

# reporter



**TERRORISM IN THE EIGHTIES**

**AUSTRALIAN INSTITUTE OF CRIMINOLOGY QUARTERLY**

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**COVER PHOTOGRAPH:** Nagasaki, 1977 – Terrorists armed with dynamite and a shotgun held 17 people hostage in a bus. Dr Grant Wardlaw discusses 'Terrorism in the 1980s' on page 3. Photo by courtesy AAP and *The Canberra Times*.

# reporter

## A reforming Attorney-General

Responsibility in the Government for the Australian Institute of Criminology rests with the Attorney-General, now Senator Gareth John Evans, B.A., LL.B. (Hons), M.A. (Oxon).

Senator for Victoria since 1978, Gareth Evans has been extensively involved in civil liberty issues and organisations, and was associated as a consultant to the Whitlam Government with the drafting of the Racial Discrimination Act, the Human Rights Bill and the development of the Aboriginal Legal Aid Services.

As a member of the Australian Law Reform Commission, Senator Evans participated in the preparation of the *Report on Criminal Investigation*, which led to the Criminal Investigation Bills of 1977 and 1981.

He has long been a supporter of a Bill of Rights, which should now be introduced this year. He has said, in the Tenth Annual John Curtin Memorial Lecture in 1980, that Australia should have its own national Bill of Rights:

... both to symbolise our commitment to all those traditional civil and political rights – of speech, assembly, association, religion and conscience; of non-discrimination; of just treatment by the legal process; and of privacy – which are almost wholly neglected in our present Constitution, and to operate as a brand new weapon in the protection of rights which have been put at serious risk over the years by innumerable pieces of Federal and State legislation, by countless acts of uncontrolled police, bureaucratic and executive behaviour, and by the failure of the courts themselves to do much more than timidly acquiesce in what has been happening.

In Parliament, Senator Evans has been active on a wide range of Parliamentary and Party committees, especially the Senate Standing Committees on Constitutional and Legal Affairs, and on Finance and Government Operations.

In the matter of law reform, the new Attorney-General's words in conclusion to the John Curtin lecture quoted earlier are significant; he said:

There are no simple solutions to the problem of ensuring for our society a system of law and justice which is wise, humane and continually sensitive to the changes always occurring in our social and economic environment. Courts and judges, Parliament and parliamentarians, Ministers and officials – and the constituencies they respectively serve – will always be with us, and however much one struggles to create institutions, and devise mechanisms and procedures, better equipped to achieve the ends most of us regard as desirable, one is always coming face to face with the stark reality that those institutions are manned, and those mechanisms and procedures administered, by human beings, with all the fears and prejudices and biases, and conscious and unconscious irrationalities, to which human beings are prone. . .

If law and justice changes are going to occur – as they must – then it will not be as a result of revolutionary prescriptions from above, but rather from an evolutionary process in which the relationship between Parliament, Executive and Judiciary is constantly being modified and adjusted in the light of experience. ®

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William Clifford

## DIRECTOR'S DIGEST

A new government is a criminological as well as a political event. When it is a new government committed to consensus and it is supported by four State governments of the same political party, the opportunities for new departures are as propitious as at any time in the history of Australia.

There is no doubt that we can expect some bold moves in the area of law reform. While these will be federal in character or will apply to the territories in which federal law has most effect, they will obviously have far more impact now on State laws since at least four of the State governments are likely to be in sympathy with the kind of changes recommended. In particular, the prospects for a National Penal Law are perhaps brighter now than at any time in the past. It has for a long time been an anachronism that a person's criminal liability could change when he crossed the state borders of Australia, and an obvious disability for police forces to have to deal with offenders able to adjust their activities to take full advantage of differing laws between the States. Now that there is greater interest in improving sentencing procedures it is obvious that a common penal law would be an enormous improvement.

If, as part of the changes ahead of us, there is likely to be a national system of courts then, once again logic is likely to prevail over the jurisdictional parochialism which has disadvantaged crime prevention in Australia for a century or more. As travel becomes easier, as interdependence econom-

ically and socially becomes more profound, and as governments have had bureaucratic if not political differences in their approaches to crime prevention, the opportunities for agreement on a kind of 'national crime prevention front' have been difficult to obtain. Now it is to be hoped that the opportunity will be taken to develop a truly Australian system. There need be no challenge to state sovereignty and no diminution of state responsibilities in creating this harness for the Federation and the States to move together when all are threatened by increasing international and interstate crime. The only objective should be to reduce the existing invitations to criminals to manipulate the differences between us: however the laws need not be all federal. They can be dovetailing federal and State laws drafted cooperatively to provide the kind of systems which we have outlined in these pages many times.

It seems likely, too, that progress can be made in improving correctional services across Australia. It should be possible to get agreement now where it might have been lacking before on policies and principles. Uniformity at the State level may be more important here however than uniformity nationally. It is important that Commonwealth prisoners who are in State prisons be treated in the same way as State prisoners, even if this means the federation relinquishing its control over release which at present differentiates the federal from the State prisoner.

It would be unfortunate indeed

if Australia allowed itself to slip into the kind of parallel federal prison system running alongside the State systems and corresponding to parallel federal systems in the United States and Canada. Even if the Commonwealth took over all the prisons it would still have to operate them at State level and transfers between the prisons would still be a problem when it meant removing the inmates far from their families. Nevertheless with States working on similar lines and flexibility of transfers when these are to the advantage of the inmate, there could be progress made towards an exchange of prisoners in the Asian and Pacific region, particularly so as to give Australians imprisoned abroad the same opportunities for repatriation that are enjoyed now by Canadians and Americans when they are convicted in certain other countries. Above all there is a need to found the prison services on the rights and obligations not only of the inmates, but of everyone living and working in a prison setting. This again has all been spelled out and the blueprints are already available; it needs goodwill, a humanitarian conviction and bureaucratic as well as political flexibility to bring all this about. It may not happen in the life time of any one government, but it is to be hoped that when opportunities occur they will be seized so that we do not continue to treat crime as something separate from our community and that we do not continue to imagine that it will automatically respond to more of the same crime control which has failed in the past.

# Political Terrorism in the 1980s

Frequently the 1970s were referred to as 'the decade of the terrorist'. Headlines and TV coverage featured such incidents as the Lod Airport massacre, the takeover of the OPEC headquarters in Vienna, the daring and successful rescues of hostages at Entebbe and Mogadishu, the assassination of Lord Mountbatten and the beginning of a long crisis which started with the takeover of the United States Embassy in Tehran. Along with these spectaculars we were fed a stream of items about the violence in Northern Ireland, the continuing campaign of the Basques in Spain, and terrorism associated with political causes and wars from the Middle East to South America. Nearly a hundred diplomats were kidnapped or assassinated by terrorists, and nearly 50 embassies or consulates were occupied. Hundreds of executives and business facilities were attacked by terrorists.

What these events have shown is that by using terrorist tactics, political extremists with limited power and a limited capacity for violence can attract worldwide attention to themselves and their causes. They can orchestrate events which capture the attention of the world and force national governments to deal with them. They have caused worldwide alarm, and to protect themselves against terrorist attacks or to respond to terrorist-caused crisis situations, governments and corporations have been forced to expend resources out of all proportion to the actual threat posed.

What I would like to do in this article is briefly review the major trends in terrorism during the 1970s and suggest some of the possible developments we might expect in the 1980s — particularly insofar as they might affect Australia.

Although terrorism has been a feature of political struggle for many centuries, there are valid reasons for supposing that current terrorist operations pose a greater potential threat to liberal democ-

racies than did their historical forebears to the governments of their times. Contemporary political terrorism is significantly different from past variants both in terms of philosophy and tactics, and in the social and political environment in which it operates. Many of the differences are directly or indirectly a consequence of technological change, with the most obvious relevant developments being in the field of transport, communications (particularly as applied to news gathering and distribution), and weaponry.



Dr Grant Wardlaw

The advent of the jet airliner, and the fact that it is easily accessible to large numbers of people, has brought with it mobility and a significant increase in the range of possible targets within the reach of any particular group or individual. The emergence of international terrorism involving terrorists of different nationalities planning, training for, and executing acts of political terrorism has been greatly facilitated by air travel.

The organisation and technical sophistication of the news media, particularly with regard to satellite transmission technology, have significant implications for the style and range of terrorist activities to which modern society may be prey. Media coverage of a terrorist operation is often the

major, and sometimes the only, objective of the perpetrators. Terrorism and media feed off each other. Television, in particular, is no longer a medium which simply responds to terrorist events, it is an integral part of them.

The mass production and relatively easy availability of small, portable, easy-to-operate, and highly-accurate weapons has also made a significant difference to the impact that a small number of people can have on society. Powerful explosives, timing devices, automatic weapons and, particularly, hand-held, heat-seeking, ground-to-air missiles significantly increase the possibility of high-impact, large casualty violence.

The increasing reliance of our society on technology has also changed the nature of the threat posed by terrorists. Much of the functioning of heavily industrialised societies is concentrated on a relatively small number of complex processes or operations. The most obvious examples are the electric power grid, computers, gas and oil pipelines, aircraft, etc. But these processes or operations are linked to a myriad of other processes or operations so that damage to, for example, the electric power grid would have serious derivative effects on a wide range of socially necessary functions. Because of the existence of such critical locations, together with society's inability (physically or economically) to protect them all, modern terrorists can exercise considerably more influence than has ever been possible in the past.

Other contributions to the changing nature of terrorism may be found in the context in which it occurs. Radical changes have taken place in the attitudes of different groups in society towards each other, particularly with regard to attitudes to authority. Authority is more and more viewed by the ordinary citizen as something to be earned, not something which is either an intrinsic right of a prescribed group or a bureaucratic ordinance. For those more radically

inclined, authority is often seen as something which is simply illegitimate. Our education system in particular has encouraged greater participation in societal decision-making and emphasised that such participation is a right. However, our social and bureaucratic structures have often not changed quickly enough to accommodate these changes. Now, when participation is denied or limited, authority is likely to be challenged. With both the increasing levels of participation required by a myriad of groups who feel that they have no means other than coercion to make their voices heard and the easier access to the weapons of violence, terrorism is increasingly seen as an attractive option. As one leading expert has commented, we ought not to be too surprised if our sons and daughters, fed disaffection at dinner time and stuffed with televised violence, express themselves violently in the 1980s.

The question for the future is will the developments which have increased the political leverage of terrorism continue and will they magnify the threat which we already recognise is posed by terrorism? In the area of transport and communications it is unlikely that we will see the sort of quantum leap in the foreseeable future which will increase the scope of terrorism in the way developments in the past two decades have done. Particularly in view of the energy crisis and the downturn in the fortunes of airlines, airliners are unlikely to get significantly bigger (offering more sacrifices or hostages) or much faster or have greater ranges (allowing more flexible terrorist operations). Although more locations may be accessible as routes expand, the sorts of locations which are the most likely venues for terrorist spectacles are already well served. While the cheapness of air travel has enabled even relatively small and poor terrorist groups to operate on a wider scale it is conceivable that this trend may be slowed down as

air fares start escalating. Obviously this will not deter the major terrorist groups, who have no financial problems, but it does reduce somewhat the probability of smaller, less obvious groups entering into the international picture.

The other important aspect of communications is the scope and coverage of the news media. Particularly with the introduction of television in even the most remote and disadvantaged locations, more and more disadvantaged groups will come to be acquainted with the tactics of terror and may well emulate them. Further, the greater access to remote locations possible to news crews through advances in electronic news gathering technology makes it more likely that terrorist violence at hitherto unheard of places will be widely publicised, thus adding to the impression of widespread violence, lawlessness, and danger.

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**'TO MANY PEOPLE, THE MOST FRIGHTENING PROSPECT FOR THE FUTURE IS THAT TERRORIST GROUPS MIGHT GAIN ACCESS TO, AND USE, WEAPONS OF MASS DESTRUCTION'**

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However, given the extent of news coverage which is already possible it seems unlikely that developments in the 80s will add significantly to the terrorist threat. Having escalated the threat by providing a powerful medium (television) which gives instantaneous coverage to a terrorist spectacular we have reached a plateau which will not be exceeded because of foreseeable technological changes in news broadcasting. Ironically, however, it is possible that the very fact that such massive news coverage is an everyday event could lead to terrorist acts of an even more spectacular nature. Now that the world is so used to images of terrorism being beamed into their homes, the news value of yet another kidnapping, hijacking, or assassination is

becoming progressively smaller. The irony lies in the fact that while individual terrorist incidents tend to be magnified by extensive media coverage, continuing coverage of this nature ultimately deflates their effect by making them commonplace.

Perhaps one of the greatest reasons for expecting an increase in the extent of terrorism flows from the continuing development and availability of weapons. The rate of turnover of conventional weapons by the world's military forces has increased dramatically in the last two decades and many of these weapons are finding their way onto the international arms market. Already, any group which is reasonably determined to do so is able to purchase or steal powerful conventional weapons. As this decade progresses, access to these arms will become even easier.

Of course it is one thing to be able to purchase modern weapons and quite another to use them effectively. However, there already exist a number of elaborate training centres in such places as the Middle East and North Korea where terrorist groups from around the globe are taught to use modern arms. With the rate at which weapons now become obsolescent, those arms which will find their way into the hands of a large number of terrorist groups will be very sophisticated by past standards (including, for example, precision-guided munitions capable of operation at a considerable distance from the target and with significantly increased destructive power).

To many people, the most frightening prospect for the future is that terrorist groups might gain access to, and use, weapons of mass destruction, specifically, nuclear, biological, or biochemical weapons. Most attention to date has been directed at the possibility of some form of nuclear material or device falling into terrorist hands. There are a number of readily conceivable scenarios. One would involve the terrorist seizure of a nuclear facility with a subsequent

demand that a government accede to certain claims under threat of having the facility sabotaged and releasing radioactive material over the surrounding countryside. The panic that followed the release of radioactive gases during the crisis at the Three Mile Island nuclear power plant in Pennsylvania in 1979 gives some indication of the potential impact of such a demand on a threatened population. The consequences for public order and for pressure on the government to take any steps (including complete acquiescence to the terrorists' demands) to avoid such an outcome are obvious. Given the level of security that has been shown to exist at some nuclear power plants and at some nuclear weapons storage sites it is not inconceivable that a determined group of well-equipped and well-organised terrorists could assault and take over such a facility.

There is little doubt that some terrorist organisations have the organisational and financial resources necessary to mount an assault on a nuclear facility, steal some radioactive material, or possibly even construct their own nuclear device. A similar capability exists with regard to biological and biochemical weapons. The question then arises, if the capability to use any of these weapons exists, why has no major terrorist group seriously tried to use them as a major bargaining tool?

There are a number of possible reasons. The first is that there are considerable problems involved in using, for example, a nuclear device as a bargaining chip, including such things as what demands to make and how to terminate the threat situation. The problem is really one of the fulcrum of power. How long can a threat be maintained? If terrorists are unwilling to dismantle the threat by surrendering the device, governments may be less likely to yield. If the terrorists surrender the device, how do they enforce their demands, particularly if these are for such long-term considerations

as changes in policy.

Probably the most important reason for the non-exploitation of the terrorism of mass destruction has been that, to date, most terrorists have succeeded in having at least some of their demands met by recourse to considerably more 'economical' methods of threat (such as aircraft hijackings, embassy takeovers, etc). Another major factor is that most terrorist groups have operated under self-imposed political constraints.

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Although much popular writing portrays terrorists as unscrupulous, insane, and having an insatiable lust for blood, this is generally far from the truth. Certainly, most recognised terrorist groups are neither nihilist nor composed entirely of psychotics whose only objective is killing people. On the whole, the major groups, particularly the nationalistic ones, have goals which can be articulated and some of which may well be attainable in the long run. These groups are appealing to a constituency and are driven by goals which may be rationally explained, even if the methods cause violent disagreement. The leaders of such groups have always to beware of provoking such widespread fear and revulsion that they drive away potential supporters or provoke a massive, publicly-approved government crackdown. Given these considerations, it is not surprising that terrorists have not readily turned to the use of more horrendous weapons. In essence, it seems that most terrorist groups do not see the killing of a few people (whether nominated 'enemies' or innocent bystanders) as counter-productive, but have to date assessed the massacre of many

people as being either out of proportion to their ends (for example, it is hard to see that the deaths of 5,000 people as opposed to five in a spectacular incident would generate more publicity given the total coverage which is now given to major terrorist incidents) or damaging to their cause (for example, by provoking a publicly-approved authoritarian crackdown and destroying what public support the terrorists may, in fact, enjoy).

The question is, will this situation continue indefinitely? The answer would seem to be that the future is not so certain. There are a number of factors which could alter the balance so that it is tipped towards the use of mass-destruction terrorism. The first is the emergence of more groups without a national constituency. Broadly-conceived organisations such as the Japanese Red Army whose vague goal is world revolution do not have to make the calculations concerning the affections of the population which groups using terrorism as part of a national liberation campaign, for example, must make.

The trend away from terrorist groups having or attempting to attain broad bases of support also appears to go hand-in-hand with a drift towards a nihilistic philosophy. In the past, it could have been argued that terrorists, regardless of the carnage they have caused, have been essentially conservative, preferring to choose their targets relatively carefully and rely on trusted methods. But this is no longer always the case. There is evidence suggestive of motivation based on the 'thrills' of terrorism and destruction for destruction's sake.

A further factor is that such groups as have so far demonstrated a nihilistic strand in their thought have tended to be those that are small and/or facing the despair of being eliminated. Small groups may lack the patience which, whatever their haste as advertised by their rhetoric and their brutal-

ity generally characterise the major terrorist groups. Such haste, particularly when combined with the pressure generated by possible extinction, could well produce an inclination away from current conservatism toward more violent and destructive terrorist action. The only comforting thought here is that such groups, while having the motivation to perform a terrorist *Gotterdammerung* may be the least likely to have access to the means to do so.

When these trends are taken together they seem to point to an increased probability of a terrorist group threatening to use a weapon of mass destruction. It is a possibility that cannot be ignored. While there is at present no hard evidence of groups realistically planning such acts, the indications are that the inhibitions which in the past have prevented them will slowly be weakened over the next few years. My prediction would be that before the end of the decade a Western government will have to deal with a credible terrorist threat to use a weapon of mass destruction.

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**'MY PREDICTION WOULD BE THAT BEFORE THE END OF THE DECADE A WESTERN GOVERNMENT WILL HAVE TO DEAL WITH A CREDIBLE TERRORIST THREAT TO USE A WEAPON OF MASS-DESTRUCTION'**

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At a more general level I would expect to see both an increase in the number of terrorist incidents and an increase in deaths and injuries worldwide. The latter is largely a result of changes in terrorists tactics. The well-established terrorist groups have largely abandoned the skyjackings and embassy takeovers of the 1960s and 1970 in the face of better security, improved procedures of handling hostage situations, and a greater willingness on the part of most governments to take a tough stand (including sending in military

or police units to forcibly terminate an incident). On the whole, aircraft hijackings and embassy takeovers did not result in large loss of life. But the tactics which have replaced them, notably a return to bombings and assassinations, usually result in greater loss of life and more injuries.

Much of this seems mercifully distant from Australia. But events such as the assassination in Sydney of the Turkish Consul-General in December 1980 and the bombing of the Jewish Consulate in December last year are indications that we are not immune from this sort of violence. While there is no immediate likelihood of a domestic terrorist threat there is an increasing probability that we will feel the effects of overseas struggles. Acts of terrorism, notably bombings and assassinations, connected with events in such places as the Middle East, Northern Ireland, and Turkey will almost certainly take place in Australia in this decade. An even greater problem, I believe, will be the imitation of political terrorist methods by criminal extortionists. The Woolworth bombings and the recent threat against TAA are, I believe, the beginnings of a type of crime which will be of increasing concern

## **POLITICAL TERRORISM**

**Theory, tactics, and counter-measures**

**GRANT WARDLAW**



To be published in early May

to Australian authorities as the decade progresses.

Taken as a whole, the trends I have discussed in this article indicate that terrorism will continue to pose major problems for security authorities and could well involve greater casualties than has been the case to date. I would expect that these trends will affect Australia to a greater degree as time passes. The difficulty we face is to take decisive action against terrorism lest we lose the battle by default, but at the same time to avoid over-reactions lest we achieve only an oppressive and dangerous society. To achieve such a balance will be one of the most crucial problems facing politicians, police, and international decision-makers in the 1980s. ®

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## **National Conference on Arson**

How prevalent is arson in Australia?

Will the incidence of deliberately lit fires in Australia reach the level of seriousness that it has overseas?

An attempt at answering these and other questions will be made during a national conference on arson organised by the AIC to be held in Canberra from 26-29 April.

The conference, to be opened by His Excellency the Right Honourable Sir Ninian Stephen at the National Press Club will bring together senior management and policy makers in the fields of insurance, police, fire-fighting, forensic science, law and politics as well as members of several standing committees on arson, in the various States of the Commonwealth.

A detailed report of the proceedings of the conference will appear in the next issue of the *Reporter*. ®

*Reporter*, Vol. 4, No. 3 - March 1983



# Institute seminar reviews research

Aboriginals had a modern problem of crime and violence which would not easily be eradicated by improved social and economic conditions, said the Director of the AIC, Mr William Clifford.

Addressing the problems of research into Aboriginals and the Criminal Justice System at the opening of a four-day seminar at the Institute in February which reviewed criminological research, Mr Clifford stressed that it was better to treat Aboriginals as a modern minority in a modern society than as some kind of odd survival.

The seminar brought together police officers, correctional services personnel, lawyers, probation and parole officers and forensic scientists who were themselves engaged in research projects.

Mr Clifford told over 30 participants at the seminar, 'The Aboriginals will suffer unless their problems of identity, violence and alcoholism are countered by better education and improved forms of socialisation as the children are reared.'

He warned however that while political solutions may get to the roots of Aboriginal criminality by providing an identity and improving living conditions, it was a mistake to rely upon them to be a panacea for all the social ills of a community.

Mr Clifford explained that research into Aboriginal criminality was hampered by conceptual problems, the complexity and variety of cultures and different Aboriginal communities, by rapidity of change and political climate, and by language barriers.

'As an outsider the researcher may never be able to reach the secrets that give meaning to Aboriginal life: but if he is Aboriginal, then his knowledge is not for publication.'

There was also the problem of getting the facts. 'We are still not sure how many Aboriginals there are, how many are still subject to traditional controls, how many are arrested, remanded, sentenced or

released,' he said.

Addressing the problems of the future Mr Clifford said that there was a need to:

- get rid of stereotypes;
- be able to count Aborigines accurately;
- trace more precisely the offences for which Aboriginals were charged;
- initiate more life studies of the hard core recidivists; and
- carry out more depth studies of crime in traditional and modern Aboriginal communities.

Mr Clifford also said that data needed to be collected and compared with a view to matching Aboriginal and non-Aboriginal records to establish the extent of discrimination in the system.

## PROBLEMS OF EVALUATION

A paper which looked at the pitfalls of evaluation in criminal justice was presented by Professor Daniel Glaser of the University of Southern California.

Professor Glaser said that the main trap of criminal justice

evaluation was a failure to ask why a program should work, and for whom it would work best, and the conditions most likely to influence its impact.

He said that because research conditions may be quite diverse, conclusions were most likely to be useful if a study did not direct itself only to assessing whether a practice, program or policy worked on the whole.

He also said that the outcome measurement of a program should not be confined to how well it achieved its ultimate goals.

It should also be measured in terms of how well it achieved its immediate intermediate objective of carrying out the procedure or providing the service to be assessed.

Professor Glaser said that by interrelating immediate, intermediate and ultimate goal attainments an insight can be gained into *why* a program succeeded or failed.

Professor Glaser went on to discuss the objectivity, improvability and continuity of criminal justice evaluation and questioned its duration.

He suggested that the simplest economic measure of evaluation was its *cost-effectiveness*. The most potentially influential econ-



Professor Daniel Glaser

omic impact measurement is *cost-benefit analysis*, in which a monetary value is assigned to the effects of a program which in turn was related to its costs.

Professor Glaser concluded that as the world became more formalised in its administration and more computerised in its record-keeping, there would be a growing demand for more objective, precise and logical evidence to guide the policies and practices of criminal justice agencies.

## TRAFFIC FINES

Young men bore the brunt of traffic law enforcement in Western Australia according to a Senior Lecturer in Psychology at the University of Western Australia.

At the same time women were grossly under-represented for the more serious offences.

Dr Ali Landauer, who is researching the sex differences in the distribution of traffic law enforcement in W.A. found that data collected over a two week period during 1976 revealed that while men under the age of 25 years held about 14 per cent of the licences and drove about 23 per cent of the total mileage, they received about 47 per cent of all charges, about 36 per cent of all infringements and about 34 per cent of all cautions.

'If the main purpose of traffic law enforcement is to reduce the accident rate, then one might expect the amount of law enforcement given to any particular group to be roughly in proportion to their accident involvement, or at least to the mileage they drive. When a group, such as young men, are over-represented in the enforcement statistics to such an extent there must be some cause for disquiet as to whether traffic law enforcement is being applied efficiently', he said.

Dr Landauer found that less than 2 per cent of all alcohol and drug charges, and less than 9 per

cent of all the charges of dangerous, reckless or careless driving were laid against women.

He said that men had about 62 per cent of all casualty accidents, drove about 75 per cent of the total mileage and held about 60 per cent of all driving licences, yet they incurred 91 per cent of all charges, 87 per cent of all infringement notices and 81 per cent of all cautions.

The ratio of men charged to women charged was 9.8 to 1, compared with a ratio of 1.7 to 1 for casualty accidents.

Dr Landauer said, 'The argument is made that people should be represented in the enforcement statistics roughly in proportion to their representation in the accident statistics.'



Alison Wallace

'At the very least, this type of data on law enforcement should be collected and monitored continuously in order to preserve a reasonable perspective about the use of traffic law enforcement as an accident counter-measure', he said.

## PRISONER MANAGEMENT

Prisoners should be managed in a less distant, coercive and punitive way according to the Chief Research Officer of the Department

of Corrective Services in Sydney, Don Porritt.

'The management of the prisoner, not changing him for his or society's good, is the aim of prison officer training', he said.

'Skills in communication, problem solving and the use of incentives are necessary to make prisons safer and less destructive for both prisoners and officers', Mr Porritt said.

Mr Porritt, who is currently researching the training of probationary prison officers and inmate-officer relationships, said that the commonly offered solution that the selection of 'better' officers could change the nature of prisons was naive.

He said that he had found persuasive evidence which suggested that wherever security was paramount and was sought by a formalised system of distance, coercion and punishment, relations between officers and prisoners would necessarily be tense, hostile and riddled with conflict.

'It is difficult to be both custodian and counsellor. Where different staff specialise in these functions the conflict becomes a struggle between these groups.'

The objectives of the research are:

(1) to establish whether all aspects of probationer training are seen by officers to be relevant to the actual work experienced by them; and

(2) to determine the nature and extent of the influence more experienced and powerful officers have on probationers in terms of attitudes to training, to other officers, to prisoners and to their role as prison officer.

The following are summaries of other research projects reviewed at the seminar:

### *Remand in Victoria: Size and Type of Facilities Needed*

David Biles, Assistant Director, (Research), AIC

A report on this subject was prepared by the writer for the

Victorian Government in the latter half of 1982. The essential task was to advise on the appropriate size of a new remand centre. The empirical research undertaken included a detailed review of all available statistics on remandees in Victoria and elsewhere, a profile of Victorian remandees, and a survey of all Victorian stipendiary magistrates.



Ali Landauer

**Victorian Prison Officers: Some Opinions and Attitudes**  
**J. Van Groningen, Phillip Institute of Technology, Victoria**

In an attitude survey of over 800 prison officers in Victoria, John Van Groningen found that there were serious discrepancies between what the Community Welfare Services Department (Correctional Services Division) and the uniformed prison staff saw as being the goals of imprisonment. Wide dissatisfaction with management was found and the majority of officers felt they played little or no part in decision-making.

The officers were asked what they thought was the reason people committed crime and what they thought was the purpose of imprisonment. The results should provide a basis for management action.

**Community Service Orders in N.S.W.: An Evaluation**  
**Angela Gorta, N.S.W. Department of Corrective Services**

The strategy for this research took the form of a three-pronged attack.

Data were taken from the files of 270 offenders in order to compare a profile of 'successful' workers with a profile of those who breached their order.

Administrative aspects of the scheme were studied and an assessment was made of Community Service Orders as an alternative to imprisonment.

**Sentencing the Federal Drug Offender**  
**Ivan Potas, Senior Research Officer, AIC**

This study, conducted jointly by Institute Senior Research Officers Ivan Potas and John Walker was an attempt of finding a methodology for measuring 'unjustified sentencing disparity'.

In order to identify and measure the extent of unjustified disparities the researchers extracted the facts of some 300 drug sentencing cases and entered them into a computer for analysis.

The difference between the actual sentence imposed in each case and the sentence that the computer indicated was taken to reveal the extent of disparity that was unjustified.

**Community Service Orders: Issues in Evaluation**  
**Sally Leivesley, Consultant to the Queensland Probation and Parole Service**

This paper aimed to identify issues in evaluation research based on a current study of the Community Service Order Scheme in Queensland. The paper begins with a brief review of the Queensland project, identifying the philosophy of the Community Service Order Scheme, and terms of reference for the project including aims and objectives.

Data sources and the team work approach between a consultant and the Queensland Probation and Parole Service are described.

**Putting Research to Work**  
**M.K. Rook, Department of Community Welfare Services, Victoria**

This research examines the fate of the information produced through criminological research — who it informs, how widely it informs and its practical application.

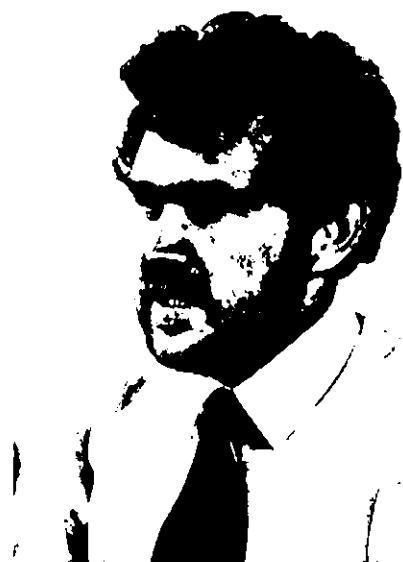
Mr Rook considers some of the purposes of research, the expectations of those who pay for the research and discusses some of the major obstacles to action and strategies for overcoming these obstacles.

**The Identification of Small Glass Fragments for Forensic Purposes**  
**B.F. Lynch, Research Officer, Government Chemical Laboratories, Perth**

The major aim of this project was to implement a rapid and sensitive method for the identification of glass microsamples for forensic purposes.

The results obtained so far have already been used in a number of criminal cases in Western Australia.

The information obtained from the ongoing project will be made



Bernie Lynch

available to all forensic scientists in Australia and samples will be made available for collaborative studies.

*Work Face Discretion: The Case of Police and Domestic Crisis*  
Dr Gerry McGrath, Director, National Police Research Unit, Adelaide

An examination of police attending a number of 'domestics' in the United States in jurisdictions which have adopted legislative and other initiatives aimed at improving the manner in which the police handle intimate disputes.

The writer argues that legislative initiatives are not enough to effect any major change in an area of police work regarded as being one of the most difficult.

The paper identifies a number of conditions to effect improvement in this regard.

*The Role of Ideology in Public Order Policing*  
Dr Grant Wardlaw, Criminologist, AIC

Dr Wardlaw presented a paper which briefly sets out the basic ideological frameworks for the different approaches to understanding public disorder and out-

lined the police response which flowed from each.

It was argued that if the concept of policing by consent was to have any meaning, there had to be a balance between the ideological responses of the use of force, the conflict between the principle of peace-keeping and law enforcement, and the making of public statements which could be interpreted as being 'political' in nature.



Kelly Weekley

Other research projects reviewed were:

*Delinquency, a Failure in Language Coping?*, Patricia Brown; *Research Design: Severe Life Consequences for Alienated Youth*, Robyn Lincoln; *Personality Characteristics of Property Offenders*, Joe Pasmore; *A Decade of Radical Criminological Theory - Some Reflections*, Roman Tomasic; *Schools, Truancy and Delinquency*, Dr Garry Coventry; *Crime Statistics and their Interpretation in Western Australia*, Andrew Gill; *C.I.B. Work Analysis*, Sgt. Peter Macievic.

*Development of Case Screening Models by the South Australian Police Department*, Kelly Weekley; *Types of Police Employee Grievances*, Bruce Swanton; *Crime*



Garry Coventry

*Screening - The Property Offence Solvability Seriousness Assignment Model*, Sgt. Bob Bayley; *Safeguarding the Rights of Mentally Retarded Offenders*, Dr Susan Hayes; *Police Shortages in Australia*, Dr Glenn Withers; *Problem Street Drinking and the Law*, Ron Okely; *Origins and Development of the Victoria Police Force*, Robert Haldane; *Finding out about Fines*, Dennis Challenger; *Sexual Assault in South Australia*, Adam Sutton; *Homicide in N.S.W.*, Alison Wallace.

*Evaluation of the Rehabilitative Potential of Community Service Orders*, Prue Oxley; *Probation: An Examination of Sentencing Disparity in Tasmania*, Philip Donnelly; *Community Service Orders: An Evaluation*, Paul Birchall; *Counting Prisoners*, John Walker; *Evaluating Law Reform in N.S.W.*, Jeff Sutton; *A Scientist's View of Relationships Between Criminology and Forensic Science*, Malcolm Hall; and *Some Problems of Longitudinal Research on Deviant Behaviour*, Kenneth Polk.

The research projects mentioned here but not described in detail for reasons of space could form the basis of future articles in *Reporter*. ®



Robyn Lincoln

# International seminar

The Assistant Director (Research) of the Australian Institute of Criminology, David Biles, recently attended an international seminar in Sicily which focussed on drugs and prisons.

The seminar was conducted by the International Centre of Sociological, Penal and Penitentiary Research and Studies of Messina.

Mr Biles is a member of the Scientific Commission of the Centre.

The Centre had been asked to conduct the seminar by the Council of Europe. The first half of the seminar was held in Messina and the second in Palermo, the capital of Sicily.

The 60 participants of the seminar which was chaired by Mr Giacomo Barletta, Vice President of the Centre, comprised prison administrators, criminologists, prison medical officers and social workers.

The general rapporteur for the seminar was Mr Ekkhart Muller-Rappard, the head of the Criminal Affairs Division of the Council of Europe.

The seminar was organised around three themes:

1. The treatment of drug addicts in prison and associated problems.
2. The effects of the presence of drug addicts in prison on prison administration.
3. The need for post-release services for drug addicts in the community.

There was considerable interest in Australian attitudes to the themes, which were outlined to the seminar by Mr Biles.

Mr Biles also presented the report of a technical committee on the definition of addiction, and criteria for success of treatment inside and outside of prison. The need to seek the views of prisoners and families as well as the views of doctors and administrators was also discussed in this report.

In his final summing up, Mr Muller-Rappard made the following points:

1. Drug addiction is an important social and public health problem. It seems to reach all social levels, especially the young. There is some evidence to suggest that the use of alcohol and prescription drugs is increasing as well as the use of illegal drugs such as heroin. Prevention programs are of the utmost importance and efforts should be made at the level of normal schooling to prepare young people to protect themselves from the influence of drugs.

2. The treatment of drug addicts is extremely difficult and little reliable data are available to establish the relative effectiveness of different treatment methods. Even though member states of the



David Biles

Council of Europe are cooperating well with a policy of severe sentencing of drug traffickers and with the work of border police there is a need for more coordination of treatment services. There is an especial need for more trained staff and more adequate resources to be applied to this area.

3. The influence of drugs within prison systems is seen as causing very significant problems and most of the delegates recognised that it was impossible to keep drugs out of prison. There seemed to be no consensus on the relative merits of

segregating drug addicts in prison or dispersing them through the system, although it was recognised that a policy of dispersal may have the effect of penalising other prisoners because of the necessity for more stringent security.

4. The seminar resolved to ask the Council of Europe to give further consideration to the controversial question of the use of methadone as a substitute for heroin, either with decreasing dosages or on a maintenance program. There were deep divisions on the methadone question among the delegates and this obviously causes some problems for offenders who move from one country to another.

5. Finally Mr Muller-Rappard made a plea for greater use to be made of private agencies in the provision of care and assistance to ex-prisoners, especially those who have problems with drugs.

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## THERE WAS CONSIDERABLE INTEREST IN AUSTRALIAN ATTITUDES TO THE THEMES, WHICH WERE OUTLINED TO THE SEMINAR BY MR BILES

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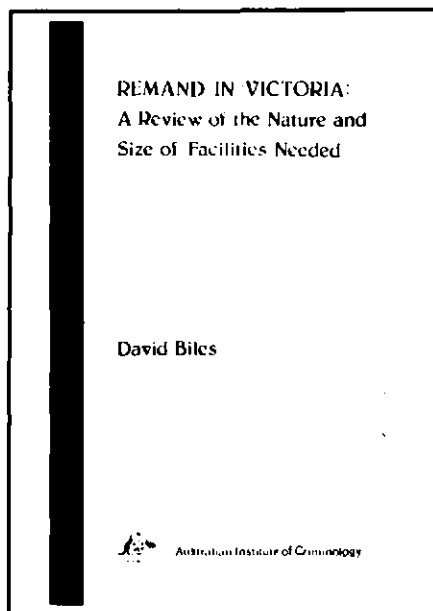
The conclusions of the seminar are to be considered by a meeting of prison administrators to be held in Strasbourg in May this year.

While in Messina, Mr Biles discussed informally with Mr Barletta and the Secretary-General of the Centre Mr Domenico Cucchiara, a proposal to collaborate with the Australian Institute of Criminology to conduct a major project on migrants and crime.

This followed a meeting last year between Mr Biles, Professor Shlomo Shoham from Tel-Aviv, and the Director of the Institute, Mr William Clifford, at which it was agreed to draw up a list of possible participants in a seminar which would provide the basis for a major international comparative study on policies and practices with regards to migrants and crime.

# New publications

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The Assistant Director (Research) of the Institute, David Biles, prepared this report for the Victorian Government at the request of the Minister for Community Welfare Services, the Honourable Pauline Toner, M.L.A.

The work was originally proposed by the Director-General of Community Welfare Services, Mr Ben Bodna, in May 1982.

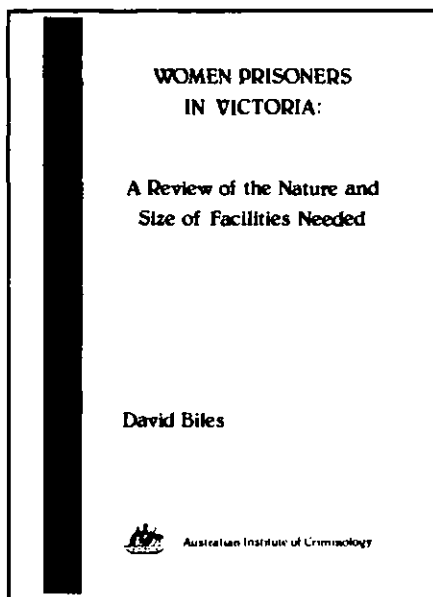
The study reveals the urgent need to improve conditions for people on remand in Victoria. A new remand centre is recommended and the options for its location examined. Mr Biles discusses the question of bail hostels and advocates that they be established. There is need for an upgrading of the prison records and statistical systems currently in use by the Correctional Services Division of the Department of Community Welfare Services.

Using data obtained for the national prison census and a supplementary questionnaire, the survey also provides statistics of all Victorian remand prisoners in custody.

It also incorporates the results of a survey of magistrates' views of the bail/remand systems and the methods used by the writer in his investigation.

Copies of field notes and data collection instruments have been reproduced by the author as separate appendices.

Copies of *Remand in Victoria: A Review of the Nature and Size of Facilities Needed* are available from the Publications Section of the Institute at \$4.50 per copy plus postage.



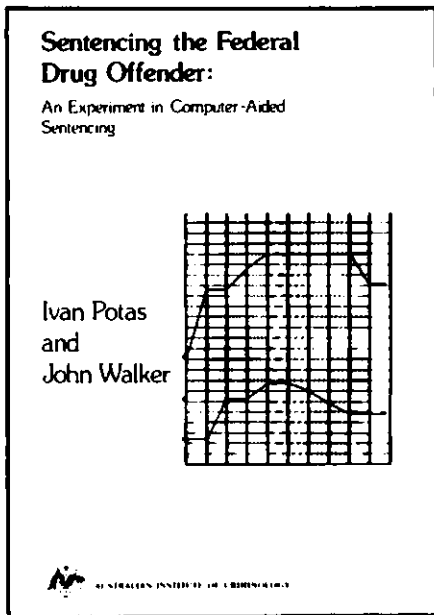
A companion report to the one above, *Women Prisoners in Victoria: A Review of the Nature and Size of Facilities Needed* is an essential step in planning for the redevelopment of the Fairlea Women's Prison which was partially destroyed by fire in February 1982.

The analysis by Mr Biles of the current male and female prison populations in all Australian jurisdictions showed that Victoria had a female imprisonment rate significantly lower than the national average. It appeared unlikely that there would be a significant increase in the number of women prisoners in Victoria in the immediately foreseeable future.

The report provides a detailed profile of Victorian women prisoners and from it recommends development of Fairlea as a medium-security institution, with disruptive cases to be handled at Jaka Jaka.

*Women Prisoners in Victoria* contains a comprehensive appendices section covering field notes and data collection instruments.

Copies of *Women Prisoners in Victoria: A Review of the Nature and Size of Facilities Needed* are available from the Publications Section of the Institute at \$4.50 per copy plus postage.



*Sentencing the Federal Drug Offender: An Experiment in Computer-Aided Sentencing* by Ivan Potas and John Walker was compiled from data supplied by the Attorney-General's Department.

This statistical analysis is supported by a comprehensive list of tables and figures.

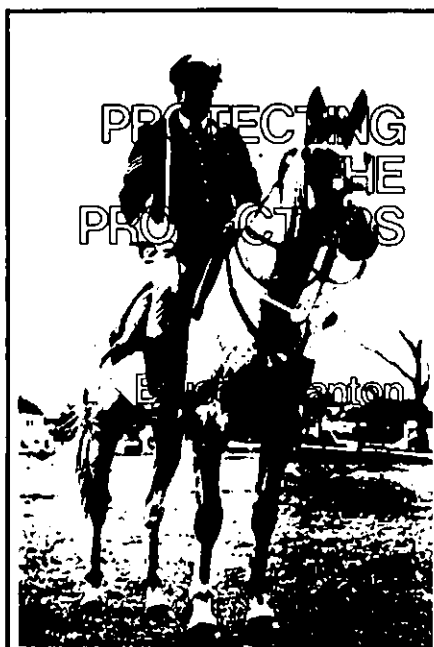
The aim of the study was to examine the issue of sentencing disparity applying to persons convicted of *Customs Act* offences.

The authors analysed the factors relating to the circumstances of the particular offence and the background of the offender that appeared to have influenced courts in reaching their decision on sentence.

Primary data were obtained from 301 court judgements relating specifically to the sentencing of drug offenders who had been convicted of Section 233B offences.

The secondary source of data was obtained from material previously collected by the Institute for the S.K. Mukherjee study *Profile of Federal Prisoners*.

Copies of *Sentencing the Federal Drug Offender: An Experiment in Computer-Aided Sentencing* can be obtained from the Publications Section of the Institute at \$4.50 per copy plus postage.



*Protecting the Protectors* by Bruce Swanton

This book is a state by state view of police worker protection in Australia. The book discusses and describes all aspects of police union and management and aims to increase awareness of concepts and issues among police workers, students and lay persons.

The ways in which police disputes are settled in the states and territories and the various types of police employee grievances are also examined.

The author devotes a special chapter to the future of police unionism, and in conclusion explains the role and functions of the police federation.

Copies of *Protecting the Protectors* are available from the Publications Section of the Institute at \$12.50 per copy plus postage.

# BOOK REVIEWS

## VICE IN A VICIOUS SOCIETY – CRIME AND CONVICTS IN MID-NINETEENTH CENTURY NEW SOUTH WALES

By Michael Sturma

University of Queensland Press, 1983: 224pp. – \$29.95 (hardback)

Reviewer: JOHN WALKER, Senior Research Officer, Australian Institute of Criminology

In the cover notes, Dr Sturma's title for this fascinating book is described as ironic since, as he states, hitherto unused statistical and literary evidence indicates that the degree of criminality and vice in nineteenth-century New South Wales has been both exaggerated and misunderstood. In writing this book he succeeds in showing, furthermore, how crime trends are almost universally exaggerated and misunderstood – and why!

Dr Sturma is a tutor in History at the University of New England, currently researching nineteenth-century crime, social control and collective violence. His book, based on a great deal of painstaking examination of police and court records and newspaper items, consists of eight liberally-footnoted chapters, some very useful statistical appendices, and a 24 page bibliography which might have been worthy of publication alone.

Chapters one to three deal with separate crime 'waves', each of which had little to do with actual statistical trends in crime but served the purposes of influential sections of the community. Chapters four and five present and discuss the official statistics in detail, while the specific subjects of swearing, drinking and the police are discussed in later chapters.

The period dealt with is 1831 to 1861 which, largely due to the impact of the Molesworth Committee report (1838) into the system of convict transportation, saw the transformation of the colony of New South Wales from a penal colony to a prosperous and comparatively democratic

community. In particular the author concentrates on the contrast between officially recorded statistics of crime, which by any measure fell almost continuously on a rate-per-population basis from the mid 1830s, and the fluctuating community reaction to crime levels as expressed by the judiciary or journalists.

It is very tempting to compare the major discrepancies he reveals between facts and fears in the mid-nineteenth century with those of the present day. Where Mukherjee<sup>1</sup> has shown that the post-World War Two 'crime wave' was largely a mixture of demographic illusions plus the growth of traffic infringements, Sturma shows that mid-nineteenth century crime waves were largely demographic illusion plus such offences as drunkenness and swearing. Although it was true that former convicts continued to be over-represented in crime statistics this could more simply be explained by the fact that they were predominantly males aged between 21 and 44 than by the complexities of their ex-convict status. Falling crime rates in the last two-thirds of the period coincide more exactly with the growing proportions of women and juveniles in the community and with the ageing of former convicts than with the mere cessation of transportation. These facts, however, did not stop the influential from using crime issues to advance their class interests. *Plus ça change...*

The historical detail and the statistics presented by Sturma add up to an interesting account of a colony at a critical period in its growth, and of the changing perspectives of crime as seen by opposing groups in the community. At another level they show how aggregate statistics on crime are almost inevitably misleading and ambiguous, and at a third level they show how justice systems themselves can be manipulated by the influential.

The book is a valuable addition to the shelves of students of

political science and statistics as well as its professed targets, criminologists, historians and sociologists.

1. *Crime Trends in Twentieth Century Australia*, Mukherjee, S.K., 1981, AIC in association with George Allen & Unwin.

## CHILD ABUSE: A Community Concern

Edited by Kim Oates

Butterworths, Sydney, 1982

321 pp. – \$35.00 (hardback)

Reviewer: PAUL WILSON, Author and Reader in Sociology, University of Queensland

Books of readings flow off publishers' production lines like tinned fruit and most, like the fruit, are fairly bland. Dr Oates' book is no exception. There are 26 separate chapters and, like a lottery, you pick a chapter and you take your chance. It is, in fact, the very randomness of the book – the throwing together of disparate chapters – that strikes the reviewer first. There is no theoretical direction, little sequence and, often, considerable overlap between contributors.

Given the burgeoning literature on child abuse why yet another book on the topic? Dr Oates justifies his collection of articles on two grounds. Firstly, that the contributors come from many disciplines; secondly, that there is a substantial Australian component in the book. Both grounds are adequate justifications for a book on the topic provided they fulfil their objectives. This book does not. The separate disciplines represented among the contributors do little to enlighten us on how each discipline conceptualises the topic. For this is a book aimed squarely at practitioners in the field with little consideration given to the theoretical issues and, therefore, we certainly do not even get a glimpse of an inter-disciplinary perspective. Similarly, the Australian component is jumbled in with international experiences. In fact, nowhere is there a systematic



examination of the Australian data and, one is frustrated in reading this book because the 'state of the art' in this country is omitted. It would, for example have been interesting to know the studies of incidence types, programs, and evaluations of Australian material. They will not be found in this book.

Given these weaknesses — and they are considerable — acknowledgment should be made of the strengths of the book. There are some first rate chapters that deserve reading. Jan Carter's research suggests that family day care centres can be an essential resource in cases where separation of a parent and child is not therapeutically desirable. Her contribution is valuable. Ann Harris Cohn's study of the effectiveness (or lack of it) of American media campaigns is enlightening but some Australian data would have helped enormously. The chapter by Anne Deveson on *Violence in Society*, by Martin on *What Happens to Abused Children* and by Castle and Bright on *Past and Present Suggestions for the Future* are worthy of consideration.

Sexual abuse is dealt with scantily in the book. It is a complex area where prevailing folklores and ideologies rule the roost. Dr Henry Giarretto's famous Child Sexual Abuse Treatment Programme in Santa Clara County is described in detail but not critically so. While, clearly, some children who have sexual contact with adults suffer emotional problems other do not. What factors differentiate one group from the other? And, why are long lasting traumatic effects singularly lacking in many cases of voluntary child-adult sexual contact. The literature on this topic is selectively dealt with by Giarretto as well as by other contributors. Certainly it is safer to push the prevailing professional line on the (adverse) effects of such contacts but it does little to advance knowledge and reeks of past purges such as those aimed against the evils of

masturbation, homosexuality, cannabis smoking or witchcraft.

One of the best chapters in the book is by Dr Oates himself. Titled *Management — The Myth and the Reality*, Oates dispels at least some of the myths concerning child abuse and does us all (particularly children) a great service. He points out that intervention does not always help, that medical practitioners are not necessarily experts in the area and that removing the abused child from the family can sometimes be disastrous. He also emphasises the danger in the view that child abuse is equally distributed in all social classes. Not only does this view prop up a medical model view of abuse but it also flies in the face of the ever increasing evidence which links abuse with poverty.

In summary the book is good in dispelling at least some myths, in structuring child abuse around social forces and not solely in psychodynamic factors and in reviewing past policies and practices. It is weak in organisation, in presenting a true inter-disciplinary perspective, in revealing new facts or directions and in handling some traditional orthodoxies in the field. Whether you pay \$35 for the privilege of reading it, depends, I suppose, like child abuse itself, on your economic and social circumstances.

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#### TERRORISM IN EUROPE

Edited by Yonah Alexander and Kenneth A. Myers

London: Croom Helm, 1982

216 pp. — \$24.50 (hardcover)

Reviewer: GRANT WARDLAW, Criminologist, Australian Institute of Criminology

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According to one source there were nearly 4,000 domestic and international terrorist operations in Europe between 1970 and 1981. Between them they claimed some 1,464 lives, injured 2,834 people and caused damage estimated at \$500 million. Since 1970 over 200 terrorist groups have been active

in Europe. These figures make Western Europe the centre of contemporary political terrorism. As such, analyses of terrorist operations and government counter-terrorist measures in Europe should provide valuable insights for officials of other democracies faced with increasing levels of terrorism.

This volume seeks to provide a fairly broad look at terrorism in Western Europe, ranging from historical studies to descriptions of particular terrorist groups and of problems facing individual countries and the measures they have adopted to counter the terrorist threat. The result is vaguely unsatisfying in that, while the individual contributions are of a high standard, the book lacks an underlying theme or purpose and the reader merely flits from one topic (albeit interesting) to the next. Nevertheless, there is much of value in this collection.

The first two chapters take an historical perspective on aspects of terrorism — a perspective which is unfortunately under-emphasised in much writing in the area. Chapter One examines the place of terrorism in anarchist theory and practice in the late nineteenth century and also provides an excellent exposition on the origins of the concept of 'propaganda of the deed'. In the second paper, the motivation of individual terrorism is discussed but, while interesting, the work is weakened by a somewhat strained transition to problems of international law.

A paper by a member of the U.S. State Department's Threat Analysis Group provides a comprehensive coverage of the major terrorist groups and their activities in Western Europe, but the information will be familiar to those who study terrorism. The author attempts, too, to provide a functional classification within which to discuss the subject matter, but it is both too general (and, in places, too overlapping) to be particularly useful. The value of the chapter, however, lies in a useful analysis of why Western

Europe has the combination of conditions which make it such an attractive target for both domestic and international terrorism.

Two chapters deal with reasons for the emergence of terrorism as an internal problem in European societies. One, which deals with the Italian Red Brigades, starts by giving a useful reminder of the difficulties experienced by people from an American political tradition (and, by extension, an Australian one) in understanding the heavily ideological tradition of European politics. The author goes on to give a particularly good account of the fractionated nature of Italian politics and of the way it has historically arisen, and links this to the development of the Red Brigades (and, earlier, to the rise to power of the Fascists). By way of contrast, another chapter which seeks to explain the existence of terrorism in Germany is considerably less convincing, relying chiefly on debatable psychological theorising which this reviewer found had less explanatory value.

The remaining chapters deal with responses of various European governments to their terrorist problems. One contribution follows the involved negotiations which have taken place within the European Economic Community and the Council of Europe in attempts to secure regional agreements on terrorism and illustrates how weak such accords are when all the compromises have finally been reached. The legislative response of Great Britain to terrorism in Northern Ireland is discussed in another chapter which usefully summarises many of the arguments for and against such legislation as the Prevention of Terrorism Acts and the Northern Ireland (Emergency Provisions) Act. However, the reader would be advised to turn to other sources for comprehensive analyses of the Acts themselves. Finally, there is a chapter describing the problems involved in devolution of internal security from central police and

military resources to local control in the Basque region of Spain.

Overall, the chapters in this book are both scholarly and readable and provide some interesting insights into problems of terrorism in Western Europe. With the reservation about a lack of internal theme expressed earlier, it is certainly a book worth reading.

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WELL AND TRULY TRIED,  
Essays on Evidence in Honour of  
Sir Richard Eggleston

Edited by Enid Campbell and  
Louis Waller

Law Book Company, 1982

307 pp. — \$39.50 (hardcover)

Reviewer: IVAN POTAS, Senior  
Research Officer, Australian Insti-  
tute of Criminology

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As the title suggests, this book is a collection of essays published in honour of Sir Richard Eggleston in recognition of his contribution to legal scholarship. The first chapter, by Professor Louis Waller who is Sir Leo Cussen Professor of Law at Monash University and currently the Victorian Law Reform Commissioner, provides a brief biographical description of Sir Richard's contribution to legal scholarship supported by a select bibliography of Professor Eggleston's books and articles prepared by Mrs Gretchen Kewley. Then follows nine essays, each dealing with some particular aspect of the law of evidence.

The first of the substantive essays is an article by The Honourable J.J. Bray (formerly Chief Justice of South Australia) entitled 'The Increasing Vulnerability of the Presumption of Legitimacy: An Historical Survey'. This is followed by an article by Professor Enid Campbell entitled 'Principles of Evidence and Administrative Tribunals'. P.B. Carter, Fellow of Wadham College, Oxford, is the author of a short essay on Judicial Notice, and Professor D.W. Elliot (University of Newcastle-upon-Tyne) looks at the pros and cons of lie-detector evidence. Although

Professor Elliot gives special attention to the American experience, he concludes that the ultimate objection to the use of polygraphic evidence lies in a value judgment rather than from any lessons derived from the United States.

The next essay, 'Expediency and Truth-Finding in the Modern Law of Evidence', is by Mr Justice R.W. Fox. His Honour questions whether the evidentiary rules and the procedures of the adversary trial process are conducive to the ascertainment of truth and indeed argues that while truth seeking is a primary objective of the criminal trial process it is not the only one. 'It is also, and no less importantly, a ritual — a complex pattern of activity comprising. . . 'society's last line of defence in the indispensable effect to secure the peaceful settlement of social conflicts.' Truth is a casualty of the rules of evidence and of procedure and a revision of one may not be possible without a revision of the other.

Colin Tapper, Fellow of Magdalen College, All Souls Reader in Law, at Oxford, presents an essay entitled 'Proof and Prejudice' in which he examines the relationship between relevance and admissibility of 'similar fact' evidence. This article was published almost contemporaneously with the High Court of Australia's decision in *Perry* (16 December 1982) and both are critical of the reasoning in *Chee* [1980] V.R. 303. Those interested in similar fact evidence would benefit by reading Tapper's essay, *Perry* and also a second offering in the book under review entitled 'Multiple Courts and Similar Fact Evidence' by Mark Weinberg, Reader in Law, University of Melbourne. The latter essay is concerned with an analysis of the similar fact doctrine in the context of multiple count indictments. The author argues *inter alia* that in the absence of a similar fact nexus it may be preferable, in order to guard against erroneous persuasion, to opt for a series of short trials rather than proceed

with multiple charge trials. This is because the jury may have considerable difficulty deciding each count separately and without prejudice.

C.R. Williams, senior lecturer in Law, Monash University, presents an account of where the burden of proof lies (in both criminal and civil cases) and seeks to explain why it is placed on one party rather than upon the other. He begins by distinguishing the 'legal burden' of proof from the 'evidential burden' and quite rightly observes that the failure to distinguish between the two burdens has produced considerable confusion. Indeed the 'evidentiary burden' itself is an ambiguous term, sometimes meaning the burden of proof resting on the party who appears to be at risk of losing upon a particular point in the trial, while at other times it refers to the notion that unless the burden of adducing evidence on a particular issue is satisfied that issue will be decided in favour of the opposing party. The latter is a question of law, the former is often referred to as the 'tactical burden'. Only the 'tactical burden' 'shifts'. Then follows a review of leading cases with the conclusion that for civil cases the general rule is that the party with the legal burden also has the evidentiary burden.

Williams discusses the burden of proof in criminal cases, commencing with an analysis of the *Woolmington* principle, and concluding with the proposition that it is now a fundamental principle of the criminal law that the prosecution has the burden of proving every element of the crime charged. He argues that even where statutory or common law exceptions to this basic principle exist (such as provocation and insanity) steps should be taken to reverse this situation (a course taken already in the case of provocation in New South Wales), or else, in the absence of clear words in respect of statutory offences, any burden of proof placed on the accused

should be construed as meaning no more than the evidential burden (the legal burden remaining upon the prosecution).

There is also an essay by William Twining, Professor of Law, University of Warwick on 'The Rational Tradition of Evidence Scholarship'. Professor Twining describes his contribution as an 'exploratory general essay', 'a preliminary and summary statement of one theme in a projected historical and analytic study of Anglo-American evidence scholarship'. It is an article that is eminently readable and thought-provoking.

The Editors of this book have truly selected a most interesting collection of essays. However, it is of some regret that they did not include at least one essay upon the theme of Sir Richard Eggleston's own thesis in *Evidence, Proof and Probability*. Furthermore there seems to be a lack of any significantly controversial or radical contributions in the collection. Even so, legal practitioners, law reformers, teachers, students and criminologists alike will benefit from the essays that are presented. On the whole the essays are well written, interesting, informative, educative and constitute a valuable contribution to the literature on evidence and the trial process.

#### CRAWFORD'S PROOF IN CRIMINAL CASES

Edited by Reg Bartley  
Law Book Company, 1982  
271 pp. — \$22.50

Reviewer: BRUCE SWANTON,  
Senior Research Officer, Australian Institute of Criminology

Police officers throughout New South Wales will be pleased to learn that 'Crawford's Proofs', as the volume is popularly known, is still being published despite competition from newer publications such as Watson & Purnell's *Criminal Law in New South Wales*.

Still in a handy size, although slightly larger than its predecessor,

the fourth edition provides indictments, elements and case law in respect of major provisions of *Crimes Act 1900*, *Customs Act 1901*, *Prisons Act 1952*, *Poisons Act 1960*, *Marriage Act 1961* (re bigamy) and certain common law offenses. Unfortunately, the section contained in the third edition which dealt with trial notes and alternative verdicts, has been omitted in the latest edition. No doubt the editor felt the sacrifice was reasonable in view of the plethora of legal literature now available but, for police officers who can only afford a limited legal library the omission is regrettable.

Importantly, the text has been updated, especially with reference to the new group of sexual offences. By and large, this excellent tool for police officers (and others) has maintained the high standards provided by previous editors. The price, at \$22.50 is rather expensive but, even so, no working police officer will wish to be without a personal copy.

## Research grants

The Criminology Research Council is seeking applications for research grants from individuals and organisations for projects likely to produce results of relevance for the prevention and control of crime throughout Australia.

Projects designed to evaluate currently effective measures are particularly invited.

Application forms are available from Registrars of all Australian Universities or from the Assistant Secretary, Australian Institute of Criminology, P.O. Box 28, WODEN, A.C.T. 2606.

# Happenings

## THAI VISITORS

A group of senior Thai correctional officers on a 9 day study tour, visited some correctional institutions in Australia recently.

The purpose of the tour from February 27 to March 7 was to observe and study the correctional system in Australia.

At the request of the Director-General of the Thai Department of Corrections, Mr Dhavec Choosup, the Institute arranged for the officers to visit a number of correctional institutions including the Malabar Complex and Long Bay Jail in Sydney and Pentridge Prison in Melbourne.

While in Melbourne they also inspected Fairlea Women's Prison and spent half a day at an attendance centre.

In Canberra, the group visited the Remand Centre at Belconnen and paid a courtesy call on His Excellency, Mr Padung Padamasankh, the Ambassador of Thailand.



Director Mr William Clifford welcomes the delegation of Thai Correctional Officers on their arrival at the Institute. From L-R: Mr Sawas Sallaser, Superintendent, Bang Kwang Central Prison; Mr Alex Watt, Principal Programme Officer, AIC; Mr Somboon Siriluk, Director, Finance Division; Mr Samarn Raxbankird, Superintendent, Chacengzao Central Prison; Mr Suvish Chaisanehmuang, Superintendent, Ubol Ratchathani Central Prison; Mr Sommitr Voravad, Superintendent, Trang Provincial Prison; Mr Kobkiat Kasivivat, Penologist, Penology Division; and Mr William Clifford

## SYETP RECRUIT

Mr John Hengst joined the staff of the Institute in March as a temporary research assistant.

John, who will be at the Institute for 17 weeks has been employed under the Special Youth Employment Training Program (SYETP).

During his stay at the Institute, John will assist Senior Research Officer John Walker in compiling statistics on juveniles under detention for the National Prison Census as well as preparing other data drawings and graphs.

## HUMAN RIGHTS GUARANTEES

A new AIC booklet which contains the proceedings of the sixth United National human rights training course on *Human Rights Guarantees in the Administration of Criminal Justice* held at the Institute from 30 November to 18 December 1981.

The course was organised in cooperation with the Government of Australia.

Report on the United Nations  
Human Rights Training Course



Human Rights  
Guarantees in the  
Administration of  
Criminal Justice



AUSTRALIAN INSTITUTE OF CRIMINOLOGY

## INSTITUTE HONOURED BY VISITOR

Daniel Glaser, who took part in our featured seminar on research (page 7), spent the best part of a month at the Australian Institute of Criminology, consulting with staff and becoming familiar with their work.

Dr Glaser is Professor of Sociology at the University of California in Los Angeles. Prior to completing his Ph D at the University of Chicago in 1954, he worked 7 years for prison and parole agencies in the US Military Government of Germany.

He was then a professor at the University of Illinois for 14 years where he completed a major study of the US federal correctional system, reported in his book *The Effectiveness of a Prison and Parole System*, published in 1964 and in an abridged edition in 1969.

In 1968-70 he was Director of Research for the New York State Narcotic Control Commission. He has been at his present position since 1970.

Professor Glaser is a past president of the American Society of Criminology and has been on the editorial boards of numerous journals in sociology and criminology. He is the author of well over a hundred articles and chapters, and author or editor of 9 books, the last published being *Handbook of Criminology* in 1974 and *Crime in our Changing Society* in 1978.

# STATISTICS

## Australian prison trends

By David Biles  
Assistant Director (Research)

During the period November 1982 to January 1983 the numbers of prisoners in most jurisdictions decreased slightly with the exception of Western Australia and Tasmania which recorded increases. The numbers of prisoners in all States and Territories for January 1983 with changes since October 1982 are shown in Table 1.

Table 1 — Daily Average Australian Prison Populations January 1983 with Changes since October 1982

	Males	Females	Total	Changes since October 1982	
N.S.W.	3,322	144	3,466	—	2
VIC.	1,756	55	1,811	—	38
QLD.	1,574	42	1,616	—	32
S.A.	757	32	789	—	48
W.A.	1,437	87	1,524	+	80
TAS.	229	18	247	+	21
N.T.	215	11	226*	—	32
A.C.T.	45	5	50**	—	3
AUST.	9,335	394	9,729	—	54

\* 5 prisoners in this total were serving sentences in South Australian prisons.

\*\* 33 prisoners (including 1 female) in this total were serving sentences in New South Wales prisons.

Table 2 shows the imprisonment rates (daily average prisoners per 100,000 population), for January 1983. The national rate of 63.9 compares with 64.6 found in October 1982.

Table 2 — Sentenced Prisoners Received, Daily Average Prison Populations and Imprisonment Rates by Jurisdiction — January 1983

	Sentenced Prisoners Received	Prisoners	General Pop.* '000	Imprisonment Rates
N.S.W.	539**	3,466	5,350	64.8
VIC.	198	1,811	3,990	45.4
QLD.	282	1,616	2,424	66.7
S.A.	Not Available	789	1,331	59.3
W.A.	341	1,524	1,333	114.3
TAS.	26	247	431	57.3
N.T.	15	226	129	175.2
A.C.T.	—	50	229	21.8
AUST.	—	9,729	15,217	63.9

\* Projected Population at 31 December 1982 derived from *Australian Demographic Statistics Quarterly* (Catalogue No. 3101.0).

\*\* Comprising 310 fine defaulters and 229 sentenced prisoners.

Table 3 — Total Prisoners and Remandees as at 1 January 1983

	Prisoners		Percentage of Remandees	Remandees per '000 of General Pop.
	Total Prisoners	on Remand		
N.S.W.	3,463	664	19.2	12.4
VIC.	1,813	168	9.3	4.2
QLD.	1,574	124	7.9	5.1
S.A.	774	116	15.0	8.7
W.A.	1,492	125	8.4	9.4
TAS.	244	16	6.6	3.7
N.T.	225	35	15.6	27.1
A.C.T.	44	11	25.0	4.8
AUST.	9,629	1,259	13.1	8.3

## Juveniles under detention

Compiled by John Walker

Statistics on persons in Juvenile Corrective Institutions for the quarter ended 31 December 1982 are shown below. Definitions of terms used in the table can be found in the March 1981 issue of the *Reporter*.

Table 1 — Persons Aged 10-17 in Juvenile Corrective Institutions as at 31 December 1982

	Total	Detention Status			Reasons for Detention	
		M	F	Not Awaiting	Offender/Alleged Offender	Non Offender
N.S.W.	n 54.7 r 155.3	108 32.2	523	132	572	83
VIC.	n r		Not Available			
QLD.	n 97 r 59.1	19 12.1	69	47	95	21
S.A.	n 80 r 86.5	4 4.6	54	30	84	0
W.A.	n 76 r 79.8	9 10.0	75	10	85	0
TAS.	n 18 r 56.9	7 22.9	24	1	24	1
N.T.	n 13 r 144.0	2 23.1	11	4	15	0
A.C.T.	n 11 r 64.6	2 12.3	10	3	11	2
AUST.*	n 842 r 110.6	151 20.8	766	227	886	107

Note: Rates are calculated on June 1981 Census figures supplied by the Australian Bureau of Statistics.

\* Excluding Victoria.

## Asian and Pacific series

Compiled by David Biles,  
Assistant Director (Research)

Correctional administrators in the countries listed below have supplied the basic information which is incorporated in the following table. The footnotes contain a number of explanations that should be borne in mind when making comparisons between countries. For countries marked \* the data refer to 1 July 1982.

Table 1 — Total Prisoners as at 1 October 1982

	Males	Females	Total	Populations	
				('000)	Rate <sup>1</sup>
Australia <sup>2</sup>	9,366	349	9,715	15,153	64.1
Canada <sup>3</sup>	10,423	116	10,539	23,810	44.3
Fiji	833	25	858	650	132.0
* Hong Kong	5,179	160	5,339	5,233	102.0
Japan	51,806	2,009	53,815	117,880	45.7
* Malaysia	12,798	254	13,052	14,000	93.2
* New Zealand	2,528	107	2,635	3,135	84.1
Papua New Guinea	3,748	186	3,934	3,129	125.7
Singapore	2,620	131	2,751	2,410	114.1
* Thailand	64,018	3,109	67,127	47,000	142.8
Western Samoa	187	6	193	158	122.2

- 1 Per 100,000 of population.
- 2 Australian statistics in this table are based on the daily average number of prisoners for the month of September 1982.
- 3 Federal prisoners only.

## Probation and parole

Compiled by Ivan Potas,  
Senior Research Officer

The following table provides the number and rates of adult persons on probation and parole as at the 1 December 1982.

Table 1

	General Pop. <sup>1</sup>		Probation <sup>2</sup>		Parole <sup>3</sup>	
	'000	Number	Rates <sup>4</sup>	Number	Rates <sup>4</sup>	
N.S.W.	5,350	8,853	165.5	2,429	45.4	
VIC.	3,990	3,014	75.5	944	23.7	
QLD.	2,424	3,556	146.7	353	14.6	
S.A.	1,331	2,435	182.9	237	17.8	
W.A.	1,333	1,608	120.6	637	47.8	
TAS.	431	1,471	341.3	70	16.2	
N.T.	129	255	197.7	105	81.4	
A.C.T.	229	143	62.4	36	15.7	
AUST.	15,217	21,335	140.2	4,811	31.6	

- 1 Projected population at 31 December 1982 derived from *Australian Demographic Statistics Quarterly* (Catalogue No. 3101.0).
- 2 Only those under actual supervision are included in these data.
- 3 As a general rule licensees — other than Governor's Pleasure licensees are counted as parolees if supervised.
- 4 Rates are calculated per 100,000 of the general population.

### NEW SOUTH WALES

The probation figure includes 508 persons who were under the age of 18 years at the time of release to supervision. A further 728 persons were subject to *Community Service Orders*, and some of these are included in the probation figure.

The parole figure includes 540 licensees, of whom 191 were short-term licence-holders. (Short-term licences are issued if the prisoner is considered suitable for such release and is subject to either a head-sentence of 12 months or less or a non-parole period of 12 months or less.)

### VICTORIA

The *Community Service Order* program commenced operation in mid-September 1982. As at 1 December there were six persons subject to *Community Service Orders*.

### QUEENSLAND

The *Community Service Order* scheme commenced in Queensland on 1 March 1981. In preceding returns the cumulative figures for this disposition were published by mistake. The number of persons subject to the order as at 1 December 1982 was 562. Some of these are included in the probation figure.

### SOUTH AUSTRALIA

The probation figure includes 35 persons who were subject to *Community Service Orders*. The use of *Community Service Orders* in South Australia commenced on 1 July 1982.

With regard to parole it is advised that a further 28 persons received voluntary supervision in the community by the

Parole Services. A further 172 prisoners were supervised in prison.

### WESTERN AUSTRALIA

In Western Australia there was a total of 221 persons subject to *Community Service Orders*. 160 of these were also placed on probation and are included in the probation figure. Only 61 persons were subject to *Community Service Orders* without probation and these are not included in the probation figure.

There was a total of 714 pre-parolees in that State.

### TASMANIA

The probation figure includes 121 juveniles. It also includes 27 probationers from interstate. The parole figure includes 11 parolees from interstate.

### NORTHERN TERRITORY

The probation figure includes four out of a total number of 34 persons subject to *Community Service Orders*. The parole figure includes those on licence.

### COMMUNITY SERVICE ORDERS

The following table shows the number of persons subject to *Community Service Orders* (Work Orders in Tasmania) as at 1 December 1982:

#### *Community Service Orders*

N.S.W.	728
VIC.	6
QLD.	562
S.A.	35
W.A.	221
TAS.	371
N.T.	34
A.C.T.	N/A
AUST.	1,957

### CRIMINOLOGY RESEARCH GRANTS

The Criminology Research Council at its quarterly meeting in Canberra in March made grants for new research projects totalling \$21,700.

- \$8,900 was granted to Dr J. Braithwaite, Director, Australian Federation of Consumer Organisations, for a study of the place of prosecution in consumer protection. This research will examine prosecution policies in all Australian States and will examine new types of sanctions or remedies which could become available.
- \$8,000 was granted to Dr Arlene Morgan, Senior Lecturer in Psychology at the University of Queensland for an evaluation of an education program conducted by volunteers in the Brisbane Women's Prison.
- \$4,800 was granted to Mr R.A. Semmens, Senior Lecturer in Special Education at the Melbourne College of Advanced Education for an evaluation of the education and trade training programs in Victoria's youth training centres.

# PUBLICATIONS

## RESEARCH REPORTS

- David Biles  
*Car Stealing in Australia: Facts and Figures* – \$1.40 (150g)  
*Remand in Victoria: A Review of the Nature and Size of Facilities Needed* – \$4.50 (550g)  
*Women Prisoners in Victoria: A Review of the Nature and Size of Facilities Needed* – \$4.50 (400g)
- W. Clifford  
*Echoes and Hopes* – \$2.00 (300g)  
*Why is it Safer to Live in Tokyo?* – \$2.00 (550g)  
*Aboriginal Criminological Research* – \$2.85 (300g)  
*Cost of Imprisonment in Australia* – \$3.00 (350g)  
✓ *Rights and Obligations in a Prison* – \$4.50 (350g)
- William Clifford and John Braithwaite  
*Cost-Effective Business Regulation* – \$4.00 (250g)
- W. Clifford and J. Marjoram  
*Road Safety and Crime* – \$2.00 (400g)  
*Suicide in Western Australia* – \$2.00 (500g)  
*Suicide in South Australia* – \$3.00 (850g)  
*The Cost of Criminal Justice: A Preliminary International Survey* – \$2.00 (250g)
- Richard G. Fox  
*Research Guide to Criminology Material* – \$1.00 (400g)
- Andrew Hopkins  
*The Impact of Prosecutions Under the Trade Practices Act* – \$2.00 (300g)
- Anatole Kononewsky  
*The Cost of Criminal Justice: An Analysis* – \$2.30 (500g)
- Jeff Marjoram  
*Crime in a New Community: The Case of Tuggeranong* – \$1.50 (350g)
- Satyanshu K. Mukherjee  
*Profile of Federal Prisoners* – \$1.95 (300g)
- J.E. Newton  
*Factors Affecting Sentencing Decisions in Rape Cases* – 60c (150g)
- D. St. L. Kelly and Mary W. Daunton-Fear  
*Probation and Parole: Interstate Supervision and Enforcement* – \$1.40 (200g)
- Ivan Potas  
*Sentencing Sex Offenders in New South Wales: An Interim Report* – \$1.00 (600g)  
*The Legal Basis of Probation* – 60c (250g)  
*Sentencing Drug Offenders in New South Wales* – \$4.50 (300g)
- Ivan Potas and John Walker  
*Sentencing the Federal Drug Offender* – \$4.50 (800g)
- Bruce Swanton  
*The Nature and Scope of Police and Police Related Research* – \$1.00 (300g)  
*Australia's External Territory Police Forces* – \$1.00 (150g)
- Bruce Swanton, Garry Hannigan, David Biles  
*Police Source Book* – \$8.00 (600g)
- John Walker  
*Physical Planning and Crime in Canberra* – \$1.50 (200g)

## REPORTS ON TRAINING PROJECTS (No Charge)

- C.R. Bevan  
*Progress in Crime Prevention in Papua New Guinea*
- David Biles  
*Crime Prevention in Developing Areas*
- Philippa Chapman  
*Youth and Social Control*
- William Clifford  
*An Approach to Aboriginal Criminology*  
*Evaluation in the Criminal Justice Services*  
*Legal Control of Casinos*  
*Race Problems in ESCAP*
- Mary Daunton-Fear  
*Women as Participants in the Criminal Justice System*
- Col. G. Draper  
*Crime and Delinquency in Urban Areas*
- Mark Filan  
*Police Training in Australia*
- M.A. Kingshott  
*Juvenile Residential Care*  
*Alternatives to Imprisonment*
- John Newton  
✓ *The Magistrates' Court: 1975 and Beyond*
- John P. Noble  
*Women as Victims of Crime*
- Denbigh Richards  
*Crime Prevention: Planning and Participation in Geelong*
- Bruce Swanton  
*Criminal Justice Research Methodology*
- Arthur Veno  
*The Psychologist in Criminal Justice: An Australian Perspective*
- Allan Woodward (Editor)  
*Forensic Psychologists*

## OTHER PUBLICATIONS

- David Biles (Guest Editor)  
*Journal of Drug Issues, Vol. 7, No. 4, Fall 1977, Drug Issues: An Australian Perspective* – \$5.00 (350g)
- David Biles  
*The Size of the Crime Problem in Australia* – No Charge  
*The Size of the Crime Problem in Australia (2nd edition)* – No Charge  
*Criminal Justice Research in California* – \$2.00 (300g)
- W. Clifford  
*How to Combat Hijacking* – No Charge  
*Policing a Democracy* – No Charge  
*Crime Control in Japan* – \$21.95 (600g)  
*Planning Crime Prevention* – \$18.95 (450g)
- W. Clifford and L.T. Wilkins  
*Bail: Issues and Prospects* – \$2.20 (250g)
- Human Rights Guarantees in the Administration of Criminal Justice* – \$2.00 (200g)

# reporter

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