proposals to remove these protections in a number of jurisdictions (QLD, WA and NSW). The present research project is designed to obtain information regarding the impact upon Indigenous young people of being named in public media. The research is intended to inform public policy and law reform concerning an issue which has special relevance to Indigenous youth since they are disproportionately affected in the NT and elsewhere through their over-representation in the justice system.

We are seeking volunteer participants, drawn from a range of professional and community fields to be interviewed about their views on the naming of Indigenous youth in the Territory. The interviews will seek personal opinions about:

- juvenile crime in the Territory
- Indigenous youth crime
- naming as a response to crime
- consequences of public identification
- differences for Indigenous vs non-Indigenous youth

It is anticipated that the interviews will take one hour and be scheduled for a time and place that suits the participants. It is also envisaged that interviews will be
Naming and Shaming of Indigenous Youth in the Justice System

Tape-recorded for ease of capture of the information, but this will depend on the consent of interviewees.

The results of this research will be published, in the first instance, in an internal report for the research granting body – the Australian Institute of Aboriginal and Torres Strait Islander Studies in Canberra, but we will be seeking publication in the academic literature in the future.

We undertake that no names or directly identifying details will be included in any of that published work in order to protect you and thus confidentiality of your information is assured.

The digital voice recording of the interview will be stored safely and securely, as will the de-identified transcripts and data drawn from the interview material. These are held for five years at the university but in secured offices as is required by regulation.

If you have any queries or would like to be informed of the aggregate research finding, please contact Robyn Lincoln on the above contacts.

Should you have any complaint concerning the manner in which this research is conducted, please do not hesitate to contact Bond University Human Research Ethics Committee, quoting the Project Number above.

The Complaints Officer
Bond University Human Research Ethics Committee
BURCS, Bond University, Gold Coast QLD 4229
Phone 55954194
Fax 5595 1120
Email buhrec@bond.edu.au

Many thanks for considering to take part in our project.

Robyn Lincoln
Duncan Chappell
I agree to take part in this research project and do so voluntarily, noting that I can withdraw at any time. I have read the Explanatory Statement which I will keep for my records.

I understand that the qualitative data gathered in this research will be used in future publications but that my name and directly identifying information will not be included.

I am willing to be interviewed by the researcher(s), to have that interview digitally tape recorded and I understand that data will be extracted from this interview.

I understand that any personal contact information, used to arrange a suitable time and place for the interview, will not be associated directly with the content of my interview.

Name: ........................................................................................................................................

Signature: ....................................................................................................................................

Date: ............................................................................................................................................

Thank you again for agreeing to take part in this important research.
INTERVIEW GUIDE — RO1012
NAMING OF INDIGENOUS YOUTHFUL OFFENDERS

This interview will take approximately one hour and will be digitally tape-recorded (if you have given consent for this to occur). There are some specific areas we wish to address but you are encouraged to offer any additional information you wish.

Your consent to record ☐ yes ☐ no

Your preference for how you wish to be described in the final report (ie “senior print journalist”)

Your professional position description (years working, print or electronic, prosecution or defence, time in NT, what type of agency)

The overall question is: what is your opinion about the naming of indigenous youthful offenders in the Northern Territory under the current provisions of the Youth Justice Act.

Other subsidiary areas to discuss include:
• views about the provisions of Youth Justice Act 2006 NT
• views on juvenile crime in the Territory
• views on Indigenous youth crime
• views on naming as a response to crime
• views of the consequences of public identification
• views on differences for Indigenous vs non-Indigenous youth
• any specific cases recalled
• any media instances recalled
• how should identification/privacy be approached
• does prohibition hinder reporting/justice/community relations
• experience in other jurisdictions
• what about victims
• what about young offenders
• what about communities
• what about public right to know

Thank you again for participating in this important research.
## APPENDIX D: SUMMARY OF LEGISLATION

| ACT                  | Children and Young People Act 1999
|----------------------|-------------------------------------
| Sec. 61: Not Open To Public | Sec. 61A(3) A person must not publish an account or report of the proceeding if the account or report - (a) discloses the identity of the child or young person or a family member; or (b) allows the identity of the child or young person, or a family member, to be worked out. |
|                      | Sec. 405H (1) The chief executive may give someone protected information (including sensitive information) about a child or young person if the chief executive considers that the giving of the information is in the best interests of the child or young person. |

| NSW                  | Children (Criminal Proceedings) Act 1987
|----------------------|-------------------------------------
| Sec. 10: Not Open To Public | Sec. 11 (1) The name of any of the following persons must not be published or broadcast in a way that connects the person with the criminal proceedings concerned: (a) any person who: (i) appears as a witness before a court in any criminal proceedings, or to whom any criminal proceedings relate, and (ii) was a child when the offence to which the proceedings relate was committed, (b) any person who is mentioned in any criminal proceedings in relation to something that occurred when the person was a child, (c) any person who is otherwise involved in any criminal proceedings and was a child when the person was so involved, (d) any person who is a brother or sister of a victim of the offence to which the proceedings relate, where that person and the victim were both children when the offence was committed. |
|                      | Sec. 11 (4B) A court that sentences a person on conviction for a serious children’s indictable offence may, by order made at the time of sentencing, authorise the publication or broadcasting of the name of the person (whether or not the person consents or concurs). (4C) A court is not to make an order referred to in subsection (4B) unless it is satisfied: (a) that the making of such an order is in the interests of justice, and (b) that the prejudice to the person arising from the publication or broadcasting of the person’s name in accordance with such an order does not outweigh those interests. |

| NT                   | Youth Justice Act 2005
|----------------------|-------------------------------------
| Sec. 49: Open to public; except 49(2) If it appears to the Court that justice will be best served by closing the Court, it may order that the Court be closed and that no persons remain in or enter a room or place in which the Court is being held, or remain within the hearing of the Court, without the Court's permission | Sec. 50(1) The Court may, in an order under section 49 or by a separate order, direct that a report of, or information relating to, proceedings in the Court, or the result of proceedings against a youth before the Court, must not be published. |

| QLD                  | Juvenile Justice Act 1992
|----------------------|-------------------------------------
<p>| Children’s Court Act 1992 | Juvenile Justice Act 1992, Sec. 301 (1) A person must not publish identifying information about a child. (2) Subsection (1) does not apply to — (a) publication in a way permitted by a court order; or (b) publication under written authority given under subsection (3). (3) The chief executive may give written authority to a person to publish identifying information about a child if the chief executive is satisfied the publication is necessary to ensure a person’s safety. |
| Sec. 20: Not open to the public | Juvenile Justice Regulation 2003, Sec. 43 Dealing with confidential information—Act, s 289(h)(1) A person may disclose confidential information relating to a child if the disclosure is to another person and the chief executive is satisfied the disclosure of the information is essential to the wellbeing of the child to whom the information relates. (2) Also, a judicial officer, a registrar or clerk of a court, or other court officer, may record, use or disclose confidential information relating to a child if the recording, use or disclosure is for the administration of justice or a court. |</p>
<table>
<thead>
<tr>
<th>State</th>
<th>Act/Section</th>
<th>Description</th>
</tr>
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<tr>
<td>SA</td>
<td>Young Offenders Act 1993 Sec. 24</td>
<td>Not Open to the Public</td>
</tr>
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<td></td>
<td>Youth Court Act 1993 Sec. 24</td>
<td>Not Open to the Public</td>
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<td></td>
<td>SA Young Offenders Act 1993 Sec. 24</td>
<td>Not Open to the Public</td>
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<tr>
<td></td>
<td>Youth Court Act 1993 Sec. 24</td>
<td>Not Open to the Public</td>
</tr>
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<td></td>
<td>SA</td>
<td>Sec. 13 (1) A person must not publish, by radio, television, newspaper or in any other way, a report of any action or proceeding taken against a youth by a police officer or family conference under this Part if the report—(a) identifies the youth or contains information tending to identify the youth; or (b) reveals the name, address or school, or includes any particulars, picture or film that may lead to the identification, of any youth who is in any way concerned in the action or proceeding; or (c) identifies the victim or any other person involved in the action or proceeding (other than a person involved in an official capacity) without the consent of that person. (1a) However, a person who proposes to make a documentary or undertake an educational or research project about juvenile justice matters may, in accordance with rules of court, apply to the Youth Court for permission to publish, for the purposes of the documentary or project, a report identifying a youth that would otherwise be suppressed from publication under this section. Sec. 64 If a youth is proceeded against or dealt with under this Act for an alleged offence, a person who has suffered injury, loss or damage in consequence of the circumstances alleged to constitute the offence is entitled, on application in writing to the Commissioner of Police, to be informed of the name and address of that youth.</td>
</tr>
<tr>
<td>TAS</td>
<td>Youth Justice Act 1997 Sec. 30</td>
<td>Not Open to the Public</td>
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<td>Sec. 31 (1) A person must not publish any information in respect of any proceedings that are to be, are being or have been taken in the Court if the information identifies, or may lead to the identification of, a youth who is the subject of or a witness in the proceedings except where – (a) permission to publish the identity or information has been granted under subsection (2); and (b) the identity or information is published in accordance with any conditions specified in respect of the permission.</td>
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<tr>
<td>VIC</td>
<td>Children and Young Persons Act 1989 Sec. 19</td>
<td>Open to the Public, but under Sec. 19(2) The Court may, on the application of a party or of any other person who has a direct interest in the proceeding or without any such application - (a) order that the whole or any part of a proceeding be heard in closed court; or (b) order that only persons or classes of persons specified by it may be present during the whole or any part of a proceeding</td>
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<td>Sec. 26 (1) A person must not publish or cause to be published - (a) except with the permission of the President, a report of a proceeding in the Court or of a proceeding in any other court arising out of a proceeding in the Court that contains any particulars likely to lead to the identification of - (i) the particular venue of the Children's Court, other than the Koori Court (Criminal Division) and the Neighbourhood Justice Division, in which the proceeding was heard; or (ii) a child or other party to the proceeding; or (iii) a witness in the proceeding; (b) except with the permission of the President, a picture as being or including a picture of a child or other party to, or a witness in, a proceeding referred to in paragraph (a); or (c) except with the permission of the Secretary granted in special circumstances in relation to a child who is the subject of a custody to Secretary order or a guardianship to Secretary order, any matter that contains any particulars likely to lead to the identification of a child as being the subject of an order made by the Court.</td>
<td>Sec. 31 (2) The Court may grant a person permission to publish an identity or information subject to any conditions specified by the Court. (3) A person must not publish in any way any information in respect of the proceedings of the Court if the Court prohibits publication of the information.</td>
</tr>
<tr>
<td>WA</td>
<td>Children's Court of Western Australia Act 1988 Sec. 31: Open to the Public, except Sec. 31 (1) At any hearing or trial relating to a charge against, or any application concerning, a child or where the interests of a child may be prejudicially affected, the Court may order that any persons shall be excluded from the court-room or place of hearing</td>
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<td>Sec. 35 (1) Except where done in accordance with an order made under section 36A, a person shall not publish or cause to be published in any newspaper or other publication or broadcast or cause to be broadcast by radio or television a report of any proceedings in the Court, or in any other court on appeal from the Court, containing any particulars or other matter likely to lead to the identification of a child who is concerned in those proceedings ¾ (a) as a person against whom the proceedings are taken; (b) as a person in respect of whom the proceedings are taken; (c) as a witness; or (d) as a person against or in respect of whom an offence has or is alleged to have been committed.</td>
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<td>Sec. 36A(1) The Supreme Court may, after considering the public interest and the interests of the child, by order allow the publication, broadcast or disclosure of any matter prohibited by section 35(1), (3) or 36 (prohibited matter~).</td>
<td></td>
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</tbody>
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APPENDIX E: PRACTICE DIRECTIONS
Court of Summary Jurisdiction

Practice Direction

Child in Need of Protection – Restriction on Publication of Childrens’ Names – Procedure to be Adopted

The following practice direction is issued pursuant to s 21 of the Justices Act and will apply from the commencement of Part 2.3 Care and Protection of Children Act (NT).

BACKGROUND

The Care and Protection of Children Act has created a regime necessitating more care to be taken generally to ensure a child who may be subject to an investigation or protection order under the Act is not identified.

Restrictions on publication

Section 97 Care and Protection of Children Act makes it an offence to publish a report of any proceeding or the results of any proceeding if that publication has not been authorised by the Court or any law in force in the Territory.

Section 301 Care and Protection of Children Act makes it an offence to publish any material that may identify someone who is a child in the CEO’s care, or for whom application for care has been made or is the subject of a Temporary Protection Order, Assessment Order or is involved or alleged to be involved in a sexual offence (whether as a victim or otherwise). The publication is allowed if authorised under the Care and Protection of Children Act or any other law in force in the Territory. There is no specific exception for those people who publish the protected details in performance of their functions under the Care and Protection of Children Act.

PROCEDURE

Representatives appearing in a matter in the Court of Summary Jurisdiction that may possibly involve the identification of a child in need of protection should alert the court staff prior to commencement of proceedings that s 301 Care and Protection of Children Act may apply and the Court may need to be closed. If it becomes apparent that the representative was wrong about the possibility of identification then it is within the discretion of the Magistrate to re-open the court.

If it becomes apparent during a proceeding that s 301 may apply the representative should bring s 301 to the attention of the Magistrate as soon as possible.

Jenny Blokland
Chief Magistrate
Court of Summary Jurisdiction

Practice Direction

Child in Need of Protection – Restriction on Publication of Childrens’ Names – Procedure to be Adopted

The following practice direction is issued pursuant to s 21 of the Justices Act and will apply from the commencement of Part 2.3 Care and Protection of Children Act (NT).

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If it becomes apparent during a proceeding that s 301 may apply the representative should bring s 301 to the attention of the Magistrate as soon as possible.

Jenny Blokland
Chief Magistrate
Local Court

Practice Direction

Child in Need of Protection – Restriction on Publication of Childrens’ Names – Procedure to be Adopted

The following practice direction is issued pursuant to section 21 of the Local Court Act and will apply from the commencement of Part 2.3 Care and Protection of Children Act (NT).

Background

The Local Court has been given the jurisdiction to deal with children in need of protection pursuant to the provisions of the Care and Protection of Children Act. The Family Matters Court created under the Community Welfare Act has ceased to exist and all matters regarding child protection will be dealt with in the Family Matters jurisdiction of the Local Court.

Restrictions on publication

Section 97 of the Care and Protection of Children Act makes it an offence to publish a report of any proceeding or the results of any proceeding if that publication has not been authorised by the Court or any law in force in the Territory.

Section 301 Care and Protection of Children Act makes it an offence to publish any material that may identify someone who is a child in the CEO’s care, or for whom application for care has been made or is the subject of a Temporary Protection Order, Assessment Order or is involved or alleged to be involved in a sexual offence (whether as a victim or otherwise). The publication is allowed if authorised under the Care and Protection of Children Act or any other law in force in the Territory. There is no specific exception for those people who publish the protected details in performance of their functions under the Care and Protection of Children Act.

PROCEDURE

1. All proceedings in the Family Matters jurisdiction of the Local Court shall be in closed Court and the names of parties will not be published on the Court list; reference will only be made to the file number and the court room in which it is to be heard.

2. Parties are required to wait outside of the courtroom until called. The matter will be called by the court officer by reference to the file number only. Practitioners should assist the court officer to identify family members in relation to each matter to avoid confusion of unrepresented parties.

3. Representatives appearing in a matter in the Local Court (other than the Family Matters jurisdiction) that may possibly involve the identification of a child in need of protection should alert the court staff prior to commencement of proceedings that s 301 Care and Protection of Children Act may apply and the court may need to be closed. If it becomes apparent that the
representative was wrong about the possibility of identification then it is within the discretion of the Magistrate to re-open the Court.

4. If it becomes apparent that s 301 may apply during a proceeding the representative should bring s 301 to the attention of the Magistrate as soon as possible.

Jenny Blokland
Chief Magistrate
24 November 2008
### APPENDIX F: YOUTH COURT LIST

This listing was extracted from the NT Department of Justice website but is the same as the printed versions that are posted to the court noticeboards on a daily basis. There are separate pages for the magistrates and supreme courts with the former showing domestic violence, criminal and then youth justice matters in a single file (see [http://www.nt.gov.au/justice/courtsupp/mclist.shtml](http://www.nt.gov.au/justice/courtsupp/mclist.shtml)).

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<tr>
<th>Court</th>
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<th>Time</th>
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<tr>
<td>C5</td>
<td>20940454</td>
<td>10.00 AM</td>
<td>Mention</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1 ROBBERY CAUSING HARM</td>
</tr>
<tr>
<td>C6</td>
<td>20906236</td>
<td>10.00 AM</td>
<td>Hearing</td>
</tr>
<tr>
<td>C5</td>
<td>20943310</td>
<td>10.00 AM</td>
<td>Mention</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1 Use vehicle and cause damage over $1000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2 Trespass on premises</td>
</tr>
<tr>
<td>C5</td>
<td>20940483</td>
<td>10.00 AM</td>
<td>Handup Committal</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1 Robbery in company</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2 Aggravated assault</td>
</tr>
<tr>
<td>C5</td>
<td>20940491</td>
<td>10.00 AM</td>
<td>Handup Committal</td>
</tr>
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1 Trespass within 1 year after warning

20942652 10:00 AM  
1 AGG ENTER BUILDING INTENT COMMIT OFFENCE
2 Stealing
3 AGG ENTER BUILDING INTENT COMMIT OFFENCE
4 Stealing

21004539 10:00 AM  
1 Trespass within 1 year after warning

20820151 10:00 AM  
1 Aggravated assault
2 Aggravated assault

20943419 10:00 AM  
1 Use vehicle and cause damage over $1000
2 Stealing

20943449 10:00 AM  
1 Case Management Inqu
2 Aggravated assault

20944257 10:00 AM  
1 Case Management Inqu
2 Engage in conduct that contravenes DVO

21000485 10:00 AM  
1 Possess a dangerous drug (Cannabis)
2 Possess Methylamphetamines
3 Administer a dangerous drug to self

21005173 10:00 AM  
1 Bail Application
2 Assault a person
3 Deprive a person of personal liberty
4 Aggravated assault
5 Unlawfully damage Property
6 Aggravated assault
7 Unlawfully damage Property
8 Aggravated assault
9 Make a threat to kill a person
10 Stealing
11 Aggravated assault
12 Aggravated assault
13 Damage property where loss is over $5000
14 Robbery in company

21005175 10:00 AM  
1 Bail Application
2 Assault a person
3 Deprive a person of personal liberty
4 Aggravated assault
5 Unlawfully damage Property
6 Aggravated assault
7 Unlawfully damage Property
8 Aggravated assault
9 Make a threat to kill a person
10 Stealing
11 Aggravated assault
12 Aggravated assault
13 Damage property where loss is over $5000
14 Robbery in company

20927211 10:00 AM  
1 Plea or Mention
2 Stealing
3 Trespass within 1 year after warning

21001260 10:00 AM  
1 Plea or Mention
2 Trespass within 1 year after warning

21002556 10:00 AM  
1 Plea or Mention
2 AGG ENTER BUILDING INTENT COMMIT OFFENCE
3 Stealing

21003345 10:00 AM  
1 Plea or Mention
2 Trespass within 1 year after warning

20930930 10:00 AM  
1 Mention
2 FAILS TO PROVIDE PERSONAL PARTICULARS
2. Learner driver - No person in front seat
3. Drive without 1 place when required

C5
20933418 10.00 AM 1 Trespass on premises
1 Unlawfully use a motor vehicle
4 BREACH OF BAIL
5 BREACH OF BAIL

C5
20927683 10.00 AM Case Management Inqu
1 Aggravated assault

C5
20821998 10.00 AM Plea or Mention
1 Aggravated assault
2 Aggravated assault

C5
20832965 10.00 AM Plea or Mention
1 Aggravated assault

C5
20628957 10.00 AM Breach of Order
1 Assault person who suffered bodily harm

C5
20706618 10.00 AM Breach of Order
20706619 10.00 AM Breach of Order

C5
20733692 10.00 AM Breach of Order
1 Unlawfully use a motor vehicle

C5
20734623 10.00 AM Breach of Order
1 Trespass within 1 year after warning
2 Armed with an offensive weapon at night

C5
20734624 10.00 AM Breach of Order
1 Steal property from a shop

C5
20734625 10.00 AM Breach of Order
1 Stealing

C5
20819228 10.00 AM Plea or Mention
1 Damage Property-prepare, commit,conceal
2 Enter a building at night with intent
3 Stealing
4 Unlawfully use a motor vehicle

C5
20819229 10.00 AM Plea or Mention
1 Unlawfully use a motor vehicle

C5
20939994 10.00 AM Plea or Mention
1 Unlawfully damage Property

C5
20925004 10.00 AM Mention
1 Aggravated assault

C5
21003647 10.00 AM Mention
1 Damage Property-prepare, commit,conceal
2 AGG ENTER DWELLING INTENT COMMIT OFFENCE
3 Stealing
4 Damage Property-prepare, commit,conceal
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6 Stealing
7 AGG ENTER DWELLING INTENT COMMIT OFFENCE
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12 Stealing
13 Damage Property-prepare, commit,conceal
14 AGG ENTER DWELLING INTENT COMMIT OFFENCE
15 Stealing
16 Damage Property-prepare, commit,conceal
17 AGG ENTER DWELLING INTENT COMMIT OFFENCE
18 Stealing
19 AGG ENTER DWELLING INTENT COMMIT OFFENCE
20 Stealing
21 AGG ENTER DWELLING INTENT COMMIT OFFENCE
22 Stealing
23 Damage Property-prepare, commit,conceal
24 AGG ENTER DWELLING INTENT COMMIT OFFENCE
25 Stealing

Naming and Shaming of Indigenous Youth in the Justice System 151
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Sobbing robber sent to trial
By Phoebe Stewart Court Reporter, 266 words, 11 August 2007
A man sobbed in court as he heard a police officer describe the welt he left on a pregnant woman's neck after he robbed her in her own car. Senior Constable Karen Sanderson told the Darwin Magistrates court an 18-year-old girl was "a mess" after she was robbed by Darren Duncan when giving him a 2km lift. A red raised welt where he had held a sharp object to her throat was visible on the teenager's neck. "She was stressed ... it was a struggle to get the statements out of her," Sen-Const Sanderson said. The court heard 21-year-old Duncan asked the three-months pregnant woman and her two girlfriends for a lift from the Gray shopping centre to his unit in Driver. He was known to one of the women. But when the car pulled up at his address, Duncan pulled out a sharp object and held it to the driver's throat. He angrily shouted "I want the money, give me the money" before the teenager handed him her wallet. She pleaded with him to "take the money, take the money" before he fled with $350 cash. He was arrested the next day at his unit and charged with armed robbery. Duncan told police the women had picked him up to buy drugs. Magistrate Greg Cavanagh said that did not excuse his actions. He committed Duncan to stand trial in the Supreme Court on August 27.

Man faces rob charge
95 words, 16 March 2007
Palmerston police have arrested a 21-year-old man for holding a pair of scissors to the throat of a woman in an alleged armed robbery. Darren Duncan faced Darwin Magistrate's Court yesterday charged over the armed robbery at 8.15pm on Tuesday. Police allege Duncan asked three women for a lift from the Gray shops in Essington Ave to Lorna Lim Tce in Driver. An 18-year-old woman gave him a lift and he sat in the back seat behind her.

Letters to editor
929 words, 11 June 2003
Prosecutor writes in I have noticed a letter to the editor entitled "Licence to be a Thug" published on June 6, and the fact that it is signed by Peter Elliott. I am also Peter Elliott, (though not of Stuart Park) and I was briefed by the Office of the Director of Public Prosecutions to prosecute Darren Duncan. I would be very grateful if you could print in your letters to the editor that I prosecuted Darren Duncan, and that I am not the author of the letter of June 6. Peter Elliott Edmund Barton Chambers

Different cases, same paths
526 words, 10 June 2003
There is an increasing furore surrounding the leniency of the sentence handed down to Darren Duncan. Please allow the public to see my viewpoint. My son, in the company of four others in the same age bracket, was sentenced to 12 months' detention in Don Dale Juvenile Detention Centre on June 19 last year for a similar offence, bashing innocent people. Judge Bailey in the Supreme Court reduced the term to three months coupled with 12 months' probation under the supervision of staff from Northern Territory Correctional Services. Some would say inadequate, I thought that it was a fair and reasonable judgment. At this point I would like to point out that he had served the entire three months' confinement under his own volition and elected to enter Don Dale before his conviction knowing that he would have to be awarded some form of punishment. At all times he showed extreme remorse for his actions and the wondrous staff at the centre will testify to this, they, and I, still don’t really know how a kid with his demeanour would do such a thing, the primary mitigating factor we surmised for the assaults was that one of the others was washed while in plaster with a broken leg by an Aboriginal adult male and this was their form of “payback”. Only it got seriously out of hand. My sentence, delivered concurrently, wasn't reported. I own and run a small engineering business and work normally alone depending on the circumstance and time is extremely precious. Fourteen trips to court, many meetings with lawyers and counsellors, attending the centre on “visiting days”, maximum two per week, which I can understand, not to mention the sleepless nights and very long days that ensued. Among all this my dear father passed away in Perth and I wasn't able to attend his funeral because of the case as I elected to be with my son in court, the day after. Dad and I were very close and it was very hard to be unable to attend such an event. I'm sure others have had to endure such a devastating period. My heart goes out to them. Maybe I could have sought an adjournment but I did not want him in that place a second longer than necessary. As it was we had no idea what the "system" would have in store when his sentence was ultimately decided. What puzzles me is that Magistrate Trigg in the lower court who handed it up to the Supreme Court for sentencing gave the reason that “the case was too serious to be determined here and must go to a higher authority”. Everyone can rest assured that there was no yawning, arm stretching and signs of irritation emanating from my young man while he was in the dock. He at all times looked rather pathetic, maybe an unkind thing for a dad to comment about his son, but he was genuinely very sorry for what happened that horrible night. The cases have identical paths, why are they so different in Magistrate Trigg's eyes? John Hilliard Darwin

Licence to be a thug
1419 words, 6 June 2003
I would like very much for somebody to tell me what exactly is going on in this town regarding crime and the sentences of perpetrators. Darren Duncan and his mates savagely bash a poor kid and he is handed a suspended sentence ... while yawning and showing absolutely no remorse. The magistrate would have it that this is better for his "rehabilitation". All that has happened is a licence has been handed to each and every thug in town to go out and bash the crap out of whoever they choose with the full knowledge that there will be no serious reprisals. And while were on the subject, perhaps NAALAS might want to wake up to themselves. Sentencing too tough? For goodness sake you can do anything in this place and receive little or no punishment (one of a plethora of examples being a man who receives only 12 months in prison for raping a 15-year-old girl). How can you possibly say that our "harsh sentencing regime" sentencing policy contributes to overcrowding in prisons? Last
Naming and Shaming of Indigenous Youth in the Justice System

Letters to editor

837 words, 2 June 2003

Ideological idiocy re the article "Bored thug walks free. It is apparent from the report that the magistrate and the person appearing before him are both funded by the public purse. It is obvious which one costs us, the taxpayer, the most. As at least one is on the payroll forever one cannot be taken to task over pondering which one of the two is our worst bargain as there seems to be no curb on the behaviour of either. The two seem to complement each other. When is this ideologically-based idiocy in decision making to stop? Name and address withheld by request Lack of contrition IF EVER anyone should have been aware of the complete contempt for his victim and the total lack of contrition for his actions displayed by "thug" Darren Duncan, it was Magistrate Trigg (Northern Territory News front page, May 28). While his concern for "rehabilitation" is probably worthy, the magistrate forgot that this has to be followed by the realisation by the "thug" that a terrible wrong was committed. It was sadly evident that a severe and suitable punishment was required to bring this home, before "rehabilitation" was contemplated. This sentencing was manifestly wrong, and should be promptly reviewed. Howard Young Kununurra

Excuses for nasty act reading how his life story probably saved Darren Duncan (Northern Territory News, May 28) a stretch in Berrimah, I had a thought about how I can do the same. Let's see - go out at night and get bored, find some bloke or lady or kid and lay into him/her with a steel bar or some such weapon, put him in hospital, tell the police I was bored, and then tell my lawyer my past as an on-and-off itinerant in Darwin and Todd River dweller for more than 10 years and my own crappy divorces. I reckon the story of my life since coming 20 years ago would be a pub yarn if there weren't so many witnesses to it ... should be worth a get out of jail free in this new "enlightened" Territory we are now living in should I decide that I have too much time on my hands, a punter handy and a steel bar at hand ... what say? Keith Gregor Tiwi Punishment deserved RE Front-page story "Bored thug walks free" (Northern Territory News, May 28). I hope one day that a group of bored vigilantes catches up with these so-called bored thugs and gives them what they deserve. Not just a slap on the wrist from our bored justice system - no wonder people are leaving the Territory, who can blame them - come on ... give these people what they deserve - punishment.

Rob Maningrida.

Mum's plea over bashing

By Edith Bevin Police Reporter, 304 words, 31 May 2003

A woman whose son was savagely bashed called on the Government last night to appeal the "leniency of the sentence" handed out to her son's attacker. Colleen Casey, 50, said she was outraged by the sentence handed to Darren Duncan, 17, who used a metal bar to bludgeon her son Greg Casey, 21, has no memory of the attack at the Palmerston Skate Park in December 2000 - he remembers only waking up in hospital with concussion. Duncan used a metal bar to hit Greg over the head. Greg was one of three boys savagely bashed by Duncan and his gang of 30-odd. Duncan was found guilty of three counts of aggravated assault this week but due to his age and clean record since the incident, was given a 10-month fully suspended sentence. "It just shows that anyone can hit anyone and they get to walk off and get away with it," Mrs Casey said. "Greg was knocked unconscious - he can't remember anything from going out the driveway that morning to waking up in hospital afterwards, it's taken him a long time to get over that and he still forgets a lot of things. "That's something he's got to live with ... while that man doesn't have any punishment for what happened." Mrs Casey said she and her son were considering writing to the Director of Public Prosecutions and asking them to appeal the decision, saying; "Somewhere along the line, there's got to be a precedent set. "There's a lot of people out there that are scared of him (Duncan) - especially now that he's got away with it. "To him this has just proved what he already thought - that the cops can't touch him."

Letters to editor

862 words, 30 May 2003

... Should be punished I refer to Tuesday's front-page headline "Courts are too tough claim" and Wednesday's front-page headline "Bored thug walks free". So, "we're too tough on criminals" and "the court must look at the ultimate aim for juveniles rehabilitation". It's not surprising people see the legal system as a joke. Darren Duncan should have been punished. Rehabilitation should have followed his punishment. Instead, he got off. Okay, maybe Darren was bored, maybe he's just dumber than he looks. Whatever, the court failed Darren and it certainly failed his victims. What sort of message does this send to thugs? No doubt Darren is now constantly looking over his shoulder wherever he goes, just in case. He's probably well aware of "an eye for an eye". Name and address withheld by request

Degrees of separation Magistrate Daynor Trigg — you have got to be kidding. What a serious affront to any sane member of this community you are proving to be. How you saw the goodness in this young lout (Darren Duncan) while he showed nothing but disrespect for you, even while you were passing sentence on him, is beyond comprehension. You and your ilk are not sending the message to these young punks that the community is so desperate for you to do. The two wonderful displays of humanity who robbed the pregnant lady with a knife the other day must be praying to be tried by you, if and when they are caught. Lately, more than ever it seems, the judiciary appear to be veering further and further from community expectations. What force drives this separation? Name withheld Howard Springs.

Editorial — No fear in court

252 words, 30 May 2003

Magistrate Daynor Trigg says the victims of Darren Duncan will be "aggrieved" that the teenage thug has not been jailed. That is an understatement. They have every right to be outraged. The reasoning behind Mr Trigg's decision to let Duncan walk free with a 10-month suspended detention sentence was curious. He said the courts must remember the main aim when dealing with juveniles was rehabilitation. That was fair enough. But the magistrate then went on to say, in effect, that Duncan's chances of rehabilitation were uncertain. To make matters worse, Duncan showed what he thought of the court by yawnning and stretching...
while Mr Trigg was talking. This was no ordinary punch-up between boys. Duncan and a 30-strong mob staged a cowardly attack on three defenceless teenagers. They used skateboards, rocks, rollerblades and a metal trolley handle. And they carried out the attack despite one of the victims pleading that he had a fractured skull. The case shows that rank-and-file police are right when they say juveniles do not fear the courts as much as they should. And it gives the lie to assertions by legal aid lawyers that Territory courts are too tough. Rehabilitation is all well and good. But juvenile offenders must walk into a court fearing they will be jailed. Otherwise they will have little incentive not to reoffend.

**Gang bash victim tells of trauma**
*By Chris Carter, 216 words, 29 May 2003*
A man savagely bashed by a 30-strong gang believes one of the offenders always knew he would not be jailed for the attack. Peter Dunham, 22, yesterday spoke of Darren Duncan’s 10-month suspended sentence and the trauma he had gone through after being bashed. Mr Dunham and fellow skaters Ernest Ward and Gregory Casey were beaten with skateboards and rollerblades in Palmerston in 2000. Duncan, 17, walked free from Darwin Magistrates Court on Tuesday with a suspended sentence. Mr Dunham claimed Duncan’s behaviour at court was of a man who knew he would not go to prison. “He shook up late to court wearing whatever he wanted,” he said. Mr Dunham said Darwin was a small place and he was worried about seeing the offenders again. He said he was still traumatised and suffered memory loss from the attack. “At first I couldn’t remember words or names - I’m slowly getting better,” Mr Dunham said. “I’m a paranoid to go out at night skating by myself - I won’t go anywhere by myself any more. “I don’t like going to Palmerston. If I see a group of kids, I’m always on my guard. I’m paranoid it will happen again.”

**This teen helped to savagely bash three people. His punishment? Bored thug walks free**
*By Bob Watt, 351 words, 28 May 2003*
A young thug who took part in a savage gang bashing of three youths because he was bored walked free from court yesterday. Darren Dunham, 17, and his 30-strong mob used skateboards, rocks, rollerblades and a metal trolley handle in the attack. Darwin Magistrate Daynorn Trigg admitted: “I think the victims will feel rightly aggrieved if you do not serve some time.” But he said the court must look at the ultimate aim for juveniles - rehabilitation. Darwin yawned and stretched his arms before the magistrate gave him a 10-month suspended detention sentence. And when Dunham showed irritation, Mr Trigg snapped: “Don’t get angry or I’ll change the order. Don’t play games.” Continued: Page 2 Bored thug walks free. Dunham was allowed to go free the day after legal aid lawyers said Territory courts were too tough. He was 15 when he joined in the attack at the Palmerston skate park in December 2000. The three defenceless youths were bashed even though one of them pleaded he had a fractured skull. Duncan told police he had taken part in the attack because he was bored. Mr Trigg took into account Duncan’s age at the time and that he had not committed an offence in the 2 1/2 years since. Dunham, who had “irresponsibly” fathered two children, would not stay at home or at school. So he had every opportunity to get into trouble but had not. Mr Trigg said this showed he had some moral fortitude and to send him to detention might be more negative than positive. Dunham was found guilty of three counts of aggravated assault. Mr Trigg suspended the detention sentence immediately on a $500 bond to be of good behaviour for two years. Mr Trigg said he would not make compensation orders because he understood the victims had already begun actions in the Local Court. Duncan was likely to be liable for any amounts awarded under victims of crime compensation.

**Letters — No leniency for the cruel**
*By Bob Watt, 351 words, 28 April 2003*
Cowards need gangs I totally agree with “Nothing to do but bash” in the Northern Territory News of April 19. Darren Duncan you are nothing but a cowardly low-life. On a one-to-one situation you would cower in the corner if challenged without the support of your other 29 cowardly low-life friends. Wake up to yourself and get a real life. Pull your head in, son, or jail will be your life. Name and address withheld by request.

**Letters to editor**
*767 words, 19 April 2003*
Nothing to do but bash so Darren Duncan and 29 of his very brave and intelligent mates (front page of Wednesday’s Northern Territory News) had “nothing to do” and thought they would find something to do by bashing 3 other people. It’s of interest that this assault took place in a taxpayer-funded skate park designed to give kids (like Darren) something to do. Doesn’t really seem to work does it? What the hell is wrong with kids who say that they need “something to do”. It wasn’t that long ago, that if a kid wanted something to do, he’d grab a few mates and kick the footy or go fishing at Rapid Creek or any one of the hundreds of other things that a half bright mind could think up. I don’t think you would be allowed to publish exactly what most people think of Darren and his kind, so I won’t bother passing those thoughts on. It’s left to our weak kneed magistrates to pass on the thoughts of the community in the form of an appropriate sentence. One additional thought crosses my mind, what has happened to the other 25 brave boys who participated in this cowardly act? Have they been followed up by the long arm of the law and prosecuted? Name and address withheld by request.

**Gang of 30 bashes 3 teens**
*By Camden Smith, 311 words, 16 April 2003*
‘Why? Because there was nothing to do’ — Darren Duncan, pictured at court yesterday Skateboards and metal bar used as weapons A mob used skateboards, rocks, rollerblades and a metal trolley lever to attack three youths in a savage gang attack, a court heard yesterday. Darren Duncan, 17, said he took part in the assault because “there was nothing to do”. The victims were bashed even though one of them pleaded that he had a fractured skull. Duncan was yesterday found guilty of three counts of aggravated assault following the attack at Palmerston skate park. He will be sentenced later. Darwin Magistrates Court heard Peter Dunham, Ernest Ward and Gregory Casey, all now aged 21, were at the skate park when they were set upon. Asked why he had joined the mob at the park, Duncan said “everybody was going there” and “there was nothing to do”. Duncan had been involved earlier in the week in an altercation with Dunham in Darwin city centre. When the 30-strong mob had assembled at the park, Duncan said to Dunham: “Do you want to rip?” Magistrate Daynorn Trigg said: “Dunham didn’t want to fight. It would have been bordering on suicidal.” Continued: Page 2 Mob attacks trio From Page 1 Duncan pleaded with the mob to leave him alone because he had a fractured skull. Casey suffered memory loss and concussion after being struck on the back of his head with a
trolley lever. Ward tried to stop the barrage of kicking by grabbing Duncan’s legs. He was struck by his own skateboard on the back of his head. Mr Trigg found Duncan had been among the gang of 30 when they approached the three youths at the park on December 20, 2000. Duncan was bailed pending a pre-sentence on May 27.
APPENDIX H: MEDIA SEARCH LISTS

DIRECT SEARCH OF NT NEWS CONDUCTED AT NT LIBRARY, PARLIAMENT HOUSE FROM SUNDAY 14 FEBRUARY 2010

The direct media search located 213 articles about youth in 2005 from the personal search at the NT State Library using microfilm for the NT News. Of these 79 or 37% were deemed ‘relevant’ ie this was category 1 where there was naming or shaming of Indigenous youth specifically. The other articles that were deemed ‘not directly relevant’ were coded into the following four categories:

• suppression issues in general eg the Collins case was mentioned
• youth crime but not specific cases or not identifiable as involving those under 18 years
• politics of crime, or general items or Indigenous specific but not always youth
• interstate or international cases

These were the coding items used to identify variables within the articles:

<table>
<thead>
<tr>
<th>ID</th>
<th>identification number</th>
</tr>
</thead>
<tbody>
<tr>
<td>D</td>
<td>day of publication</td>
</tr>
<tr>
<td>DT</td>
<td>date of publication</td>
</tr>
<tr>
<td>MO</td>
<td>month of publication</td>
</tr>
<tr>
<td>YR</td>
<td>year of publication</td>
</tr>
<tr>
<td>PAGE</td>
<td>page, on which article appears, 1 to 12 is the span most likely</td>
</tr>
<tr>
<td>CONT</td>
<td>continuation, whether this article is linked to another article one, yes/no</td>
</tr>
<tr>
<td>REL</td>
<td>relevance, whether article is an NT youth Indigenous or not article, yes/no</td>
</tr>
<tr>
<td>OTH</td>
<td>other, whether this is other article that we collected for comparison</td>
</tr>
<tr>
<td>NAMED</td>
<td>name given of the young person or anyone else in the article, yes/no</td>
</tr>
<tr>
<td>AGES</td>
<td>list the ages of all involved, 09 to 17 expected range</td>
</tr>
<tr>
<td>PHOTO</td>
<td>is there a pic accompanying the article, yes/no</td>
</tr>
<tr>
<td>SUPP</td>
<td>did the article discuss name suppression directly, yes/no</td>
</tr>
<tr>
<td>CRIME</td>
<td>list the crime types but will need to code later, assault/gbh/theft/graffiti</td>
</tr>
<tr>
<td>STAGE</td>
<td>stage in the justice proceedings</td>
</tr>
<tr>
<td>HEAD</td>
<td>type the headline and subtitle as given in the article in text, will analyse later</td>
</tr>
<tr>
<td>THEME</td>
<td>type overall description of the main theme</td>
</tr>
<tr>
<td>DETAILS</td>
<td>details of the subject matter and include quotes directly from article</td>
</tr>
<tr>
<td>RELEVANCY</td>
<td>sorted into 5 levels: 1 naming &amp; shaming specifically; 2 suppression issues general (eg Collins case); 3 youth crime general (some 18+ cases); 4 crime or Indigenous issues general; 5 interstate or international cases/matters</td>
</tr>
</tbody>
</table>

1. Articles relating to naming and shaming in general

NAUGHTY TEENS TO WEAR SHAME SHIRTS
Wednesday 25 May 2005, page 3
This is a key article as it has a photo of Terry Mills holding up a ‘name and shame’ t-shirt which would be ‘issued at the directive of magistrates’ mostly for vandals and they would be bright orange, where Mills acknowledges that it could be ‘detrimental’ but says it could bring ‘real rehabilitation’ in the longer term, Jon Tippett QC President of CLANT said it was ‘humiliation’ and would be ‘unsuccessful’, the then Police Minister Paul Henderson is quoted as being not really against the idea as he says that criminals already wear ‘distinctive, shaming clothing’.

SHAME GAME NOW A FASHION NAME
Wednesday 15 June 2005, page 3
A clothing store made ‘name and shame’ t-shirts which have now become ‘a fashion statement for young people’.

SHAMING UNNECESSARY – LETTER TO EDITOR
Tuesday 8 February 2005, page 12
Interesting letter that berates the electricians licensing board for publicly naming errant electricians with notices being inserted in the NT News apparently and this writer says ‘to publicly humiliate electricians in this way is disgraceful: not even criminals are treated this way’.

2. Articles relating to the issue of name suppression in justice proceedings

WE’VE BEEN SILENCED – EDITORIAL
Tuesday 18 January 2005, page 12
This is the first of many articles about the Bob Collins case where the name was suppressed, here it says ‘The Darwin Magistrates Court has imposed a suppression order to keep his name — and any identifying details — a secret. This means the Northern Territory News cannot tell you what we think you have a right to know… It is also disturbing that the accused man’s name did not appear on the court list prior to his hearing last Tuesday… All we can report is that the person charged is prominent. Might not we be excused for concluding there is one law for the prominent and another for the rest of us?’

JUDGE BANS MAN FROM TRIAL
Friday 18 February 2005, page 9

Included because the man, who approached a juror during a trial, had his photo published as he was being led from the court by security but it was pixelated.

3. Articles about youth crime in general

‘THERE’S NO GOING BACK’: RACIST GRAFFITI PART OF TEEN’S ARMED CRIME SPREE
Wednesday 19 January 2005, page 5
This relates again to Russell Cramb (age 18) who had multiple offences but of note here is how 18 and 19 year olds are described as ‘teens’ which tends to inflate the level of crime committed by those who are truly juveniles.

CRACKDOWN ON KID CRIMS: TOUGH NEW LAWS PLANNED TO COMBAT YOUNG OFFENDERS
Friday 6 May 2005, page 1
Covers the introduction of the Youth Justice Bill into parliament on Thursday 5 May 2005 where home detention with monitoring devices, doubling sentences for offenders over 15, establishing a Youth Justice Court, minimum non-parole periods for offending and sentence conferencing between victims and offenders are included, Dr Peter Toyne is quoted as saying ‘if you commit serious crimes in the community, you can expect serious punishment’ and that the changes are ‘aimed at punishing the worst offenders and directing lesser offenders away from the justice system’ as there is the expansion of the diversion scheme dealt with here too. As this period covered an election there were also many party political stories about proposed curfews and other measures.

4. Articles about crime in general, often party political pieces

DETENTION AT HOME IMPOSES TOUGH LIMITS
Monday 8 August 2005, page 5
This article is a two-page spread on various crime-related problems, most of which deal with Indigenous issues, there is a half picture of Jenny (not her real name) who is on home detention who says ‘being on home detention is very limiting, it stops your life basically and I wouldn’t recommend it unless you have a strong support base because it’s too hard and you’re probably better off going inside’.

CRIME STATS SHOW MOST NT PRISONERS INDIGENOUS
Tuesday 29 March 2005, page 4
Reports that 75% of NT prisoners are Indigenous and ‘a daily average of 18 juveniles, all of them male, held in detention. Of these, 16 were indigenous’.

MANDATORY TERMS IN CLP DISCUSSIONS
Saturday 19 March 2005, page 3
CLP says ‘law and order is going to be the main thrust at the election’ although Denis Burke was quoted as being less certain about mandatory sentencing in this article, ‘mandatory sentencing legislation was introduced in the Territory in March 1997 ... juveniles between 15 and 17 were detained for a minimum of 28 days for a second property offence. The laws were scrapped after the Martin Labor Government was elected in 2001’.

WOMAN RAPED ON WAY TO FRIEND’S HOUSE
Thursday 27 January 2005, page 3
Included because it has an identikit of an Aboriginal man as the attacker and a description that includes ‘of Aboriginal appearance’ (along with build, hair, possible age range and height) and these kinds of Crimestoppers articles did appear with some regularity in the NT News although we did not capture them in our data collection, no specific age mentioned.

5. Articles about crime and youth crime but interstate or international

BROTHERS ESCAPE RETRIALS FOR GANG RAPE
Friday 4 February 2005, page 11
This is Sydney article about the Skaf case, described here as ‘two of Australia’s most notorious gang rapists’ and both Bilal and Mohammed are named in this article, have coded it not relevant because it is out of jurisdiction.

SCHOOL RAMPAGE: LONER TURNS KILLER
Wednesday 23 March 2005, page 19
School shooting in Minnesota by 15-year-old who was named.

YOUTH FOUND GUILTY OF TEEN FLIRT MURDER
Tuesday 3 May 2005, page 9
Involves the murder of a friend in Wollongong in 2000 by a now 20 year old but says he ‘can only be known as MAH’ and ‘none of the men can be named because they were under 18 at the time’, my observation here is that I have no recollection of this case which sounds reminiscent of the Bulger killing in the UK in that these young teens took 3K (the victim) to a remote location and bashed him on head with a stick and then dropped a log on his head ten times, this may reveal that the identities have been suppressed and the case not caught in the blaze of publicity (check with Duncan???)
003 THU 06 01 05 08 NO REL
THREATS UTTERED SAY TEENS: COURT CASE DRAMA
007 FRI 07 01 05 03 NO REL
BUSTED AT THE AIRPORT: POLICE DRUG DOGS SNIFF OUT DOPEY CHRISTMAS PRESENT
009 SAT 08 01 05 04 NO REL
MORE THREATS BY SERIAL BULLY: SNAPPER PURSUED BY FAMILY
010 TUE 11 01 05 02 NO REL
WHEELCHAIR MAN ROBBED
011 TUE 11 01 05 04 NO REL
SECOND ARREST
020 FRI 21 01 05 09 NO REL
5 CHARGED IN PACK RAPE: 13-YEAR-OLD NT BOY FACES COURT OVER BRUTAL ATTACK
023 MON 24 01 05 01 YES REL
GANG OF 10 BASH YOUTH: JUVENILES ARRESTED
024 MON 24 01 05 02 YES REL
YOUTH BASHED BY 10-MEMBER GANG
033 SAT 29 01 05 03 NO REL
KNIFE HELD TO ROBBERY VICTIM’S THROAT
035 MON 31 01 05 04 NO REL
THEFT RAMPAGE
037 WED 02 02 05 01 YES REL
A TEEN WHO BREACHED HIS BAIL 18 TIMES APPEARED IN COURT YESTERDAY. GUESS WHAT? HE GOT BAIL.
038 WED 02 02 05 02 YES REL
BAILED AFTER 18 BREACHES
039 FRI 04 02 05 02 NO REL
YOUTHS IN STOLEN UTE CAUGHT AFTER POLICE CHASE
042 MON 07 02 05 08 NO REL
RESIDENTS TERRORISED: GANGS RUN AMOK AT NIGHT
043 MON 07 02 05 12 NO REL
RUN GANGS OUT OF TOWN – LETTER TO EDITOR
18 TIMES TOO MANY – LETTER TO EDITOR
047 THU 10 02 05 07 NO REL
OUT OF DETENTION INTO TROUBLE
048 TUE 15 02 05 05 NO REL
COPS TAKE ARRESTED TEENS ON 1000KM TRIP
055 TUE 01 03 05 05 NO REL
GANG OF FOUR THIEVES CAUGHT
059 THU 10 03 05 03 NO REL
SCHOOL BRAWLER LET OFF: NO PENALTY BECAUSE FIGHT WAS CONSENSUAL
061 THU 17 03 05 01 YES REL
GANG THUGS STRIP, BASH BOY, 14
062 THU 17 03 05 04 YES REL
GANG THUGS STRIP AND BASH 14-YEAR-OLD BOY
067 TUE 22 03 05 07 NO REL
SEDAN STOLEN AND TORCHED
076 SAT 02 04 05 10 NO REL
MILLS HAS THE ANSWER – LETTER TO EDITOR
080 WED 06 04 05 03 NO REL
POLICE ARREST 14 IN CRIME SWOOP
084 FRI 08 04 05 12 NO REL
INADEQUATE PUNISHMENT – LETTER TO EDITOR
088 THU 14 04 05 01 YES REL
CRIME SPREE GANG BUSTED
089 THU 14 04 05 02 YES REL
TEENS ON CRIME SPREE BUSTED
090 MON 18 04 05 07 NO REL
TEENAGE BURGLAR SENTENCED
093 WED 27 04 05 12 NO REL
ATTACKED BY GANG AT SHOPS
094 TUE 03 05 05 03 NO REL
BAIL BOY MUGS WOMAN
104 MON 16 05 05 05 NO REL
THREE GIRLS CHARGED OVER CAR PARK ATTACK
106 WED 18 05 05 07 NO REL
TEEN HELD TO FACE COURT AGAIN
110 TUE 24 05 05 02 NO REL
GUARD BASHED AND ROBBED
123 THU 16 06 05 05 NO REL
MOB BASHES FOUR TEENAGERS
124 FRI 24 06 05 07 NO REL
TEENS ARRESTED FOR CLUB THEFTS
SCHOOL BREAK
YOUNG THIEF STRANDS WWII VETERAN
RAP ON KNUCKLES FOR TEEN THIEVES
RUNAWAY BOYS CAUGHT TEENS COP DEATH COUNTS PARENTS TO BLAME TO TEEN LOUTS TEENS COP DEATH COUNTS
JUVENILES WAG SCHOOL TO ROB: GANG BROKE IN TO FOUR HOUSES A DAY
YOUTHS ARRESTED PARENTS TO BLAME TO TEEN LOUTS TEENS COP DEATH COUNTS RUNAWAY BOYS CAUGHT
YOUTH BASH MAN}

196 MON 05 12 05 05 NO REL YOUNG THIEF STRANDS WWII VETERAN

RAP ON KNUCKLES FOR TEEN THIEVES RUNAWAY BOYS CAUGHT

YOUTHS ARRESTED PARENTS TO BLAME TO TEEN LOUTS TEENS COP DEATH COUNTS

YOUTH BASH MAN
COPS REJECT PROCEDURE: 10PC OF INTERROGATIONS STRUCK OUT FOR BREACHING RULES

This was captured because it reports Glen Dooley from NAAJA saying that “up to 10 per cent of police interviews were not introduced in court because they do not stand up to the Anunga rules”

BABY SEARCHED FOR DRUGS: NAPPY EXAMINED IN MARIJUANA RAID

EDITORIAL – LETTER TO EDITOR

This is the first of many articles we gathered about the Bob Collins case where the name was suppressed, here it says “The Darwin Magistrates Court has imposed a suppression order to keep his name – and any identifying details – a secret. This means the Northern Territory News cannot tell you what we think you have a right to know. ... It is also disturbing that the accused man’s name did not appear on the court list prior to his hearing last Tuesday. ... All we can report is that the peson charged is prominent. Might we be excused for concluding there is one law for the prominent and another for the rest of us?”

This article notes that the Collins case was complicated as it is usual in sex offence cases not to identify the accused until they are committed for trial or if it would identify the victim then their names are suppressed. However changes to the law mean that child pornography offences do not fall into this category any longer in the NT. Thus the prosecution deny any conspiracy but point to the change of law.

NAME BAN REMAINS, DECISION RESERVED

Notes that the ABC brought an action to have the suppression order lifted in the Collins case as it was “a matter of public interest” and of note the prosecution supported the ban, defence counsel successfully applied to have the reasons for the name ban also suppressed

This details a NSW case and mentions three teens aged 16 and 17 arrested in fraud scam

This relates again to Russell Cramb (age 18) who had multiple offences but of note here is how 18 and 19 year olds are described as “teens” which tends to inflate the level of crime committed by those who are truly juveniles in the NT News coverage

This is about a female awarded compensation for back injuries from attack by aggressive ram, and was included because this is an example of a front page story in the NT News

This is a very small article and names (Russell Cramb) and 18 year old sent to jail for a year and could be an example of one of those articles where the young person could have been a juvenile at the time of the offence but had turned 18 by the time of sentencing, it is not clear from the article but the offence took place in August of 2004 and he was sentenced in January of 2005

This is the example of a front page story in the NT News

This is a very small article and names (Russell Cramb) and 18...
This two part story was included because the mother of the baby was only 17 and indigenous and her photo was prominently displayed along with her two children.

027 TUE 25 01 05 02 YES NO 3

BABY SEARCHED FOR DRUGS

028 TUE 25 01 05 03 NO NO 2

ORDER TODAY

030 WED 26 01 05 03 NO NO 2

ORDER LIFTED PENDING SUPREME COURT APPEAL

031 THU 27 01 05 03 NO NO 4

WOMAN RAPED ON WAY TO FRIEND’S HOUSE

Included because it has an identifier of an aboriginal man as the attacker and a description that includes "of Aboriginal appearance" (along with build, hair, possible age range and height) and these kinds of crimestoppers articles did appear with some regularity in the NT News although we did not capture them in our data collection.

032 THU 27 01 05 07 NO NO 2

SEX OFFENCES DENIED

034 MON 31 01 05 03 NO NO 6

CLIENTS FLEE AS CROC DROPS IN FOR SWIM: POOL CLEARED IN SECONDS

036 TUE 01 02 05 08 NO NO 2

POLICE WATCH ON FREED PEDOPHILE

Brisbane story about Dennis Ferguson’s release but the reason for capturing this article is that it states “the 69-year-old man, who cannot be named for legal reasons”.

040 FRI 04 02 05 07 NO NO 2

JUDGE RESERVES DECISION ON SUPPRESSION

This is small article but continues the debate about the Bob Collins matter and included only because it is about name suppression and protection of identity, and it is noted that the man “is of such high prominence ... nobody will forget the notoriety of the person and the nature of the charges”. The DPP expressed concern that if there was “widespread reporting” then there would need to be a stay of proceedings in the interests of fairness.

041 FRI 04 02 05 11 NO NO 5

BROTHERS ESCAPE RETRIALS FOR GANG RAPE

This is Sydney article about the Skaf case, described here as “two of Australia’s most notorious gang rapists” and both Bilaf and Mohammed are named in this article, have coded it not relevant only because it is out of jurisdiction.

044 TUE 08 02 05 12 NO NO 1

SHAMING UNNECESSARY – LETTER TO EDITOR

Interesting letter that berates the electricity licensing board for publicly naming errant electricians with notices being inserted in the NT News apparently and this writer says “to publicly humiliate electricians in this way is disgraceful: not even criminals are treated this way”.

045 WED 09 02 05 04 NO NO 2

MARTIN’S PORNO BRIEFING: TOP COP QUIZZED OVER “PROMINENT TERRITORIAN” CHARGE

046 THU 10 02 05 04 NO NO 2

PORN BRIEF GRILLING: APPROPRIATENESS OF PHONE CALL QUESTIONED

049 WED 16 02 05 09 NO NO 4

UNEQUAL JUSTICE FOR ALL: ASSAULT LAWS ARE RACIST, SAYS ATAKED EX-TAXI DRIVER

050 THU 17 02 05 04 NO NO 4

ELDERS GO TO JAIL TO COUNSEL PRISONERS

This was a trial program where elders visit prisons and counsel indigenous inmates and one aspect is “to shame former inmates from reoffending when they return to their community”, however this may be some kind of disintegrative shaming even though the article briefly mentions RJ practices from New Zealand being an impetus for this new elder visitor scheme.

051 FRI 18 02 05 01 YES NO 3

TOUCH-UP COP JAILED

052 FRI 18 02 05 03 YES NO 3

TOUCH-UP COP JAILED: “A QUICK FLASH OF BREASTS AND FINE FORGOTTEN”

Continues story above about a police officer (who is named and whose photo is published) who “touched a teenager’s breasts while investigating her for shoplifting” – the girl was 16 years old but not named.

053 FRI 18 02 05 09 NO NO 2

JUDGE BANS MAN FROM TRIAL

Included because the man, who approached a juror during a trial, had his photo published as he was being led from the court by security but it was pixelated out.

054 WED 23 02 05 13 NO NO 5

BROLLY MURDER CASE

056 TUE 01 03 05 08 NO NO 5

POLICE ARREST 12 TEEN-DEATH RIOTERS

Relates to the Macquarie Fields riots in Sydney.

057 TUE 01 03 05 12 NO NO 4

MAKE THE CRIMINALS PAY – LETTER TO EDITOR
Letter from Victims of Crime NT about victims having to pay for property damage or how it affects their insurance coverage
NOW THAT'S A BARRAMUNDI
MORONEY HITS BACK
LAW AND ORDER POLL
CLP intending to reintroduce mandatory sentencing as election policy
Mandatory terms in CLP discussions

CLP says “law and order is going to be the main thrust at the election” although Denis Burke was quoted as being less certain about mandatory sentencing in this article, “mandatory sentencing legislation was introduced in the Territory in March 1997 … juveniles between 15 and 17 were detained for a minimum of 28 days for a second property offence. The laws were scrapped after the Martin Labor Government was elected in 2001”

Making inroads on crime: New Policing strategies having a positive effect

Opinion piece by Newman and reports decreases in some offence categories – a good news story

School shooting in Minnesota by 15 year old who was named Angel-Face of Death

Crocs moving upstream: 2.5m Saltie caught at Howard River swimming hole

Why did they kill

Many stories appeared in the NT News in 2005 about the killing of two prostitutes by 18 year olds but we did not capture these because of their age

Bid on for Brat camp: MP sees merit in TV show’s answer for louts

Terry Mills was then opposition spokesperson for youth affairs and wanted wilderness camps “We need a program that removes the youth from a familiar environment, gives them an opportunity to struggle, learn new skills and hopefully survive”

Crime stats show most NT prisoners indigenous

Reports that 75% of NT prisoners are indigenous and “a daily average of 18 juveniles, all of them male, we held in detention. Of these, 16 were indigenous”

2 Girls gang raped

Justice victim in long and bloody rampage

Not on our street: youth detention plan angers residents

Ongoing story (see items below) of 11 year old girl “who has a history of property crime and violence” who is also “a victim of sexual and physical abuse, she is traumatised by finding her father’s body after he committed suicide when she was nine years old. She has also threatened to kill herself” so the dept of health and community services placed her in a suburban house but put 3-metre fence around it for “her own safety”

Second survey of reaction to home detention plan

Resident says he was consulted about detained girl’s housing

Playing politics – editorial

Runaway girl now held at mental ward

The 11 year old noted above, escaped and so was sent back to Royal Darwin Hospital psychiatric ward

MISINFORMATION IN CHILD’S PLIGHT – LETTER TO EDITOR

Head of FACS writes that this was a six-month trial to house the 11 year old in a house in Palmerston so she could receive therapeutic care

Accused bugged in custody: Police claim privilege

Murder case where one defendant is 27 but the other is 18 years

Croc caught in city creek

Cariacker’s night of destruction

Teen killer sentenced
YOUTH FOUND GUILTY OF TEEN FLIRT MURDER
Involves the murder of a friend in Wollongong in 2000 by a now 20 year old but says he “can only be known as MAH” and “none of the men can be named because they were under 18 at the time”, my observation here is that I have no recollection of this case which sounds reminiscent of the Bulger killing in the UK in that these young teens took 5K (the victim) to a remote location and bashed him on head with a stick and then dropped a log on his head ten times, this may reveal that the identities have been suppressed and the case not caught in the blaze of publicity (check with Duncan) 096 FRI 06 05 05 02 YES NO 3
CRACKDOWN ON KID CRIMS: TOUGH NEW LAWS PLANNED TO COMBAT YOUNG OFFENDERS
Covers the introduction of the Youth Justice Bill into parliament on Thursday 5 May 2005 where home detention with monitoring devices, doubling sentences for offenders over 15, establishing a Youth Justice Court, minimum non-parole periods for offending and sentence conferencing between victims and offenders” are included, Dr Peter Toyne is quoted as saying “if you commit serious crimes in the community, you can expect serious punishment” and that the changes are “aimed at punishing the worst offenders and directing lesser offenders away from the justice system” as there is the expansion of the diversion scheme dealt with here too 097 FRI 06 05 05 02 YES NO 3
HARSH PENALTIES FOR YOUTH CRIME
As above
098 SAT 07 05 05 01 YES NO 6
DARING CROCS STALK ANGLERS
099 SAT 07 05 05 02 YES NO 6
RISE RISK OF CROCODILE ATTACKS
100 SAT 07 05 05 11 NO NO 3
TEACHING HOOLIGANS
101 MON 09 05 05 01 YES NO 6
TOAD SUSPECTED OF KILLING CROC: FRESHIE, HUNDREDS OF FISH FOUND DEAD
102 MON 09 05 05 06 NO NO
POLICE SHUT DOWN TEEN PARTY
Many of these types of stories of allegations of raucous teen parties, or kids vandalising areas, or running rampant in shopping centres where the focus of the headline and the article is on “teens” behaving badly, but no specific charges laid nor certainly names or even specific ages of the alleged offenders given
103 TUE 10 05 05 04 NO NO 4
COURT TOLD OF BASHING
This article is about young people but aged in their 20s, they are named and photographs depicted
105 TUE 17 05 05 03 NO NO 3
TOURIST ROBBED
“The attackers were of Aboriginal appearance and both about 175 cm tall. One of them was either in his late teens or early 20s and had a skinny build”
107 MON 23 05 05 02 NO NO 3
CALL TO EXTEND KID CARE PLAN NT WIDE
About a “new support service to keep kids off the streets” by Centacare social workers which targets children and families at risk
108 MON 23 05 05 05 NO NO 3
FUN’S ON FOR THE YOUNG
About grants for youth activities that are alcohol-free
109 MON 23 05 05 13 NO NO 3
HUMBUGGERY
Short piece about anti-social behaviour by unnamed youths (ie public urination)
111 TUE 24 05 05 07 NO NO 3
CALL TO BOOST ESTEEM MILITARY-STYLE
“Dean of Darwin’s Anglican Christ Church Mike Nixon said a semi-military training regime could halt the ‘slow genocide’ of indigenous people”
112 WED 25 05 05 03 NO YES 1
NAUGHTY TEENS TO WEAR SHAME SHIRTS
This is a key article as it has a photo of Terry Mills holding up a “name and shame” tshirt which would be “issued at the directive of magistrates” mostly for vandals and they would be bright orange, where Mills acknowledges that it could be “detrimental” but says it could bring “real rehabilitation” in the longer term, Jon Tippett QC President of CLANT said it was “humiliation” and would be “unsuccessful”, the then Police Minister Paul Henderson is quoted as being not really against the idea as he says that criminals already wear “distinctive, shaming clothing”
113 THU 02 06 05 09 NO NO 5
STREET KIDS ACCUSED: GOOD SAMARITAN AMONG THREE BRUTALLY SLAIN
About young people 15 to 17 but is a Queensland article
114 FRI 03 06 05 14 NO NO 5
KIDS “LYNCH” 5-YEAR-OLD: BOY DRAGGED INTO WOODS AND HANGED
London story about a replica of the Bulger case
115 MON 06 06 06 NO NO 3
CLP PROPOSES AFTER-DARK CURFEWS FOR OFFENDERS
This article repeats election policies by CLP as noted above but specifies here mandatory curfews before application for diversion is complete and quotes Denis Burke
116 WED 08 06 05 03 NO NO 3
MIDNIGHT COPS KEEP TRACK OF JUVENILE OFFENDERS
Police conducting random checks on youth on bail, and of 2040 there were 300 not residing at the correct address, Asst Commissioner Mark Payne says the tactic reduces the opportunity for the small group who commit the most crimes, “if police
Naming and Shaming of Indigenous Youth in the Justice System

receive a report at 2am of a break-and-enter and the suspect fits the description provided by witnesses we will target that known offender while the trail is still warm"

117 WED 08 06 05 10 NO NO 3
FEWER JUVENILES BEING LOCKED UP
This is one of the editorial page features that looks back ten years ago, so this is not a current item
118 THU 09 06 05 01 YES NO
TEXT MESSAGES TO STOP KIDS WAGGING: SMS “DOB” ALERTS ON WAY TO TRUANTS’ PARENTS
About an sms messaging system for “parents to dob in” children who are wagging school
119 THU 09 06 05 02 YES NO
TEXT MESSAGING TO STOP KIDS WAGGING
Continues above story, apparently a nationwide program commenced in South Australia and school notifies parents if children not attending

120 SAT 11 06 05 12 NO NO 5
TRAGEDY TURNS UGLY: POLICE CONSIDER CHARGING ADULTS
Sydney story, man looking after children when house caught fire and four children died
121 MON 13 06 05 01 Y** NO 4
42,000 DRUNKS PUT IN LOCK-UP: 60 A DAY TAKEN INTO CUSTODY
Says an average of 60 drunks each day over most of 2005, 90% were Aboriginal and 25% female; mentions the shelter run by Mission Australia and sheets most of the problems home to the long-grassers

122 WED 15 06 05 03 NO NO 1
SHAME GAME NOW A FASHION NAME
A clothing store made “name and shame” tshirts which have now become “a fashion statement for young people”
123 FRI 24 06 05 09 NO NO 4
NT CRIME RATE FALLING
Motor vehicle theft, robbery and unlawful entry offences had declined

124 SAT 25 06 05 01 Y** NO 6
PEACOCK TERRORISES VAN PARK
Group of five offenders aged 14 to 20 tortured a 16 year old, Sydney case
125 MON 27 06 05 04 NO NO 3
YOUTH CRIME TARGETED FOR SCHOOL HOLIDAYS
More police to act as deterrent to large groups of youth congregating during holidays, “our job is to intervene before an offence is committed”

126 WED 15 06 05 03 NO NO 1
SWIFT ACTION STOPS CRIMS IN THEIR TRACKS
Essentially a zero tolerance approach at Casuarina shopping mall by police with the focus on "breaking the cycle of anti-social behaviour"
127 FRI 01 07 05 07 NO NO 3
ROCKS THROWN AT TAXIS: FEAR FOR DRIVERS’ LIVES IN DANGEROUS KIDS’ GAME
The offender here was a backpacking Scotsman aged 19 who was drunk and apologised
128 MON 27 06 05 05 NO NO 3
SPITTING SCOT COPS $750 FINE
The offender was given a $750 fine for spitting at police officers

129 SAT 01 07 05 08 NO NO 3
NT CRIME RATES DECLINING
While overall crime is falling the article says that, "youths and long-grassers are behind the latest spike in Darwin’s quarterly crime figures”
130 MON 08 07 05 03 NO NO 4
BROTHERS CONVICTED OF MORE GANG RAPES
This is the NSW case of MAK, MSK etc., “known only as S, A, and M, the brothers …”, and notes that, “yesterday, NSW Supreme Court judge Peter Hidden lifted a suppression order on an earlier trial in which S was convicted of raping a 14-year-old girl named as T”
131 FRI 08 07 05 03 NO NO 4
TEEN DRUG ABUSERS FILL MENTALWARDS
Discusses community courts and the scheme of having Aboriginal parole officers
132 MON 08 07 05 03 YES NO 4
NEW STRATEGIES TO STOP REOFFENDING
This article continues that above in that it is a two-page spread on various crime-related problems, most of which deal with indigenous issues, there is a half picture of Jenny (not her real name) who is on home detention who says “being on home detention is very limiting, it stops your life basically and I wouldn’t recommend it unless you have hat strong support base because it’s too hard and you’re probably better off going inside”
133 FRI 05 08 05 05 NO NO 3
CANOE KILLS 3M CROC
Discussing the increase in crocodile attacks in the NT
134 MON 08 08 05 01 Y** NO 6
CANOE TOAD KILLS 3M CROC
135 FRI 08 08 05 01 YES NO 4
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136 FRI 12 08 05 10 NO NO 5
TEEN TORTURED AND GANG RAPED
Group of five offenders aged 14 to 20 tortured a 16 year old, Sydney case
137 SAT 13 08 05 13 NO NO 5
THREE AUSSIES FACE HEROIN TRIAL
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138 SAT 13 08 05 27 NO NO 5
BRITAIN TIRES OF TEEN YOBS: NEW DRINKING LAWS FACE CHALLENGES
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150 MON 15 08 05 13 NO NO 4
MAKE THE CRIMS PAY – LETTER TO EDITOR

This is one of the editorial page features that looks back ten years ago, so this is not a current item
This relates to the editorial about 15-year-old who robbed restaurant, had long criminal history, and would “be back on the streets next week” and so this reader wants youth to pay for any criminal damages or loss

151 THU 25 08 05 03 NO NO 3

YOUNG OFFENDERS GIVEN CHANCES

This article quotes Peter Toyne, then Justice Minister, saying there are 1400 juveniles on diversion each year and 95% complete the program, repeat and serious offenders are unlikely to be given diversion and the main thrust of this article is that “first-time juvenile offenders will not be charged” under new Youth Crime Bill

154 THU 01 09 05 12 NO NO 4

EXPEL BAD KIDS – EDITORIAL

Relates to school misbehaviour

155 MON 05 09 05 13 NO NO 3

YOUTH CRIME LAW CHANGES – LETTER TO EDITOR

The headlines before the election told us how tough the Government was going to be on these ratbags and after the election they tell the police they can’t charge first-time offenders

157 TUE 06 09 05 04 NO NO 3

VIOLENCE MAY CLOSE SCHOOL

Youth violence at school on Groote Eylandt where teacher was punched but offender was 18 years and has been charged by police

160 MON 12 09 05 03 NO NO 3

MAN ATTACKED BY YOUTHS

Group of five youths, but no ages given, of part-Aboriginal appearance, no arrests noted

163 WED 14 09 05 10 NO NO 4

SHAME ON SENTENCES – LETTER TO EDITOR

Victim expressing anger about light sentences for sexual assault

164 SAT 17 09 05 01 YES NO 3

SCHOOLGIRLS RIOT AT TOURIST SPOT: 6-YEAR-OLDS JOIN TEENS IN WILD MARKET BRAWL

165 SAT 17 09 05 02 YES NO 3

FEMALE STUDENTS RIOT AT TOURIST SPOT

Continues above story and headline says it all, “mob rioted” and “threw sticks and stones”

167 SAT 17 09 05 04 NO NO 3

BICYCLE A BOOMERANG: BANDITS BUNGLE THEFT

Teenager stole bicycle but no name or age given

169 TUE 20 09 05 12 NO NO 3

FAILING OUR KIDS – EDITORIAL

Children as young as 11 roaming the streets at night

170 FRI 23 09 05 05 NO NO 3

AXE-WIELDING TEEN SHUTS SCHOOL AGAIN

This repeats an earlier offence by an 18-year-old at school on Groote Eylandt and he was arrested again

172 SAT 01 10 05 01 YES NO 6

IT WOULD HAVE BEEN OVER IN SECONDS

Croc killing

173 SAT 01 10 05 02 YES NO 6

SINGLE CROC BIT KILLED DIVER

174 SAT 08 10 05 01 YES NO 6

CROC STROLLS INTO WORK SITE

181 WED 26 10 05 01 YES NO 3

TEENS TAKE LAW INTO OWN HANDS

182 WED 26 10 05 02 YES NO 3

TEENS TAKE LAW INTO OWN HANDS

184 THU 03 11 05 05 NO NO 3

TEENAGERS PELT EGGS IN ATTACK: THUGS BASH MAN ON BIKE

Another accusatory or alleged case of juvenile crime although no doubt it did occur but no police intervention mentioned in article

185 TUE 08 11 05 06 NO NO 3

TEENS ACCUSED OF STEALING BUS PASSES

Similar to account above but in this case a mother alleges standoff tactics but no police involvement as yet

187 WED 16 11 05 10 NO NO 5

DRUGS NOT THE PROBLEM – LETTER TO EDITOR

This is about the Van Nguyen execution in Singapore

190 WED 23 11 05 04 NO NO 4

TERRITORY INDIGENOUS LEGAL SERVICES MERGE

191 MON 28 11 05 03 NO NO 4

NEW TO CRIMINAL WIG

Jon Tippett resigns as President of CLANT

193 FRI 02 12 05 03 NO NO 3

SCHOOL GANGS USED THESE WEAPONS

194 FRI 02 12 05 04 NO NO 4

LAWS OF “MIDDLE AGES”

195 SAT 03 12 05 03 NO NO 4

WE’RE BECOMING A BUNCH OF CONVICTS

197 WED 07 12 05 10 NO NO 5

166 | Naming and Shaming of Indigenous Youth in the Justice System
<table>
<thead>
<tr>
<th>Date</th>
<th>Day</th>
<th>Time</th>
<th>News Event</th>
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<tbody>
<tr>
<td>199</td>
<td>Thu</td>
<td>08:12</td>
<td>DNA NOT FROM ACCUSED BOYS</td>
</tr>
<tr>
<td>200</td>
<td>Sat</td>
<td>10:12</td>
<td>HEARTLESS VANDALS WHO TRASHED OUR CHRISTMAS</td>
</tr>
<tr>
<td>201</td>
<td>Sat</td>
<td>10:12</td>
<td>COURT FREES TEENS</td>
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<tr>
<td>204</td>
<td>Fri</td>
<td>16:12</td>
<td>CAUTION: VANDALS AT WORK</td>
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<tr>
<td>206</td>
<td>Fri</td>
<td>23:12</td>
<td>YOUNG CAR THIEF REPAYS OLD MAN TO AVOID JAIL</td>
</tr>
<tr>
<td>207</td>
<td>Sat</td>
<td>24:12</td>
<td>CRIME VICTIM SAYS OFFENDERS MAY FACE STREET LAW</td>
</tr>
<tr>
<td>209</td>
<td>Thu</td>
<td>29:12</td>
<td>A 15-year-old boy breached bail 18 times</td>
</tr>
<tr>
<td>211</td>
<td>Thu</td>
<td>29:12</td>
<td>CALLOUS VANDALS HIT CENTRE AGAIN</td>
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<td>SEPTEMBER 17 ROUNDUP</td>
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<td>Riots by mob of girls at Mindil Beach</td>
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