

Remarks of the Hon. Marilyn Warren AC¹

**University House, University of Melbourne
Friday, 20 April 2012**

Sport and Crime Prevention

May I extend my warmest congratulations to all the recipients of awards this evening, the full Blues, the half Blues and the other distinguished service awards. I would particularly congratulate the squash club and the Melbourne University women's squash team on their achievements this year.

Intervarsity has changed dramatically from my day. The fact of Australian University Games is a very wonderful and exciting development. In a sense it is a type of mini Olympics.

In the Supreme Court we have a number of University Blues recipients. Justice Chris Maxwell, President of the Court of Appeal, was awarded a full Blue in football. Justice Elizabeth Hollingworth who teaches at the University Law School is also a graduate of Oxford having been the Rhodes Scholar for Western Australia. She rowed for Oxford and has a double Blue in rowing and water polo.

¹ The Chief Justice represented Victoria in squash in three Australian championships winning the teams title on each occasion. She was also a member of the all-Australian Combined Universities squash team on four occasions and led the Australian Universities team in international test series. She was the Monash University women's squash champion for ten years. She competed in men's state grade pennant at State B and C level. She was a member of four State A grade premiership teams in women's competition. She was awarded a full University Blue in Squash.

My former colleague retired Supreme Court judge, the Honourable Allan McDonald AO QC holds a Blue in athletics. He remains the 100 yard dash record holder for the University of Melbourne. In 1958, in his final year, of law he was first in the 100 yard dash at the University championships in the record time of 9.9 seconds. Of course later in time athletics switched to the 100 metres distance and so Allan McDonald retains the record.

If I might turn to a serious topic relating to sport. As judges one of the most difficult things we have to do is sentence people. As you might appreciate, in the Supreme Court we deal largely with many of the most serious and worst crimes that are committed in our community. Most cases are about death. As judges we have to grapple with the consequences of the death of the victim and, also, the impact on the victim's family. We also have to grapple with the potential for the rehabilitation of the offender. We must address the appropriate punishment of the individual for their crime.

In sentencing an individual, let us take the example of a fight outside a hotel where, after a scuffle, a punch is thrown and an individual falls to the ground, bangs his head on a hard surface or a kerb. Dramatic head injuries are suffered to the individual and he dies. In these sorts of cases, very often, alcohol is involved.

What are the sorts of things that judges look at? The court will be told about the positive features of the individual such as their youth, prospects of employment, difficult family circumstances and remorse. These are called

mitigating circumstances. On the other side we will be told about the aggravating features of the criminal offending. We will hear about the aggression of the individual, perhaps the lack of remorse or insufficient remorse. We will be told about the level of drunkenness and the like. Judges will then weigh the factors up and take into account all the other things required under sentencing laws in Victoria.

I want to focus now on the connection or relationship between sport and criminal offending. Academic research shows that there are definite social benefits from sport.

Regrettably, in so many of the cases we deal with in the Supreme Court, the individual has come from a disadvantaged background, suffered abuse, often been affected by drugs or alcohol and presents as a tragic individual. The defence lawyers will say the person found it hard to help themselves in all the circumstances of the crime or, were in fact, a hopeless case. In my experience many individuals being sentenced in the Supreme Court have not been exposed to the benefits of extra-curricular sporting or other social activities during their childhood and their youth. They simply have not had the advantage of being driven to sporting events, encouraged to participate, having a parent on the sidelines keeping the score, a parent washing the football jumpers, attending cricket training, driving to basketball stadiums late at night and all the things that parents do and that our parents did for many of us. My own life experience and that as a judge informs me that sport helps to keep young people out of trouble.

Competitive sport is a good thing. It teaches young people how to win and lose with grace and dignity. It allows them to take risks – to risk failure. In my experience competitive sport helps to prepare young people for the competition they will face in life.

I am supported in my view by research published by the Australian Institute of Criminology and overseas research.

The criminologists tell us that “wilderness” therapy for young people at risk, including in Aboriginal communities,² has a marked effect. Research reveals that the consistency of sports programs has a clear correlation with reduced delinquency.³

In Western Australia programs involving young offenders led to a drop in recidivism by about 85 per cent.⁴

Involvement of young people in martial arts has been found by researchers to increase self-control, discipline and self-esteem.⁵

Overseas various experiments and research reveal similar outcomes. It is not rocket science. There is evidence in England, Scotland, France and Canada.⁶

² Dr Harry Blagg, ‘Working with Adolescents to Prevent domestic violence indigenous rural model’ (1999), report prepared for the National Anti-Crime Strategy, by the Crime Research Centre, University of Western Australia.

³ Margaret Cameron and Colin MacDougall, ‘Crime Prevention Through Sport and Physical Activity’ (September 2000) 165 *Australian Institute of Criminology, trends & issues in crime and criminal justice*, 2.

⁴ *Ibid*, 4.

⁵ Marc Theeboom, Paul De Knop and Paul Wylleman, ‘Martial arts and socially vulnerable youth. An analysis of Flemish initiatives’ (August 2008) 13 *Sport, Education and Society* 301; Mark T. Palermo et al, ‘Externalizing and Oppositional Behaviours and Karate-do: The Way of Crime Prevention’ (2006) 50 *International Journal of Offender Therapy and Comparative Criminology* 1; Craig Jenkins and Tom Ellis, ‘The highway to hooliganism? An evaluation of the impact of combat sport participation on individual criminality’ (2011) 13 *International Journal of Police Science and Management* 2, 117.

⁶ Professor Fred Coalter, ‘The Social Benefits of Sport: An Overview to Inform the Community Planning Process’ (January 2005) *Sportscotland Research Report no.98*; Richard Stead, Dr Mary Nevil, ‘The impact of physical education

A study followed 16 children with severe disruptive behaviours aged between 8 and 10 years over a period of ten months. Half of the children were assigned to karate classes, the other half acted as a controlled group. Statistically significant differences were noted in the behaviour of the children participating in karate in terms of intensity, mood and adaptability.⁷

In the United Kingdom research has been done on whether combat sport has an impact on the criminality of individuals.⁸ The findings reveal that those who engage in structured and supported leisure activities are less likely to take part in anti-social behaviour and offending. Some of the findings revealed a strengthening of family relationships and friendships; the positive influence of peers on behaviour; potential to meet and manage excitement needs usually gained by committing crime or using controlled substances - the thrill-seeking is channelled into the sport; and a reduction in aggressive temperament and behaviour as well as an increase in participants' self-esteem.

One other example is some work done in England called the Second Chance Project⁹ In South Gloucestershire a special program was developed for young offenders in custody to improve their behaviour. Using football as the sport in focus, 15 youths aged between 18 and 20 were found to be

and sport on education outcomes: a review of literature' (September 2010) – a report for the Institute of Youth Sport, Loughborough University; Michael King, 'Crime Prevention in France' (1989) 31 *Canadian Journal of Criminology* 527; David Carmichael, 'Youth Sport v Youth Crime: evidence that youth engaged in organized sport are not likely to participate in criminal activities' (2008); Dr Rosie Meek, '2nd Chance project: interim evaluation report of the autumn-winter 2010 football academy at HMYOI Portland' (May 2011), University of Southampton, UK.

⁷ Mark T. Palermo et al, 'Externalizing and Oppositional Behaviours and Karate-do: The Way of Crime Prevention' (2006) 50 *International Journal of Offender Therapy and Comparative Criminology* 1.

⁸ Craig Jenkins and Tom Ellis, 'The highway to hooliganism? An evaluation of the impact of combat sport participation on individual criminality' (2011) 13 *International Journal of Police Science and Management* 2.

⁹ Dr Rosie Meek, '2nd Chance project: interim evaluation report of the autumn-winter 2010 football academy at HMYOI Portland' (May 2011), University of Southampton, UK.

overwhelmingly positive about the program. Significantly the researchers found that sport proved to be an invaluable hook in engaging young people and establishing constructive relationships and achieving their resettlement in the community.

My thesis, therefore, is that based on my own experience and valuable academic research, sport, particularly competitive sport, is a marvellous social phenomenon. I venture to suggest that we could do with a lot more sporting activities, competitions and facilities being available to all children and young people in our community. Desirably it should be readily available and organised so that it is accessible. Whilst there are obvious health advantages, there is also the positive social benefit that competitive sport plays in keeping young people out of trouble. When young people do get into trouble sport helps with their rehabilitation into society.

It also contributes to the development of good values and good behaviour as a citizen.

A very fine example of the portrayal of two of society's greatest values, courage and self-sacrifice, is demonstrated by the story of a Melbourne University Blacks footballer, Brendan Keilor. Brendan was a lawyer walking along an inner city street on his way to work in the morning, having said goodbye earlier to his wife and young children. Unfortunately, he passed by a night club where a man called Hudson was assaulting a woman, the two individuals having recently left the night club, it then being daylight and early morning. Drugs and alcohol were involved. Brendan Keilor and another man moved to intervene. Hudson pulled a gun, shot both the other man and

Brendan. Sadly, Brendan died. The other man survived his life threatening injuries. Hudson was sentenced to life imprisonment.¹⁰ He will never be released. His appeal was unsuccessful.¹¹

Brendan Keilor was a much loved individual around the University Blacks football club. His selfless efforts in trying to help an individual who was being harmed led to him making the ultimate sacrifice. He was a good person trying to do the right thing in society. The Melbourne University Blacks Football Club now has an award called 'The Brendan Keilor Medal'. It is given to the player who demonstrates all the attributes that Brendan Keilor was respected for: above all else, being a decent and good human being. The number 16 football jumper of Brendan Keilor hangs in a frame in the Id Pavilion club rooms at the University oval. The Brendan Keilor medal is valued as much as the best and fairest award.

The fact that most of the sports men and women in this particular room are university graduates or students can, I suspect, be partly attributed to commitment to competitive sport. Just as you have benefited from sport so society in turn benefits from the person that sport has helped to make you.

I congratulate each and every recipient once again for the awards. I wish you all well on the track, the court, the rink, the river or wherever you may be participating. At some point while running, riding, rowing, swimming or whatever you do, from time to time pause to reflect on just how important sport is to our society.

¹⁰ R v Hudson [2008] VSC 389

¹¹ *Hudson v R* [2010] VSCA 332.