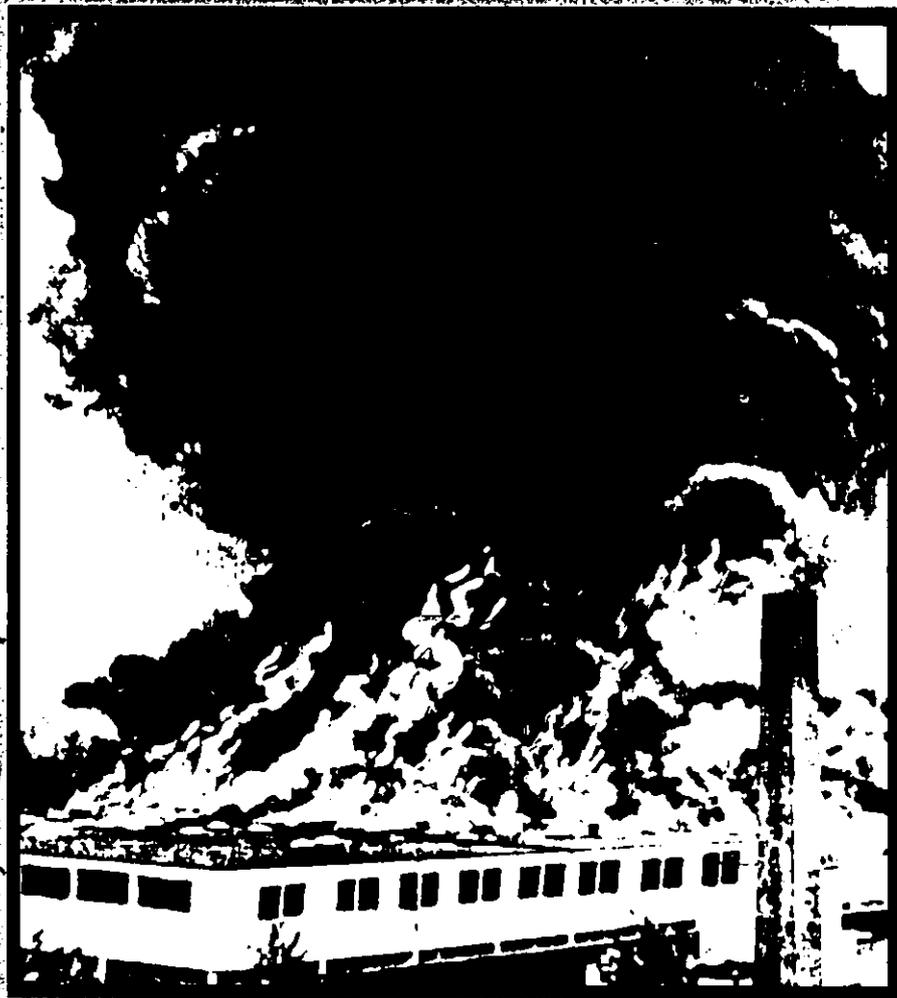


reporter



Arson

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(Publications continued inside back page)

COVER PHOTOGRAPH: Ways of countering deliberately-lit fires were discussed at the 'First National Conference on Arson' in Canberra from 26-29 April. See special feature story on page 8.

Another kind of crime summit

In a gracious Renaissance palazzo in Milan, Signor Clelio Darida, the Minister of Grace and Justice rose on 14 June to remind an audience of the world's most distinguished judges, lawyers and criminologists that Italy had vindicated democracy by winning its battles against terrorism without recourse to any of the emergency measures and restrictions of human rights that other countries had had to use. The losses had been grievous but the victory had been all the more gratifying because the government had resisted all efforts to resort to terrorist methods to defeat the terrorist groups at their own game. Now, he said, the lessons learned had permitted the authorities to turn their attention to organised crime. The Mafia in Sicily was already being harassed. And only a few days after the Minister had spoken, some four hundred alleged members or agents of the Camorra were arrested across the length and breadth of Italy.

Another speaker was Dr Guiseppe di Gennaro, the Director of the United Nations Fund for Drug Abuse who tried to convey to the assembly some idea of immensity of the world's drug problem which in some countries already threatened the existence of established government institutions. The Deputy Prosecutor General of Columbia had been sympathetic, while pointing out that it would require a force three times the size of the country's present army, navy and air force combined, to even hope to control the torrent of drugs inundating the market. In Bolivia there had been a public demonstration of 23,000 campesinos (farmers and country people) protesting against the UN Drug Fund and against his presence in the country as a foreigner trying to interfere with their livelihood. In some countries it could already be said that the government was really in the hands of traffickers.

Other speakers dealt with the tightening grip of transnational crime on tourism and trade, pornography, and internationally sponsored prostitution to a degree that already national governments were sometimes helpless because of the customary condition of international law and the increasing use of crime in politics. Everywhere the picture was one of transnational, corporate and organised crime not only succeeding but making itself respectable.

The occasion was a rare gathering of criminological resources with the best expertise the United Nations could mobilise in order to study 'Criminal Justice Processes and Perspectives in a Changing World', in preparation for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders to be held — at a venue yet to be fixed — in 1985.

However this particular International Congress in Milan was more than a preparatory meeting. It celebrated the 35th anniversary of the Centro Nazionale di Prevenzione e Difesa Sociale in Milan and was organised jointly by the Italian Ministry of Grace and Justice, by the Centro in Milan, and was held with the full collaboration of the United Nations. It was really a rare gathering of the 'big four' international non-governmental organisations with the United Nations to concentrate on a matter of world importance. The 'big four' are, of course, the venerable International Penal and Penitentiary Foundation (whose own international congresses go back to 1870), the International Society of Penal Law, the International Society of Social Defence and the International Society of Criminology.

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William Clifford

DIRECTOR'S DIGEST

When I became the first director of the Institute in 1975, there were no Director's Digests,* no research publications, no collections of data on Australia's national crime problem (all the allusions were to the US or the UK), no national figures for imprisonment (or for the disproportionate incarceration of Aborigines), no studies of sentencing, no analyses of policing, no historical accounts of crime trends, no manuals on political terrorism, no specifically Australian contributions to international criminology (though Australian criminologists were already established in other countries).

There was no precise information on the costs of criminal justice in Australia, no large studies of customary law, migrant crime, comparative juvenile justice, of comparative suicide, the changing picture of female criminality or of the treatment of federal drug offenders across the country. The economic and social planning implications of crime had received little or no consideration, evaluation was little understood and arson was rarely mentioned.

There was no close link of the Institute with police commissioners, judges, magistrates and with the ministers responsible at the commonwealth and state levels for criminal justice services. And few field workers had ever had the opportunity to meet with colleagues in the different states to develop better methods or to be brought into contact with research. Nor were there as yet any of the numerous local research projects

developed later under the auspices of the Criminology Research Council.

Indeed the Institute owed its existence to the appreciation of these lacunae by organisations such as the Australian Council of Social Service, the Australian and New Zealand Society of Criminology, and by far-sighted practitioners like Sir John Barry and Jock McClemens who were judges with a lively appreciation of the need for this work to be better informed. It was appropriate that Mr Justice Muirhead should have acted as Director of the Institute before my arrival. He was later President of the Australian Crime Prevention Council.

Yet what we have now at the Institute is only a fraction of what the country could have had if the recommendations submitted to a Labor Attorney-General in 1975 had been implemented over the years. They were approved; but before the establishment of 75 staff with sub-offices could be attained the attrition began – first with constraints deriving from the political situation in 1975 – then more penetratingly by successive lowerings of the staff ceilings between 1976 and 1982.

Finally, as most of our friends know, it became a struggle for survival, and I could only admire the way in which the staff of the Institute took all the knocks, refused to feel unappreciated, and struggled vehemently at times to maintain the standards so important in research and training. Remembering the distressing effects on morale and the inevitable brain drain from the Institute over those years it is truly remarkable to record now that they were years of extraordinary production –

quality production of a level internationally recognised.

In Australia they were years of achievement with working relationships being forged between the police, courts, prisons, universities and voluntary bodies to an extent difficult now to believe. If I look back on my UN service, I believe it is no exaggeration to say that I found that I needed more diplomacy to forge links between the separate Australian State agencies and Commonwealth instrumentalities than I had ever needed in New York to cement relationships between the diverse member states. The task in Australia had to be more personal and more appreciative of emotionally-charged resistances – not the least of which were as bureaucratic as they were political.

Essentially it involved the building of mutual respect and interdependence. Yet, during this period when crime in Australia was growing apace and beyond the reach of the traditional law enforcement services we were being run down. Eventually more was spent on a variety of *ad hoc* Royal Commissions to deal with abuses than on the positive reconstruction we proposed and which we could have achieved. It is not without chagrin that I recall being offered in the first weeks of my arrival a virtual campus to set-up a large university type institution. It was my decision to avoid invidious competition with universities and other state-agencies by developing a small, supporting, quality institution – and even that was now being considered too large.

Moreover, the reduction in staff was used to block the construction of a modest permanent building in

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* Mr W. Clifford retires as Director of the Australian Institute of Criminology on 31st August: this is his last Director's Digest for the Reporter.

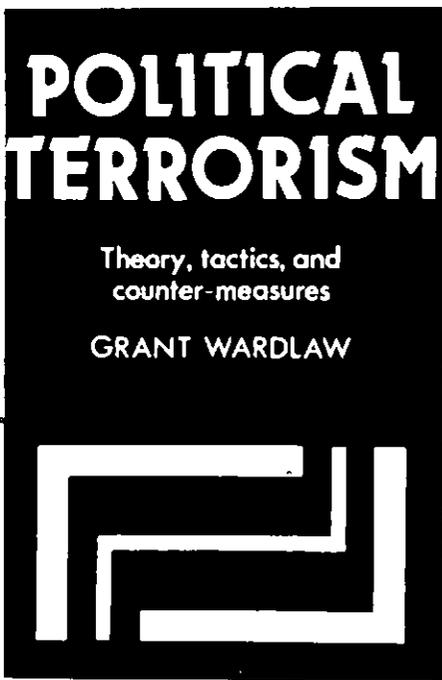
New book a valuable analysis

THE BOOK

This book aims to outline the important considerations of policy which confront a democratic state in trying to combat terrorism and at the same time remain democratic.

Part One provides the reader with a comprehensive introduction to the definition, history, theory, operation and effects of terrorism as an essential background to policy analysis. Part Two analyses counter-terrorist policies and looks at specific policy areas including the role of intelligence agencies, the use of the armed forces, and the development of anti-terrorist legislation.

Finally, an assessment is made of likely developments in terrorist activity and responses to it.



THE AUTHOR

Dr Grant Wardlaw is a Research Criminologist with the Australian Institute of Criminology where he specialises in research into terrorism, political violence, and public order. He is currently writing a book on public order policing and has written or edited a number of other books and journal articles in the fields of criminology, psychology, and strategic studies. He is a frequent lecturer and consultant in the fields of terrorism and public order policing.

The Special Minister of State, the Honourable M.J. Young, says that the police are, and should be primarily responsible for countering acts of terrorism in Australia; the military should be used only as a last resort.

Mr Young was speaking at the launching of Dr Grant Wardlaw's book *Political Terrorism*, at the Australian Institute of Criminology on 25 May.

Addressing guests including senior policemen, military personnel, security and intelligence officers and media, Mr Young said that an exaggerated reaction to terrorism could run the risk of leading to an erosion of civil liberties.

'In a free society we must strike a balance between the need to protect citizens and the danger of encroaching on their liberty', he said.

Mr Young told guests at the launch which was organised collaboratively by the Institute and the publishers, Cambridge University Press, that it was important for the Australian Government to keep its response to terrorism in perspective.

'The Commonwealth Government will do all it can to ensure that effective capabilities and contingency plans are established

to handle terrorist incidents when they occur', he said.

In his book, Dr Wardlaw also stresses that internal security, as far as possible, should be a police function.

Important to this argument was an understanding of the doctrine of 'minimum force *versus* maximum violence'.

The aim of minimum force which was the philosophy of the police, was to bring an end to a threatening situation with the minimum amount of personal and physical damage.

By contrast, the army was trained to apply the maximum force necessary to take an objective and eliminate the enemy.

'It seems obvious that in a society which is not accustomed to the sight of heavily armed detachments, on public-order duties supported by armoured vehicles and with little usual contact with the public, the army is unsuited both by training and doctrine to an internal security role.'

'A too eager invocation of military aid to the civil power could easily slip into repression, while too great a concern for democratic sensibilities could well produce a weak and vacillating response which eventually could



The author of *Political Terrorism*, Dr Grant Wardlaw pictured with the Special Minister of State, the Honourable M.J. Young



Dr Wardlaw is congratulated by the Honourable Mr Justice L.K. Murphy and the Assistant Director (Research), Mr David Biles

Institute researcher returns

Senior criminologist Dr Satyan-shu Mukherjee, returned recently to the Institute after holding a Visiting Fellowship for eight months from the Canadian Commonwealth Scholarship and Fellowship Committee.

Simultaneously with this Fellowship, from September 1982 to April 1983, he held a Visiting Professorship for a term at the Universities of Manitoba in Winnipeg and Alberta in Edmonton. At both universities he conducted graduate seminars on current issues in criminology and corrections.

During his stay in Canada, Dr Mukherjee gave several public lectures and conducted faculty seminars on such topics as intimate violence, domestic violence, crimes of youth, sex and crime, and the women's movement and crime, etcetera.

He also visited other universities in Canada and collected data for his study of 'Intimate Violence' from the police departments of Winnipeg, Edmonton and Calgary.

Dr Mukherjee also visited the University of Chicago Law School for consultations on this project. His entire trip, including salary, was financed by the Canadian Commonwealth Committee and the Universities of Manitoba and Alberta.

He also received a modest research grant, to cover travelling and living expenses for his study on intimate violence, from the Special Research Fund of the University of Alberta, Edmonton.

During his stay in Canada, Dr Mukherjee also completed a monograph on 'Age and Crime' for the Institute and another on 'Sex and Crime'. ®

lead to the destruction of democracy', Dr Wardlaw said.

My Young said that he was particularly interested in that aspect of Dr Wardlaw's book which discussed ways in which the media could escalate terrorist incidents.

'The demands and actions of the media can influence the development of the events they are reporting', he said.

Dr Wardlaw said that terrorists were well aware of the 'emotion-generating' aspects of news reporting and consciously scripted 'live-action spectacles'.

Media reporting of terrorist events had damaging effects and a form of self-regulation was necessary.

'Media practices frequently are lacking in taste, make resolution of terrorist incidents more difficult, and place lives in danger.'

These were reasons for restraint not censorship.

'But if the media do not exercise restraint, pressure may well build up for imposing censorship, as the hysteria about terrorism is increased or when a specific incident occurs in which media coverage has some demonstrable (or even plausible) link to a large number of deaths or injuries', Dr Wardlaw said.

'There is no present case for government regulation of the reporting of terrorism. However, the warning signs are there for the media to see', he said.

Mr Young said that Australia's relative freedom from the more extreme forms of terrorism was due partly to its distance from the world's central political arenas.

This gave Australia a chance to learn from experiences elsewhere in developing its approach to counter-terrorist measures.

Dr Wardlaw foresees an increasing possibility of an act of international terrorism taking place in Australia.

He believes that now is the time for public debate of major issues facing the Government in determining counter-terrorist policy.

'While much of the information about counter-terrorism should remain secret, there is a need for informed public debate on broad issues which will determine the sort of society we live in', Dr Wardlaw said.

The book outlines some of the major issues that should be debated.

Copies of *Political Terrorism* are available from the publisher, Cambridge University Press and from most bookshops (\$15.50).

Counting heads

The first national prison census was held as planned on 30 June 1982 with all jurisdictions participating. After exhaustive checking of the data, a report entitled *Australian Prisoners 1982 – Results of the National Prison Census 30 June 1982* was prepared by Mr Walker and Mr Biles, presented to the Ministers' Conference in May 1983 for approval, and published by the Institute.

The proposal for a national prison census first emerged at a correctional administrators meeting in Melbourne in September 1980 as an offshoot from a review of correctional statistics. Preliminary technical discussions were held in December 1980 and a formal proposal went to the Ministers Conference held in New Zealand in April/May 1981. There was agreement among administrators and Ministers that the results of such a census would be extremely valuable for management and planning purposes, for example in projecting future needs for facilities of various types, or for comparing the effects of differing parole policies. The results might also throw some light on sentencing practices in different jurisdictions, and would be invaluable to practitioners and researchers in a wide variety of areas including the judiciary, criminologists, and behavioural scientists.

The authors of the report,¹ John Walker and David Biles, first held numerous lengthy and animated meetings with representatives of the state corrections departments to try to find common ground in terms of definitions and objectives. Some states, for example, normally include police-lockups in their list of gazetted prisons – others don't. Some can identify Federal prisoners (that is, those sentenced for breaches of Commonwealth legislation) – others can't. Some states use the 'standard' classifications developed by the Australian Bureau of Statistics for general information such as marital status, educational attainment and employment status, and for classifying the most serious offence for which the prisoner has been convicted – and others don't. The task of determining what information could be obtained from such disparate sets of filing systems was highly complex. Some jurisdictions decided to augment their official file information by individual interview of the prisoner. Even so, some interesting and useful questions, including the whole area of juvenile institutions, had to be left in the 'too hard' basket for this census at least.

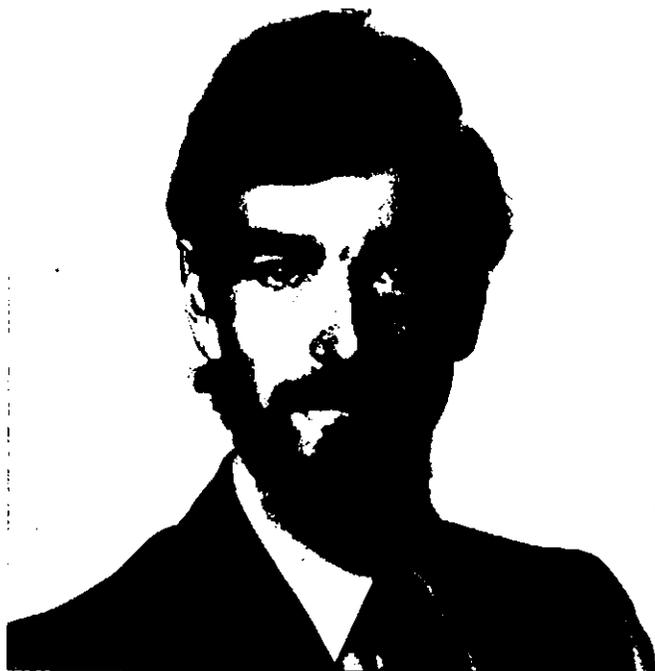
Complex problems

Even where no difficulties attached to data acquisition, there were problems of definition. For example, prison sentences are generally reserved for offenders whose crimes have been serious, numerous or both. Persons who are charged with such crimes, but not yet convicted, and those who have been convicted but not yet sentenced, may also be held in prison. A large proportion of persons held in prison

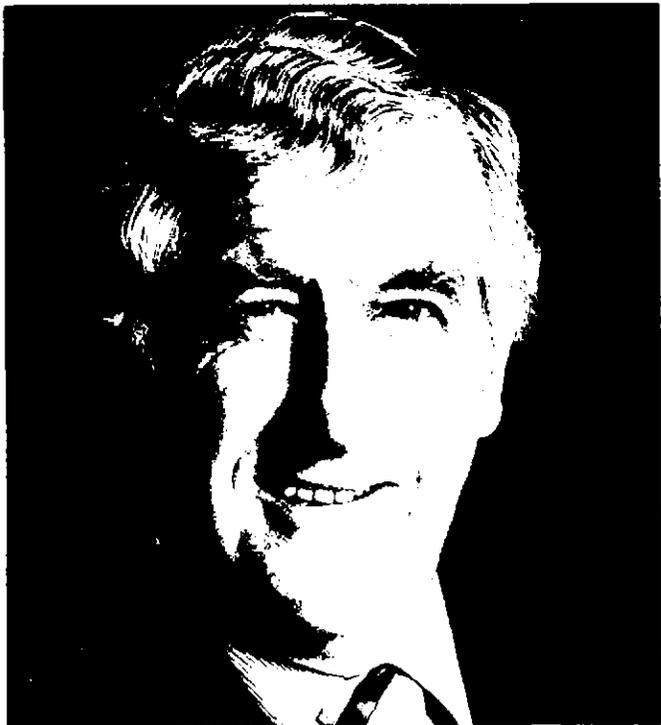
fall into more than one category as a result of their being charged or convicted for a number of offences. Information on the precise nature of charges laid, offences proven and sentences handed down for each individual prisoner is held on file in correctional establishments but is far too voluminous and complex to be used for administration policy purposes and totally defies tabulation. The problem is to simplify the information without seriously corrupting the content, and central to this was the determination of the 'most serious offence'. An example helps to explain the difficulties presented by this concept:

The (hypothetical but not atypical) prisoner was received on remand 5-1-77 for Break, Enter and Stealing (three counts) and Larceny of a Motor Vehicle. Sentenced on 28-1-77 to two years for B.E.S. and one year concurrent for L.M./V. with non-parole period to expire 30-11-77. On 23-3-77 further sentenced to four years for Armed Robbery to commence from 23-3-77, new N.P.P. to expire 23-3-79. Released to parole on 23-3-79 he was revoked on 30-3-79 and returned to prison on 15-4-79. A further charge of Larceny M/V was heard on 25-4-79 and he was sentenced to six months from that date. He was re-paroled on 1-11-79. He was again revoked on 1-2-81 following arrest for Attempted Rape. A sentence of three years was passed on 20-3-81 to date from 1-2-81, N.P.P. to expire on 1.2.83.

This was considered to be all one episode with the most serious offence being Armed Robbery for which he was under sentence of four years. His date of receipt into prison was 5-1-77 and his earliest date of release 1-2-83.



Mr John Walker



Mr David Biles

Collecting the data

A successful pilot run was carried out in February 1982 with most jurisdictions taking a 10 per cent sample of prisoners. No serious problems were encountered either in the data-collection phase, which was carried out by the individual departmental offices, or in the computation of results, which was performed at the Institute by John Walker. So it was agreed, at the meeting of correctional administrators in Alice Springs on 23-24 February, that the first full census should go ahead on 30 June 1982, and that planning should proceed with the expectation that similar censuses should be taken in future on a regular basis.

The information collected in this census was of three basic types:

1. General information on the demographic and social characteristics of the prisoners: age at census date; sex; Aboriginality; state/country of birth; last known address (coded to local authority level); marital status and employment status at receipt date; current educational attainment; and known prior adult imprisonment.

2. Information on the legal status of the prisoners: the nature of the offence(s) or charge(s) for which the person is in prison; the institution at which held; the date of receipt into the prison system in this episode; the level of court of sentencing or of most recent remand in custody; and the precise current legal status of the prisoner.

3. For prisoners actually serving a sentence, details of the sentence(s) being served: the type of sentence (for example, life, fixed term, fine, default etcetera); the number of offences for which sentenced; the

sentence relating to the most serious offence; the aggregate sentence; the date sentence commenced; and the earliest date of release.

Tabulating the Results

The results were received from the state departments in various forms: coded onto questionnaires, on magnetic tapes, or directly from computer to computer (in the case of West Australian data). A lengthy editing process ensued, which discovered one Czechoslovak-born Aborigine and a two month old male on a charge of rape amongst other coding errors, and when editing was complete the entire set of tables, together with the text and some of the diagrams, was typeset using the Institute's link to the CSIRO Cyber computer.

The statistics contained in the report are presented in three parts:

Part A, Summary Tables: which show the basic characteristics of prisoners, their offences and sentences, and enable comparisons by sex and jurisdiction. (Where appropriate, tables of percentages, rates per 100,000 relevant population and graphic representations have been included).

Part B, Cross tabulations by Most Serious Offence, in which aggregated figures for all jurisdictions combined are presented.

Part C, Interstate Comparisons of Legal Status and Sentence Lengths, in which the legal status of offender, the sentence for most serious offence, the aggregate sentence and expected duration of imprisonment (calculated as the time between date of receipt and earliest date of release) are shown classified by most serious offence for each jurisdiction.

Some of the Highlights

The report shows that there were 9,826 persons in prison on 30 June 1982, of whom 9,491 were male and 335 were female. More than half of the prisoners were in the age range 20 to 29 years. Only 7.2 per cent of males and 6.0 per cent of females were over 45 years of age.

The census showed that 35.0 per cent of male prisoners and 32.2 per cent of female prisoners were unemployed at the time of their arrest or charge, but these percentages could be an under-statement as employment status was not known in all cases.

Approximately 80 per cent of the prisoners were born in Australia, and very small percentages were recorded for prisoners born in other countries, the most significant being the United Kingdom, New Zealand, continental Europe, the Middle East and Asia in that order.

A total of 1,049, or 10.7 per cent of the total, prisoners were classified as Aborigines or Torres Strait Islanders, but for 18.6 per cent of the total, including all Queensland prisoners, race was not recorded for the census. In the general Australian

population there are approximately 1.2 per cent Aborigines and Torres Strait Islanders.

The census showed that 8.3 per cent of the males and 14.3 per cent of the females were unconvicted persons remanded in custody while awaiting court appearance or trial, and these proportions varied considerably between jurisdictions. A further 1.4 per cent of the males and 1.5 per cent of the females had been convicted, but were remanded in custody while awaiting sentence. A total of 995 prisoners were remandees not under sentence and, of these, 30.7 per cent of the males and 16.3 per cent of the females had been on remand for over three months. Nineteen males and two females had been on remand for more than 12 months.

All prisoners were classified according to the most serious offence for which they were sentenced or, in the case of remandees, charged. The most common offences for male prisoners were: breaking and entering, 17.1 per cent; robbery, 13.1 per cent; homicide, 10.7 per cent; theft, 10.3 per cent; and sex offences, 9.8 per cent. For female prisoners the most common offences were: drug trafficking, 15.9 per cent; homicide, 14.3 per cent; fraud, 10.7 per cent; robbery, 10.4 per cent; and breaking and entering, 10.4 per cent. (See Figure 1).

or charged with, assault. New South Wales and Victoria also had higher proportions of prisoners sentenced or charged with robbery than other jurisdictions. South Australia, Western Australia and the Northern Territory were shown to have proportionately more prisoners sentenced or charged for good order offences, such as offensive behaviour, than the other jurisdictions.

Policy implications

At the present time it is too early to guess what impacts the Census might eventually have on correctional policies in the various jurisdictions, however some statistics revealed by the Census clearly have important policy implications, particularly since we know that it costs somewhere in the vicinity of \$15,000 per annum to keep a prisoner in jail. For example, the Census found that the percentage of prisoners whose most serious offence is a traffic offence varies from three per cent in one jurisdiction to over 20 per cent in another. Additional policy implications were raised by the fact that over 40 per cent of unconvicted prisoners in some jurisdictions have been on remand for over three months, while in other jurisdictions the figure is only four per cent. Even more profound questions follow from the fact that Aborigines constitute about half of those in jail for offensive behaviour, about one seventh of all prisoners, and yet only one in 80 of the total Australian population. Statistics such as these often have policy implications far beyond the corrections departments themselves, and at the very least it is certain that they increase our understanding of the economic and social costs of imprisonment, which are among the prime concerns of researchers in the criminal justice system.

And back to square one

Even before the 1982 census report was printed and published, the working party was reconvened to discuss the 1983 census, which will as a result of the working party's deliberations, have taken place by the time you read this article. Some changes have been made to avoid complications which arose in the coding of legal status and sentencing information, however the majority of the data will have been collected in the same form in 1983 as it was in 1982. The body of information which grows out of these annual censuses should be invaluable to a wide range of students and practitioners of our prison systems — as indeed is indicated by the speed with which half our original print run of the report has already gone. And we hope that, as more experience is gained, it will become less of a full-time 'painting the harbour bridge' type of job.

1. *Australian Prisoners 1982: Results of the National Prison Census, 30 June 1982*, Walker, J. and Biles, D., Australian Institute of Criminology, Canberra, 1983. ©

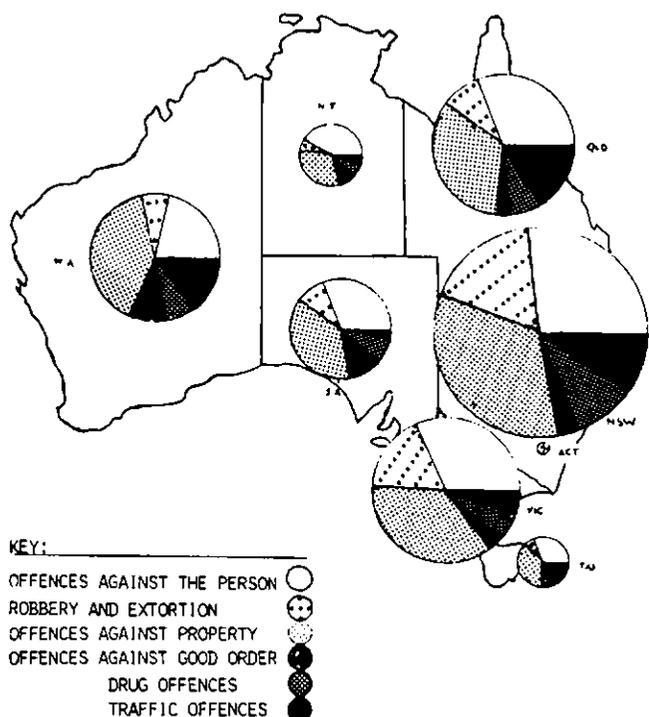


Figure 1 — Number of Prisoners by Most Serious Offence and Jurisdiction

Some interesting differences between jurisdictions in offence patterns were noted with, for example, Tasmania and Queensland having proportionately more driving offenders in prison than other jurisdictions, and the Northern Territory having a higher than average proportion of prisoners sentenced for,

National plan needed to fight arson

The Federal Government will be asked to play a greater role in the prevention of deliberately lit fires.

This was decided by delegates to the first national conference on arson organised by the Australian Institute of Criminology from 26-29 April.

Delegates voted for the establishment of a federally funded national body to coordinate an Australia-wide counter-arson plan, and called on the federal and the state governments to acknowledge the costs to the community and the economy of deliberately lit fires.

The federal government will be asked to accept responsibility in the following ways:

- The Australian Bureau of Statistics to be responsible for producing meaningful fire statistics from information supplied by State Fire Authorities through the National Fire Incident Reporting Scheme.
- The resources of the A.C.T. Fire Brigade and the Australian Federal Police to be made available for the establishment of a National Fire Investigation Course based in Canberra and open to fire brigade, police, insurance, and other component bodies.
- The Australian Institute of Criminology to be asked to continue its interest, training activities and research on arson and to convene a similar conference in the future to review progress.
- To fund research into forensic technology connected with arson.

ARSON ARSON ARSON ARSON ARSON

At the official opening of the conference at the National Press Club, the Governor-General Sir Ninian Stephen said that more than 1,000 fires a year were deliberately lit in Victoria and New South Wales.

One fire in every four in Australia was the result of arson, and one in every four dollars paid out

in fire insurance claims amounting to about 120 million dollars a year is believed to be paid out on intentionally caused fires.

Sir Ninian welcomed over 100 delegates from the fields of insurance, police, fire-fighting, forensic science, law and politics. Over the next three days, 21 papers were delivered and discussed.

ARSON ARSON ARSON ARSON ARSON

In his keynote address to the conference, the Director of the Australian Institute of Criminology Mr William Clifford, said that the problem of arson was one that ought to be tackled more by the community rather than by law enforcement.

There was a need to create a public awareness of the seriousness of the crime of arson.

'We need more quality than quantity in police numbers and more public cooperation to make things work', he said.

Mr Clifford warned against increasing bureaucracies in police, fire brigades and insurance by adding more manpower and said that funds were needed to launch nationwide arson-awareness programs to warn potential arsonists that they would be ostracised by the community as well as prosecuted.

'Arson is to crime what sadism is to rape. It is becoming as much a corporate as an individual crime, and is as assisted by corruption in official quarters as say, illegal gambling, prostitution or the drug trade.'

Mr Clifford said that it was no accident but a 'sign of the times' that in the United States and in Australia there had been more than a 400 per cent rise in crimes of arson in recent years.

There was a danger that arson may become institutionalised in society as just another convenient way of ripping off the public.

However, 'the worm had partly turned' in the United States where people had organised vigilante patrols to protect their properties from arsonists.

Delegates attending the first working session of the conference at the Hellenic Club of Canberra were told by the Victorian Minister for Police and Emergency Services, Mr Race Mathews, that quantifiable losses from the Ash Wednesday bushfires — most of which had been deliberately lit — had been estimated at more than 150 million dollars.

'As a government still in its first year of office, we found that the armoury available to us for dealing with this sombre situation was ill-stocked', he said.

Deficiencies in the law made it difficult to apprehend and convict firebugs.

'In the face of the most desperate fire danger most of us can remember, a person caught red-handed lighting a bushfire was released on bail. Another person convicted on charges arising from the lighting of bushfires was let out on a two-year good behaviour bond', he said.

The police had taken action to proceed against firebugs on summons and the Country Fire Authority Act contained no provision for the offence of malicious fire-raising.

The only offence was lighting a fire in the open on a day of total fire ban.

Victorian law was being amended to imprison persons caught lighting fires maliciously during the fire danger period.

Only recently Victorians were appalled that fires in schools had caused damage estimated at one million dollars.

Research over three years from 1971 to 1974 had shown revenge as the most common reason.

Mr Mathews said that Australia needed to mount a national campaign against arson to bring home the gravity and size of the problem.

ARSON ARSON ARSON ARSON ARSON

Mr Mathews' New South Wales counterpart, Peter Anderson, suggested that school children should be educated in responsible attitudes towards fire in much the

same way as they were taught sex education.

He told the conference that it was no secret that children were attracted by fire and were frequently blamed for lighting them.

'The growing incidence of fires in schools has tragic results on the education of our young people who don't lose only a building, but books, examination notes, drawings and even their sense of security', he said.

Arson is the fastest growing and most costly crime in the Western world. It has cost Australia over 800 million dollars in the past year and has increased by over 500 per cent in the last decade.

The community needed to be educated in the fight against arson.

'Members of our society can no longer afford to adopt an ostrich-like attitude of burying their heads in the sand', Mr Anderson said.

Mr Anderson outlined several immediate challenges. These were:

- Governments must be prepared to cooperate in the detection and apprehension of arsonists;
- The criminologist's task must be to explore the phenomena of arson and tell us more about what motivates the crime;
- The insurance industry must explore ways to ensure that 'arson does not pay' working closely with police;
- There needs to be a greater public awareness of the problem;
- The community must be made to understand the costs, both financial and social; and
- Technology must be improved to prevent, detect and reduce the incidence of arson.

ARSON ARSON ARSON ARSON ARSON

Mr R. Bennett, President of the Loss Adjusters of Australia called for a uniform approach in combating arson in Australia.

The present situation did not present the answer because state agencies such as police and fire services saw their roles in a different light.

'I have heard the police say that their duty is to apprehend a person who has broken the law, so why should they concern themselves with crime prevention?'

Firemen often regarded their duty as simply one of extinguishing the fire.

'What we see are groups of people whose efforts are fragmented and duplicated to such an extent that they often impede the progress of each other', he said.

This only serves to destroy expertise, breed frustration and discontent, and plays directly into the hands of the arsonist, Mr Bennett said.

Mr Bennett said that arson enquiries often took second place to cases of murder, rape etc, and rated low in priority within some police departments.

ARSON ARSON ARSON ARSON ARSON

A better awareness of the rights which insurers had ought to lead to an improvement in the manner in which fire claims are investigated, Melbourne solicitor, Mr Peter Coldbeck said.

Insurance companies could resist payment of a claim by exercising their basic rights under the policy and at Common Law.

Today it was not appropriate for an insurer to proceed on the basis that only if the police got an arson conviction would the claim not be paid.

'Insurers, mindful of their rights, and having collected the necessary information and being properly prepared, should be determined to fight and not to settle', he said.

'Because of the differences in the standard of proof required in criminal and civil matters, the same evidence given against the insured on a prosecution may be insufficient to justify a conviction and yet in the civil action be sufficient to satisfy the Court on the balance of probabilities, that the insured was responsible for setting the fire', he said.

Mr Coldbeck stressed that the legal rights of the insurance industry did not count for anything

unless they were properly exercised. The insurers' cases needed to be properly prepared and presented.

'It is one thing for the insurer to be suspicious, but quite another to prove those suspicions even on the balance of probabilities', he said.

ARSON ARSON ARSON ARSON ARSON

Ms Jane Evans, the Chairman of the Resource Committee of the Insurance Council of Australia Ltd, broke down the estimated costs of arson to Australia.

The costs included a police estimate of 120 million dollars, a total insured loss of 360 million dollars, and a cost to the community of 480 million dollars.

She said that the problem of arson was being complicated by a lack of reliable figures.

This would be remedied through the introduction of standard terminology and a standard reporting form, which had shown that the problem cost the United States 21 billion US dollars a year.

'I believe it is essential for all agencies involved in combating arson to come to grips with the political, social, and fiscal costs of this crime', she said.

She grouped the motives of arsonists under three headings: behavioural, criminal, and political/social.

A recent study had found vandalism to be the most common motive for arson in the United States but no research had been done in Australia to establish how many deliberate fires were caused by vandals.

She said that Australian police were inadequately equipped to cope with arson.

Only one state, Victoria, had had an arson squad for any length of time.

New South Wales and Queensland police had set up arson squads over the past two years and the Tasmanian police were in the process of doing the same.

The other states and territories had no specialist arson squads.



LEFT: The Honourable Mr Race Mathews, Victorian Minister for Police and Emergency Services

ABOVE: Solicitor, Mr Peter Coldbeck

RIGHT: Delegates pictured during the first working session of the conference at the Hellenic Club of Canberra

RIGHT: Pictured during a break in the conference proceedings are the Director of the Institute, Mr William Clifford and the Governor-General, Sir Ninian Stephen

CENTRE RIGHT: The Governor-General, Sir Ninian Stephen opening the 'First National Conference on Arson' at the National Press Club

FAR RIGHT: The Governor-General of Australia (seated far left) is introduced to conference delegates by the Chairman of the Board of Management of the Australian Institute of Criminology, Mr A.C.C. Menzies, O.B.E.

BELOW: The Honourable Mr Peter Anderson, New South Wales Minister for Police and Emergency Services



RIGHT: Detective Inspector A. Anderson, Arson Squad, Victoria Police

CENTRE RIGHT: Inspector L. Noonan, Arson Squad, New South Wales Police





ABOVE: Dr Caird Ramsay, CSIRO, Division of Building Research, Melbourne



RIGHT: Mr Rodney Smith, Chief Executive, Insurance Council of Australia Ltd.

BELOW: Mr M. Pallavicini, Chairman of the N.S.W. Standing Committee on Arson



She said that the resources of Australian police forensic laboratories were insufficient to cope with the problem of arson.

Australian fire brigades were lacking appropriate fire training and support equipment and the insurance industry also needed to marshal its own resources effectively.

Ms Evans said that the various Standing Committees on Arson had done much to pave the way and had recognised some time ago that arson was not merely a problem for the police, fire brigades or the insurance industry.

ARSON ARSON ARSON ARSON ARSON

Arson had become a guerilla war in the streets of our cities, the Head of the New South Wales Fire Brigade Arson Investigating Division, John Boath told the conference.

'Only by changing community attitudes are we going to be successful in what is guerilla war against those whose weapons are fire and petrol', he told the seminar.

Mr Boath hit out at the community attitude toward arson.

'The Ned Kelly syndrome prevails. If someone can burn down a house or a building that's insured, collect the insurance money and get away with it. . . good luck to him is what people say.'

'We should educate people that arson is a cost that hits every single individual in the pocket whether the fire occurs in their own back yard or 3,000 kilometres away across the nation', he said.

Fire-fighters had to adopt a more positive approach as a first step in a campaign to change attitudes generally.

Mr Boath called for the setting up of a national arson committee as a coordinating point for information on arson trends and on arsonists, and for an Australia-wide public education campaign to 'reinforce the repulsive nature of the crime of arson'.

He also called for increased training for fire-fighters in arson

detection and for either a national training program or for Australian fire-fighters to be sent overseas for detailed study and training in the field of countering arson.

ARSON ARSON ARSON ARSON ARSON

Public apathy would continue to contribute to the proliferation of the crime of arson, Mr Lloyd Johns told the seminar.

Mr Johns, the Director and Chief Executive of the South Australian Country Fire Services Board said, 'The crime of arson continues to be tolerated by a largely indifferent society which is really not interested until it affects them personally.'

He told the conference that there had been a rising groundswell from fire, law enforcement and insurance agencies dismayed at the leniency of penalties imposed by the courts in cases of arson.

'The penalties provided are quite ample but the penalties imposed frequently belittle the seriousness of the crime. Is the judiciary really serious about playing their part in combating arson; do they really see the crime as it has become?', he questioned.

Detecting arson was only the tip of the iceberg, bringing the offenders to justice was the name of the game.

Mr Johns listed problems and difficulties facing rural fire investigators. The main problems at a national level was the absence of a Central Data Base facility.

At a state level there was a lack of adequately trained investigators to meet the growing demand of the crime.

A positive sign in the fight against arson was the formation in South Australia of a State Arson Committee.

ARSON ARSON ARSON ARSON ARSON

Ms Robyn Houghton, President, Queensland Chapter, The Association of Risk and Insurance Managers of Australia discussed ways in which arson could be controlled by risk management.

She explained that the goal of risk management was to protect assets and profits by reducing the potential for loss before it occurred.

'Arson is a steadily increasing phenomenon and its threat must be handled the same as any other risk - it must be identified, analysed, evaluated, and either transferred or accepted, and the results monitored', she said.

Ms Houghton explained in detail each step in the risk management process and listed some steps that could be taken to deter the arsonist. She warned that it was no longer possible to gamble on the chance that an organisation would be spared the 'ravages of arson'.

'If management fails to initiate and maintain a risk management program, the results could be costly in terms of dollars and cents, but even more so in terms of human lives', she said.

ARSON ARSON ARSON ARSON ARSON

The conference was told by Dr Caird Ramsay that fire investigators needed to 'get their act together'.

Dr Ramsay, from the CSIRO Division of building Research in Melbourne, said that the detection of firebugs relied heavily on investigation and data collection.

'The Australian Standard A.S 2577 'Collection of Data on Fire Incidents' should form the basis for the reporting of all fire investigations and data collection in Australia. The role to be played by the various fire investigation groups also need to be defined', he said.

Because firemen were in a better position to recognise fires of a suspicious origin, they should alert the police and forensic science units.

Greater cooperation from the fire brigades and the police would also allow the insurance companies to play a more positive role.

Dr Ramsay suggested the setting up of a specialist Fire Unit to upgrade present investigation communications and data collection procedures.

The absence of reliable statistics is hampering the investigation of arson in Australia, a private fire investigator, Mr John Thomas, told the conference.

Australia was being forced to look at overseas trends to see what the future held. He said that not only had arson reached alarming proportions in Australia, but it had become a growth industry.

'Arson is one of the most difficult offences to prove but a measure of justice can be achieved by insurance companies taking a firm stand with suspicious fire claims.'

'Another preventative measure would be to appoint the loss adjuster and the fire investigator from day one.'

'One might anticipate that the fraud/arsonist will soon give that insurer a wide berth leading to more stable premium rates for legitimate policy holders', he said.

ARSON ARSON ARSON ARSON ARSON

A growing number of children were involved in the deliberate setting of fires in the United States, a Tasmanian policeman, Sergeant R. Martin, told the conference.

Most were under 21, and school buildings were the most common target, accounting for one-fifth of malicious fires.

Arson had increased dramatically overseas in recent years. Figures showed that incendiary fires in the United States from 1965-75 had increased 325 per cent.

In Canada, losses rose from 23.6 million dollars in 1966, to 125 million dollars in 1977, and in Britain, fires cost 35 million pounds in 1975.

In many countries arson was recognised as a national problem and received multi-levelled efforts aimed toward its solution.

'Australia must develop a close liaison between all agencies and emulate successful overseas programs', Sergeant Martin said.

He suggested the establishment of a National Fire Academy; the

formulation of uniform laws and regulations throughout Australia; the use of uniform terminology in Australia; extensive fire and police officer training programs; a computerised nationwide intelligence system; and that consideration be given to the formation of an Arson Task Force in each state.

Sergeant Martin said that arson was being increasingly recognised as a major social problem which was considered by many to be the most costly crime in the world today.

'Until recently, it had traditionally been given a low priority by the community, law enforcement, and fire control agencies', he said.

Sergeant Martin said that the signs were that arson as a crime was increasing and that Australia was experiencing a significant growth in arson for profit.

'Only in recognising that arson has an effect on the whole community can we hope to develop the expertise required to combat this growing menace to society', he said.

Arson was now regarded as serious a crime as murder and rape in the United States.

It had been added to Index I crime in America and was reported on in the Uniform Crime Reports of the Federal Bureau of Investigation.

ARSON ARSON ARSON ARSON ARSON

Figures presented to the conference by Mr M. Pallavicini, Chairman of the New South Wales Standing Committee on Arson, showed that in the US over 119,000 cases of arson had been reported to police in 1980-81.

This meant that one case of arson was committed in America in just under every four and a half minutes.

By comparison, an arson case in Australia would happen once every 64 minutes.

Dr Pallavicini said that the total social consequences of arson to the community would be those losses which were able to be measured in monetary terms and those

of a mental/psychological kind.

Other social consequences of arson caused breakdowns in social values and behaviour. It was to be assumed that society seemed to have accepted certain forms of crime.

'The death penalty has generally been abolished, sentences have become more lenient, gaols have become too small, and at times it might appear that the public is not interested in the social consequences of crime', he said.

Unless this trend is reversed, the outcome for the Australian community may prove to be horrendous', Mr Pallavicini said.

ARSON ARSON ARSON ARSON ARSON

Other papers presented were:

- *The History, Present and Future of Science in Fire Investigation*, Dr P.J. Thatcher, Norman McCallum Science Laboratory, Melbourne;
- *Arson in New South Wales*, Inspector L. Noonan, Arson Squad, New South Wales Police; and
- *Investigation of Vehicle Fires*, Detective Inspector A. Anderson, Arson Squad, Victoria Police. ®

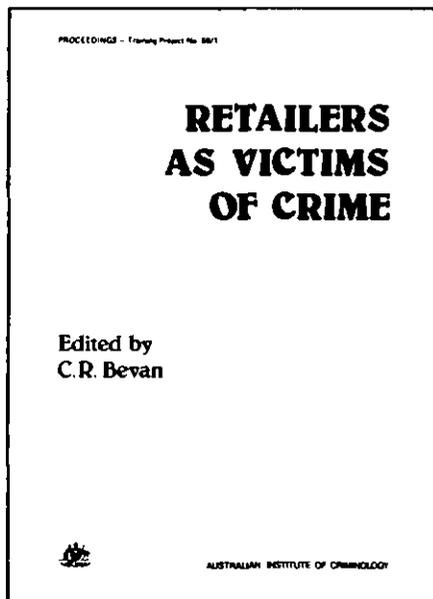
Research grants

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.

New publications



Retailers as Victims of Crime is a collection of papers presented to a seminar organised by the Training Division of the Australian Institute of Criminology from 9-12 November 1982.

The seminar was attended by 49 participants from all states and the Australian Capital Territory and comprised police, magistrates, researchers, statisticians, lawyers, and security and personnel managers from all of the larger, and some of the smaller retail firms in Australia.

The book, edited by the Institute's Assistant Director (Training), Mr Colin Bevan, contains papers which examine the incidence of all forms of criminal activity directed at the retail industry including customer theft, employee theft, robbery and burglary, credit card fraud, and loss occasioned by delivery and refunding rackets.

Plenary discussions followed the presentation of each paper.

Copies of *Retailers as Victims of Crime* are available from the Publications Section of the Institute at \$4.00 per copy plus postage.

Cont. from page 1

Participation was by invitation only, and Mr W. Clifford, the Director of the Australian Institute of Criminology, having been invited but seeing no likelihood of attending officially, took personal leave in order to be present. Russia and Japan sent two criminologists each, Yugoslavia, Roumania, Argentina and Brazil, one each. The UN Research Institutes in Rome and Helsinki were represented. The Home Office in London, the Max Plancke Institute in Freiburg, and the Cairo Institute for Social and Criminological Research were all present. The Council of Europe, the Scandinavian Criminological Research Council and the American Correctional Association as well as the Centre for Comparative Criminology in Montreal were all in attendance. Nor was this a festival of so-called 'mainstream' criminology. The radicals were represented — notably by Louk Hulsman, the iconoclastic professor of law at the University of Rotterdam and a number of Scandinavian mavericks. Both capitalist and socialist countries combined in this review of crime as it affected their different systems.

The President of the Supreme

Court of the Ivory Coast along with a Nigerian forensic psychiatrist represented Africa. Finally the Congress was graced by the participation of Mrs Leticia Shahani, the Assistant Secretary-General for Social and Humanitarian Affairs who carries *inter alia* responsibility for the UN's Crime Prevention and Criminal Justice Branch. She not only opened the proceedings on behalf of the Secretary-General but stayed for the week — and towards the end of the deliberations she reminded the Congress in a separate, personal intervention that crime matters at the UN assemblies and councils aroused nothing like the interest of delegations as did subjects like women, youth, or the handicapped. She, as Assistant Secretary-General, was therefore handicapped in obtaining the mandates needed to deal with the matter of crime more effectively at the international level.

Mr Clifford, who followed Mrs Shahani, pointed out that this apathy about crime in UN assemblies and commissions was a direct consequence of the historical exclusion of Ministers of Justice or of Ministers of the Interior from routine UN proceedings.

While their cabinet colleagues each had a UN agency which they helped to direct via their membership of the governing councils of such agencies there was nothing comparable at the UN level to deal with crime: and the UN congresses at five-year intervals were certainly not enough to deal with the enormity of the problem now emerging. Police, court, and correctional matters inevitably received short shrift, and government delegations to the UN usually had no experts to deal with crime questions when these arose. The general legal qualifications of some foreign office staff were not enough to cope with such issues. A perpetuation of such structural incapacity at international and national levels might mean that the ineffective administrations could be accused of more crime promotion than crime prevention.

Whatever happens in the future with the mobilisation for crime prevention, with the establishment of crime commissions, or with the restructuring of services at the national level, it will be myopic to overlook the international dimensions of modern crime explored at Milan. No nation is an island when it comes to crime. ®

PAPERS PRESENTED AT TRAINING PROJECT No. 28

The Role of Psychologists in the Criminal Justice System

Edited by
Grant Wardlaw



AUSTRALIAN INSTITUTE OF CRIMINOLOGY

The Role of Psychologists in the Criminal Justice System was released following a seminar conducted by the Australian Institute of Criminology in January 1982.

The seminar, which was attended by psychologists from all over Australia, was planned by the Australian Psychological Society to allow psychologists working in correctional or forensic areas to meet on a national basis.

Its aim was to provide a broader perspective and understanding of the roles of psychologists in the fields of courts and corrections.

The book, edited by criminologist Dr Grant Wardlaw, contains a collection of papers presented to the seminar covering topic areas such as the roles of correctional psychologists within prison systems, the roles of forensic psychologists in courts of law, and the role of the psychologist in hostage negotiation.

The wide cross section of psychologists who attended the seminar enabled the subjects to be discussed fully.

Each speaker examined an area of major importance and placed it before the others to obtain the benefit of comment from psychologists outside his or her immediate field.

The book is expected to provide a broad perspective and understanding of the roles of psychologists in the settings discussed to facilitate communication and to raise relevant issues for discussion.

Copies of *The Role of Psychologists in the Criminal Justice System* are available from the Publications Section of the Institute at \$4.00 per copy plus postage.

REVIEW OF AUSTRALIAN CRIMINOLOGICAL RESEARCH

1983

Edited by
David Biles



Australian Institute of Criminology

Review of Australian Criminological Research 1983, edited by David Biles is the report of the third biennial research seminar conducted by the Australian Institute of Criminology.

The seminar, conducted from 22-25 February 1983, brought together police officers, correctional services personnel, lawyers, probation and parole officers, and forensic scientists who were themselves engaged in criminological research projects.

The bulk of this report comprises the summaries of nearly 40 papers presented to the seminar.

Participants at the seminar comprised recipients of grants from the Criminology Research Council, the Institute's own research staff, and staff from other research organisations.

Distinguished American criminologist, Professor Daniel Glaser from the University of Southern California, presented the keynote address on pitfalls of criminal justice evaluation which is reproduced in this report.

The seminar was opened by the Director of the Institute, Mr William Clifford, who spoke on the problems of research into Aborigines and the criminal justice system. His paper on this subject is the first in this volume.

A questionnaire survey which was used in an attempt to evaluate the seminar is included as Appendix B of this report.

Copies of *Review of Australian Criminological Research 1983* are available from the Publications Section of the Institute at \$3.75 per copy plus postage.



In a recent light-hearted article, *Canberra Times* (31 March 1983), legal correspondent Crispin Hull accused Ivan Potas and John Walker of producing 'circular twaddle' in their report, *Sentencing the Federal Drug Offender*. Part of his article went as follows:

They said you could use the computer to prescribe sentences. "All that is required is certain specific items of information."

Circular twaddle. When the computer is used, what does the judge get? Merely a summary based upon what was *judicially determined* in the first place, namely the average time added or subtracted to a sentence for given factors in past cases. The study itself shows that without the use of the computer the judges have come up with consistent sentences. This proves there is no need for a computer.

Worse would be the result of consistent use of the computer. The computer data is based on judges' sentencing behaviour. But the criminologists want the judges to base future sentencing behaviour on the computer. And so it goes on. Sentencing would become static, despite changes in community attitude for heavier or lighter penalties.

Moves to computer-assisted penalty assessment must be stopped.

In the following article John Walker replies in kind:

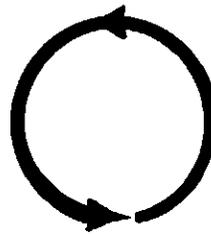
Basically Mr Hull is almost correct — he only omitted to mention one crucial paragraph of our report.

You see, we built a computer model of how sentencing decisions are arrived at in certain cases within the Australian legal system (or, in de-jargonised terminology, we described in detail the way this particular part of the system works). As everyone knows, our legal system uses 'precedents' — that is when determining sentence in a case against, say, Mr A, the judge looks at previous cases with circumstances similar to Mr A's case. He then assesses whether Mr A should be dealt with more severely, more leniently or about the same

Circular twaddle?

as the defendants in those previous cases. Subsequently, judges facing similar cases will, in theory, consult those same precedents, plus the new precedent — that is, that of Mr A's case. If these subsequent judges omitted to take account of Mr A's case, sentencing in such cases would always be tied to 'pre-Mr A' legal philosophies. Any check on consistency of sentencing which used those original cases as a set of norms would then, of course, involve an essentially circular argument. (See Figure 1).

Figure 1:
Circular argument



But neither legal practice nor our model is quite so silly. Crispin Hull's amusing article at our expense relies entirely on a failure to notice the final paragraph on page 97 of our book, which states:

To be workable the model would need to be modified from time to time by incorporating the most recent decisions. This would ensure a dynamic sentencing system, retaining all the flexibility of the current system while helping to reduce the frequency of unjustified disparities in sentencing. The model would therefore be guided by the judges' decisions themselves, and the judges' decisions in turn would be assisted by the model.

Thus our model fairly reflects actual judicial practice in that they both allow for (indeed demand!) the continual incorporation of the most recent cases into their 'databases'. This allows judges to determine new legal philosophies as conscious departures from previous practice based on a comprehensive and considered study of previous cases. Although the starting point of sentencing deliberations is always a consideration of previous cases, it is not a static set of cases and the result is not the sterile and stationary circular argument depicted in Figure 1, but the constantly expanding body of case-law as depicted in Figure 2.

Figure 2:
'Ideal' Model of
Case-Law
Development



The difference between the historical approach followed by lawyers and our approach is one of speed, efficiency and cost, rather than one of substance. The computer can handle larger numbers of cases, and take into consideration larger numbers of factors much more quickly than can lawyers: they also don't overlook cases through shortage of time; they don't overlook relevant factors through lack of perception.

On their own, computers can do nothing. Similarly, left on their own, the lawyers' approach inevitably looks more and more like Figure 3 as they overload their brains and their bookshelves with case-histories. The result of this

Figure 3:
Current Model
of Case-Law
Development



overload is the ever-growing cost of litigation as expensive lawyers argue about facts: facts which could often be determined at the push of a button. How many costly appeals, for example, boil down to whether the sentence handed down was commensurate with similar cases?

Mr Hull's article begins to look unfortunately like the knee-jerk reaction of vested interests, that is the lawyers' well-known aversion to change. Should the law continue to proceed at snails' pace, and slug the customer into the bargain, or should it be a little more receptive to new ideas — even to the extent of systematising case-law and storing it efficiently, and reading the conclusions of research reports?

I rest my wig, M'lud.

®

BOOK REVIEWS

CRIME, JUSTICE AND UNDER-DEVELOPMENT

By Colin Sumner (Editor)

Heinemann Educational Australia Pty. Ltd., 1982: 345 pp. — \$62.40

Reviewer: WILLIAM CLIFFORD, Director, Australian Institute of Criminology

This book is a collection of the revised versions of some of the papers presented to the 1979 Cambridge Criminology Conference on crime and justice in the third world. Perhaps not all the participants were of the same mind — for although this is a radical text some of the chapters do not precisely fit the mould.

The editor tries to set the tone. He says of the book that 'it is about *capitalism* and the forms of crime and justice it begets' (Preface xii), and he divulges his own interest in crime and justice in the third world as stemming from 'methodological criteria and substantive problems (concerning the global dialectic) of Marxism rather than from the need to develop radical criminology as such'.

The expected polemics are there, notably the final chapter written by James Brady on 'The Revolution Comes of Age'. This adulation of Cuba gives one a *deja vu* feeling. There were so many accounts of this type written in the 1930s on law and justice in Russia — some by people who later recoiled from Stalinism. Similarly sympathetic observers were pleased with the obvious justice in China until the 'Gang of Four' was deposed. Brady's last sentence of the chapter — and of the book

Justice is in the end a political question, not a legal one; it can be answered only through an ambitiously democratic socialist revolution.

leaves one wondering whether this is really criminology at all. We have the usual assurances of 'drastic reductions' in crime since the revolution with which the socialist countries used to preface their interventions at all UN Congresses on Crime. Lately with more of

their own professionals in the field they have become slightly more circumspect.

The editor would doubtless retort that of course this is criminology but not *orthodox* criminology; and as one of the 'orthodox' writers on developing countries who merit doubtful mention in the first chapter, I might be forgiven for retaliating by using the undisguised Marxism to warn off any readers who might buy the book hoping to find any wholesome orthodox criminology.

This would be unfair however. There is a substantial baby in this bath water and some of the chapters do indeed develop themes that are more integral to non-Marxist criminology than the editor might believe. For instance, Peter Fitzpatrick's discussion of 'The Political Economy of Dispute Settlement in Papua New Guinea' is a useful and searching analysis of the Village Courts. His treatment of leadership and the role of authority is particularly relevant not only to the third world but to many of the modern 'community' solutions to minor crime which are being advanced as alternatives to the criminal justice system. Local community gatherings to hear cases informally have inevitable disadvantages if relied upon too much. So as Fitzpatrick says,

people become resentful. . . and perceive the local court as an instrument of the elite and as another in the succession of state forms of coercion and control.

This resentment is a more general reaction than might be supposed. I would suggest that he talks sometime to Russians about the comrades courts or to Indians about the panchayat. There was a time when the UN was campaigning for informal rather than formal tribunals — then it recoiled as it began to appreciate how quite ordinary people sometimes felt about them. Because it is not only colonialism that imposes new systems at the neighbourhood level!

In an earlier chapter Paliwala

highlights the conflict which is general in Africa as well as in the Pacific between rather better educated youth and the less educated elders who run the informal courts. This conflict has already washed out customary law altogether in some parts of Africa. Snyder's article on the creation of customary law in Senegal suggests that so called customary law was a colonialist construction. This is not as simple a process as he makes it sound; but it is true that some customary law was a marriage of the old and new. The Urban Native Courts in Zambia for example, were a deliberate and undisguised attempt to evolve a new common law. Nor is the distortion of custom by colonisation a discovery of modern critical analysis. It is as much a function of the dynamism of custom as of the economic interests of colonisers. Appointed assessors of custom and tradition were constantly warning of changes in conceptions of custom at the tribal level. It emerged too when an anthropological investigation of ritual murders in Basutoland in the 1950s revealed that the British policy of 'indirect rule' to ostensibly preserve tribal custom and authority had led to its destruction by delegating to chiefs all kinds of autocratic power which they had never had before. Sadly there were not enough trained criminologists at that time to make more profound investigations.

Most impressive I thought were Janet Bujira's study of prostitution in Nairobi and Birkbeck's account of property crime amongst the poor in Cali, Columbia. These are genuine attempts to understand 'deviance' without politicising it. Birkbeck shows the poor to be as victimised as the rich and the criminals as being in favour of a tough policy to deal with criminals. Bujira finds prostitutes as active and integrated participants in the local community. She does not find them either as victimised or degraded as others have supposed. In her view, they do not belong to the lumpenproletariat. Both these

authors discover a functionalism in the forms of behaviour they respectively investigate which needs to be far more widely understood.

I am happy to recommend this book therefore not to the general but to the discriminating reader who will know how to sift the political chaff from the criminological wheat.

LITIGATION: EVIDENCE AND PROCEDURE (Third Edition)

By M.I. Aronson, N.S. Reaburn and M.S. Weinberg
Butterworths, 1982: 828pp. — \$42.50 (soft cover)

Reviewer: IVAN POTAS, Senior Research Officer, Australian Institute of Criminology

This book, as the authors point out in their Preface, is primarily intended for students studying what variously is described as 'litigation', 'evidence' or 'civil and criminal procedure'. Those interested in criminology should note that the book includes civil as well as criminal practice and procedure and therefore covers a far broader field than that encompassed by a consideration of the criminal justice (pre-trial and trial) systems along. The authors have wisely arranged their material in chronological order beginning with a brief overview of the civil and criminal courts systems, followed by a chapter on 'Preliminary Discovery, Causes of Action and Parties'.

They have undertaken an ambitious task by providing 'an exposition of the main principles of procedure and evidence for all Australian jurisdictions' and in this edition have added a reference to Federal Court Rules. However, the attempt to cover all jurisdictions is a two-edged sword. On the one hand, it adds an unnecessary degree of complexity for the student who is concerned with the law of one jurisdiction only. Indeed the size of the book itself, over 800 small print pages, must present a daunting prospect for law students undertaking the course —

particularly when it is remembered that there are copious references to outside sources, and that the extracts of cases and statutory materials are often barely adequate substitutes for referring to the primary sources themselves. On the other hand, the book encourages a more critical comparative approach to learning, and in this regard may be treated as a plus in the task of imparting basic principles or concepts to students. Good lecturing will be required to make best use of this book and the wise student will also supplement his or her reading by referring to the more readable but perhaps less comprehensive book *Cross on Evidence* (2nd Australian Edition) by Gobbo, Byrne and Heydon and perhaps also by referring to *Cases on Evidence in Australia* (3rd Edition) by E.J. Edwards.

The material is presented in the usual style of legal casebooks — that is with commentary and illustrative extracts from leading cases on topics under discussion. Criminologists will find the chapters on 'Arrest', 'Search and Seizure', 'Police Questioning and its Evidentiary Consequences' and 'Bail' helpful. Civil libertarians will also be interested in this material as well as in other chapters such as 'Obtaining Evidence' and 'Proof-Burdens, Standards and Shortcuts to Proof'. Indeed the chapters dealing with procedure for obtaining evidence from the accused during the trial process have special significance for those who presently contemplate the setting up of crime commissions and the like.

This reviewer would like to have seen a chapter on the evidentiary problems associated with sentencing, but, subject to this reservation, the book is a truly comprehensive one that, apart from its obvious value to law students, provides a useful research tool that deserves a place in the library of Australian criminologists.

Cont. from page 2

the national capital. Even the Institute's value for rationalising and streamlining the enormous amounts being spent on law and order was being ignored. An accountant's view of the immediate costs was preferred to an economic view of the value of an unexploited resource.

Still, within the limits imposed, the quality output was maintained and the Institute made its mark both nationally and internationally. Clearly none of this would have been possible without a devoted team of workers whose personal careers were tied to the prestige and success of the Institute. Looking back I believe they have good reason to be proud even though some of them, more conscious of the inevitable divisions and problems of a small organisation, have tended to underrate the amount they were able to accomplish. Certainly I am proud of them all and grateful for their loyalty which has sustained me in difficult times. I've leaned heavily, too, on staunch friends of the Institute in the judiciary and the criminal justice administrations throughout the country. They are too numerous to list here but they have made more of a contribution to our national effort than they will ever know.

Now a new era in Australian criminology is opening with an Attorney-General renowned already for his championing of human rights. The criminological roots have been planted in heavy weather. It now seems likely that raised consciousness about the extent of crime will enable the Institute to fulfil its destiny under less pressure. It is appropriate therefore that at this juncture a new Director should have the opportunity of injecting new vigour and maybe a change of direction to take advantage of prevailing winds. I welcome my successor with congratulations and assurances of my continued interest and support — from wherever I happen to be in the years ahead.

STATISTICS

Australian prison trends

By David Biles
Assistant Director (Research)

During the period February 1983 to April 1983, the numbers of prisoners in all jurisdictions except Tasmania and South Australia recorded marked increases. The numbers of prisoners in all States and Territories for April 1983 with changes since January 1983 are shown in Table 1.

Table 1 - Daily Average Australian Prison Populations April 1983 with Changes since January 1983

	Males	Females	Total	Changes since January 1983
N.S.W.	3,362	151	3,513	+ 47
VIC.	1,808	71	1,879	+ 68
QLD.	1,666	49	1,715	+ 99
S.A.	752	33	785	- 4
W.A.	1,485	94	1,579	+ 55
TAS.	197	11	208	- 39
N.T.	244	11	255*	+ 29
A.C.T.	51	3	54**	+ 4
AUST.	9,565	423	9,988	+ 259

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

** 37 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 April 1983. The national rate of 65.0 compares with 63.9 found in January 1983.

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

	Sentenced Prisoners Received	Prisoners	General Pop.* '000	Imprisonment Rates
N.S.W.	780**	3,513	5,482	64.1
VIC.	267	1,879	3,994	47.0
QLD.	205	1,715	2,425	70.7
S.A.	Not Available	785	1,335	58.8
W.A.	332	1,579	1,342	117.7
TAS.	44	208	429	48.5
N.T.	20	255	130	196.2
A.C.T.	-	54	231	23.4
AUST.	-	9,988	15,368	65.0

* Projected Population end of April 1983 derived from *Australian Demographic Statistics Quarterly* (Catalogue No. 3101.0).

** Comprising 400 Fine Defaulters and 380 Sentenced Prisoners.

Table 3 - Total Prisoners and Remandees as at 1 April 1983

	Total Prisoners	Prisoners on Remand	Percentage of Remandees	Remandees per '000 of General Pop.
N.S.W.	3,534	622	17.6	11.3
VIC.	1,873	146	7.8	3.7
QLD.	1,722	168	9.8	6.9
S.A.	781	125	16.0	9.4
W.A.	1,542	132	8.6	9.8
TAS.	208	11	5.3	2.6
N.T.	246	44	17.9	33.8
A.C.T.	43	7	16.3	3.0
AUST.	9,949	1,255	12.6	8.2

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 1 March 1983.

Table 1

	General Pop. ¹ '000	Probation ² Number	Rates ⁴	Parole ³ Number	Rates ⁴
N.S.W.	5,451	8,807	161.6	2,475	45.4
VIC.	3,992	2,838	71.1	835	20.9
QLD.	2,413	3,909	162.0	422	17.5
S.A.	1,333	2,350	176.3	243	18.2
W.A.	1,338	1,286	96.1	618	46.2
TAS.	428	1,438	336.0	61	14.3
N.T.	129	287	222.5	97	75.2
A.C.T.	230	141	61.3	43	18.7
AUST.	15,314	21,056	137.5	4,794	31.3

1 Projected population end of February 1983 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 528 persons who were under the age of 18 years at the time of release to supervision. A further 813 persons were subject to *Community Service Orders*, and some of these are included in the probation figure.

The parole figure includes 655 licensees, of whom 240 were short-term license-holders. In general, short-term licenses 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

Different counting methods have been used in Victoria since 1 January 1983, and this has resulted in a reduction in the level of figures for probation and parole. Probation data are now only collected quarterly, and figures for the intervening months were obtained by interpolation. The parole figure does not include persons supervised from interstate. As at 1 March there were 21 persons subject to *Community Service Orders*.

QUEENSLAND

The number of persons subject to *Community Service Orders* as at 1 March 1983 was 644. Some of these are included in the probation figure.

SOUTH AUSTRALIA

The probation figure includes 55 persons who were subject to *Community Service Orders*. With regard to parole it is advised that a further 23 persons received voluntary supervision in the community by the Parole Services. A further 176 prisoners were supervised in prison.

WESTERN AUSTRALIA

There was a total of 145 persons subject to *Community Service Orders*. Of these, 93 were also placed on probation and are included in the probation figure. Only 52 persons were subject to *Community Service Orders* without probation and these are not included in the probation figure. There was a total of 713 pre-parolees in that State.

Happenings

TASMANIA

The probation figure includes 134 juveniles. It also includes 22 probationers from interstate. The parole figure includes 12 parolees from interstate. There was a total of 414 persons subject to *Work Orders*.

NORTHERN TERRITORY

The probation figure includes five out of a total number of 28 persons subject to *Community Service Orders*. The parole figure includes those on licence.

COMMUNITY SERVICE ORDERS

The following table shows the number of persons and rates per 100,000 of the general population who were subject to *Community Service Orders (Work Orders in Tasmania)* as at 1 March 1983:

	Number	Rates
N.S.W.	813	14.9
VIC.	21	0.5
QLD.	644	26.7
S.A.	55	4.1
W.A.	145	10.8
TAS.	414	96.7
N.T.	28	21.7
A.C.T.	Not Applicable	Not Applicable
AUST.	2,120	13.8

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 October 1982.

Table 1 — Total Prisoners as at 1 January 1983

	Prisoners		Populations		Rate ¹
	Males	Females	Total	('000)	
Australia ²	9,506	377	9,883	15,153	65.2
*Canada ³	10,423	116	10,539	23,810	44.3
Fiji	759	19	778	650	119.7
Hong Kong	5,658	193	5,851	5,288	110.6
Japan	52,309	2,085	54,394	117,880	46.1
Malaysia	13,097	274	13,371	14,000	95.5
New Zealand	2,523	130	2,653	3,135	84.6
Papua New Guinea	4,417	256	4,673	3,163	147.7
*Singapore	2,620	131	2,751	2,410	114.1
Sri Lanka	9,876	287	10,163	14,848	68.4
Thailand	70,614	3,468	74,082	47,500	156.0
*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 December 1982.

3 Federal prisoners only.

TRAINING DIVISION'S ACTIVITIES

Seminars on the drawing board for the immediate future include:

11-12 July: 'Computers and the Courts' to be conducted at the Institute in Canberra.

3 August: A seminar for Heads of Missions and Charge d' Affaires in Canberra entitled 'International Economic Crime'.

16-19 August: 'Exploring the Alcohol & Drug Crime Link — Society's Response' to be held in collaboration with the N.S.W. Drug & Alcohol Authority at the University of Sydney.

13-16 September: 'Aborigines and Criminal Justice' to be held at this Institute in Canberra.

In addition and interwoven there are to be meetings and workshops requested by the Retailers' Association of Victoria to follow-up the seminar titled 'Retailers as Victims of Crime' conducted by this Division in November last year.

The Institute's Assistant Director (Training) Mr Col Bevan is to attend a workshop on arson organised by the Insurance Council of Australia. It is to be held in Melbourne from Sunday 4 to Wednesday 7 September, and to be addressed by Mr John Barracato, Director of the Arson and Fraud Unit, American Reinsurance Company (a subsidiary of Aetna Casualty and Surety Company). Mr Barracato's visit to Australia has been sponsored by American Reinsurance.

Mr Bevan is also to attend and deliver a paper to the forthcoming biennial conference of the Australian Crime Prevention Council to be held in Brisbane from 5-9 September this year.

CRIMINOLOGY RESEARCH GRANTS

The Criminology Research Council at its quarterly meeting in Perth in May made grants for new research projects totalling \$18,570.

- \$11,070 was granted to Mr D. Challinger, Chairman of the Criminology Department, University of Melbourne. The research, which will be conducted by Dr J. Hendtlass, under the supervision of Mr Challinger, will document and assess the effectiveness of a radio campaign conducted in Melbourne which encouraged members of the public to report cases of suspected illegal drug use.

- \$7,500 was granted to Ms W. Sarkissian, Part-time Lecturer at Macquarie University. This research will provide guidelines for environmental crime prevention in subsidised medium-density housing in Australia.

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)
- John Walker and David Biles
Australian Prisoners 1982 — \$3.00 (400g)
- Grant Wardlaw (Editor)
The Role of Psychologist in the Criminal Justice System — \$4.00 (500g)

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)
- Bruce Swanton
A Chronological Account of Crime, Public Order and Police in Sydney 1788-1810 — No Charge

reporter

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