

# A

## **Aboriginal Peoples in Canada and Australia: Parallel Histories, Parallel Lives?**

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Indigenous Australians and Canada's First Nations people share colonial histories. Both were colonies of England for more than a hundred years. They were subsequently dominated by white settler societies and cultures. In both countries, British occupation resulted in the large-scale dispossession of indigenous traditional land. The forced resettlement of indigenous people in Australia and Canada nearly resulted in the destruction of indigenous communities and cultures. There were social policies that contributed to the further the disenfranchisement of indigenous peoples such as the residential schools in Canada and the missions in Australia. In both countries, the term "stolen generation" of indigenous children that populated these schools and missions can be applied.

In contemporary Australian and Canadian societies, because of English colonialism and the residual effects of previous colonial policies and also of the effects of recent criminal legislation and social policies on indigenous people, indigenous Australians and Canada's First Nations peoples are similarly over-represented in the welfare and criminal justice systems. Experiencing the same high-degrees of arrests, imprisonments and offences, Royal Commissions were set up to investigate these problems. The Royal Commission into Aboriginal Deaths in Custody began in late 1980s. Canada's Royal Commission on Aboriginal Peoples started in early 1990s. The familiar aspects of the treatment of indigenous Australians and Canada's First Nations however end this level.

While sharing broadly the nature of change from the recommendations of these Commissions in both societies regarding the conditions of indigenous peoples, changes in the lives of Canada's First Nations have been more significant. The nature of the Canadian Royal Commission also differs in many important aspects to the Australian paradigm of inquiry. The paper examines some of the differences between the two. At most, discussions of these differences will be at the general level, presaging the conclusion that the examination of the different methods of investigation requires more substantive research and analysis. If there is one aim of the paper, it is to suggest that comparative studies of indigenous Australians and the criminal justice are more useful when juxtaposed with similarly situated marginalised people such as the First Nations people in Canada.

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## **Children Who Kill: The Social Construction of Childhood and Juvenile Justice**

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This paper discusses the social construction of childhood, the manifestations of particular social constructions of childhood, and the ways in which these social constructions inform current debates regarding the criminal responsibility of children. The prevailing constructions of childhood which have informed juvenile justice policy and practice with regard to children have been centred around a series of dichotomies, including those of reason vs unreason, innocence vs experience, and nature vs culture. They are constructed as adults-in-the-making, socially valued as the future of the social order, but not yet possessed of the knowledge which would enable them to practice as fully functioning adult citizens. The sociological conceptions can be seen reflected in the policies and practices of the juvenile justice system: if childhood was the site at which societal values were inculcated into the developing not-yet-adult, criminal behaviour could then be understood as a failure of the socialisation process. Children who had not been adequately socialised could hardly be held responsible, in a criminal sense, for criminal acts. The primary responsibility of the juvenile justice system should then be the redress of this imbalance, the passing on of appropriate societal values which would inform the adult behaviour of the offending juvenile. The concept of *doli incapax* is based in itself on a construction of the child as innocent, as literally 'incapable of wrong'.

Recent developments in criminal justice have taken a critical view of conventional constructions of the innocent child, for instance in NSW the age of criminal responsibility is currently under review. Utilising the recent Corey Davis case as a case study, the critique of the juvenile justice system's practice in relation to children will be shown to proceed from a revisionist social construction of the nature of childhood, in particular a changed concept of the issues of innocence and socialisation which had formed the core of the conventional concept. The implications of the notion of childhood as a social construct will then be discussed.

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## **Comparison of Recorded Crime with Crime and Safety Data**

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The aim of this paper is to outline the statistics collected in two publications produced by the National Centre for Crime and Justice Statistics. The first publication, Recorded Crime, provides statistics on selected crimes recorded by State and Territory police forces in Australia, and includes more detailed information about each offence, including where the

offence took place, whether a weapon was used and information about the age and sex of victims and their relationship with the offender, together with information about the outcome of police investigations. The Crime and Safety Survey collects information on the level of victimisation in the community for selected offences, whether these offences were reported to police and crime-related risk factors. The Crime and Safety Survey provides an additional source of data on crime for selected offences, particularly for those offences which are not reported to or detected by police. The survey also provides valuable information on victims of repeated crimes which are not included in the police data. The paper will discuss some of the the key differences between the two surveys, such as collection methodology and counting rules, and highlight the usefulness of both surveys in understanding the measurement of crime in Australia.

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## **Findings from the U.S. Federal Intensive Juvenile Aftercare Project: Suggestions for Best Practices in Program Design and Implementation**

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In 1988 a long-term research and development initiative focusing upon innovative practices in the transition and normalization of youth moving from confinement into the community was funded by the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. This project recently completed a five-year demonstration where a model of reintegration for high risk youth was tested. During the first three years of the project, Co-Principal Investigators Drs. Troy Armstrong and David Altschuler developed a testable model of intensive aftercare which emphasized 1) preparatory institutional services that lend themselves to application and reinforcement in the community, 2) a highly structured transitional experience bridging the institution and community, and 3) delivery of intensive supervision and follow-up intensified services in the community. Three of the four initially funded sites completed the five-year test of the model. The Co-Principal Investigators are currently analyzing the results of this experiment from a programmatic perspective. Results of the National Council on Crime and Delinquency outcome evaluation will be forthcoming in the next 18 months.

The paper will discuss the IAP demonstration regarding best practices in terms of program design, implementation and operations. The following three themes that play important overlapping roles in services and supervision for transitioning high risk youth will be the focus:

I. Theoretical, research and practice-driven principles and procedures discussed in the context of the continuum of the overall aftercare process including, 1) Institutional Pre-release Planning, 2) Transitional Phase across both Institution and Community, and 3) Community Engagement and Long-term Follow-up.

II. Lessons learned from the involvement of Altschuler and Armstrong in providing technical

assistance to test sites and insights gained from NCCD's process evaluation.

III. The way that the "what works" literature has influenced effective intervention strategies and treatment modalities at the test sites.

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## **The Incidence and Impact of Short sentences on Women and Alternative Sentencing Options**

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This current research is an exploration of the issues concerning those women who are the recipients of short term sentences and the regimes that determine and control this particular punishment methodology. It seeks to establish the impact that imprisonment has on women's lives in matters that effect their family, their housing, their health and their general needs, their prospects for the future and their likelihood of being permanently trapped in a revolving door disorder unless the sequence is broken. It highlights the unevenness of the judicial system where punishment does not share a common platform with prospects for rehabilitation. It seeks to gain an understanding of the circumstances surrounding the basis for women's imprisonment particularly those who have committed comparatively moderate crimes and how this situation can be resolved. It outlines those alternative sanctions that are currently available along with their shortcomings and inadequacies, those being trailed and under review and others being explored in an attempt to curtail the escalating incarceration rate and to redress the social inequalities that in many instances have given rise to and continue to preserve the offending behaviour. In view of the large number of women currently incarcerated and with figures on the increase it questions the validity of judicial commentary that postulates that a term in gaol is a last-resort-sentencing-measure for women, utilised only when all other avenues of punishment have been eliminated. It recognises that a democratic society has an expectation that punishments will be imposed but it also acknowledges the shifting complexion of women's crime and the importance of establishing social changes that don't just seek to punish for punishments sake while failing to offer avenues of redress, expectation and amendment.

## **Violence in the Schoolyard: Girl Power Revisited**

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This paper considers the nature of school girls' use of violence through explanations and self-reports provided by girls who use violence, boys who use violence and girls and boys who do not use violence. Gender differences in perceptions of and experiences with violence are examined, school girls and school boys differential receptivity to violence prevention programming is explored. Girls' entrapment in sexual objectification, mistrust and misogyny and relationships as alliances of power is analyzed. Implications for practice are discussed.

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## **The Association between Alcohol Use and Offending Behaviour: A Comparative Study.**

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Several theories have been posited to explain the relationship between alcohol and offending. The Disinhibition Model proposes that the pharmacological properties of alcohol cause criminal and other inhibitions to decrease, thus increasing aggressive responses. However, a more widely accepted theory adopts a sociocultural approach, suggesting that individuals learn to behave in a particular way when inebriated knowing that such behaviour will not be condemned. The current study administered the Alcohol Use Disorders Identification Test (AUDIT) to a sample of 135 violent offenders and a comparison group of the general population in an attempt to examine the nature of the relationship between alcohol and offending. The test examined four factors: level of alcohol consumption, drinking behaviour, adverse reactions from significant others, and alcohol related problems. The sample groups were matched on numerous demographic factors such as age, education level and occupational prestige in order to eliminate possible confounds. Results indicate a number of significant differences between the groups on the AUDIT scales, although a number of these were not in the expected pattern or direction. Males from the general public report significantly greater levels of alcohol consumption than offenders, but offenders have significantly more problems as a result of their drinking behaviour. This provides evidence that it may not be the volume of alcohol consumed that is associated with offending behaviour as has commonly been suggested, but that offenders are less able to deal with

alcohol consumption without adverse effects. These findings indicate that alcohol use may only be a second-order factor in the causal chain to offending behaviour. The results of the current study are discussed with reference to their implications for violent offender intervention programs. In conclusion, this study questions the simple link often posited between alcohol and offending, and suggests other possible factors which may be contributing.

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## **The Use of Science to Justify the U.S. Imprisonment Binge**

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American criminology has played a significant role in providing the scientific basis for justifying the historic increases in the U.S. prison and jail populations. Beginning in the 1970s a small number of studies were funded by the U.S. federal government to a select number of criminologists and organizations to determine the impact of incapacitating offenders who fit the profile of a career criminal. This paper reviews these studies in terms of their methodologies and sentencing policy implications. Despite the methodological weaknesses in these studies, they have been used to justify sentencing reforms designed to widen the use of incarceration through such reforms as truth in sentencing, abolition of parole, and mandatory minimums. A more appropriate interpretation of the career criminal research, if taken at face value, is that most prisoners are not career criminals, pose little threat to public safety, and should not be sentenced to prison or serve much shorter prison terms.

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## **B**

### **Mandatory Sentences in England and Wales: A Review**

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The Crime (Sentences) Act 1997 introduced three types of mandatory "three strikes" sentences to the statute book. Although the legislation was passed as one of the final acts of the last Conservative Government, it has been implemented by "New Labour". This can be seen as exemplifying a consensus that symbolically tough sentencing policies are necessary as a means of appeasing an ostensibly punitive electorate. Consequently, the purpose of the

paper is two-fold. First, it will examine the way in which the courts have interpreted the new provisions to date. Secondly, it will assess the justification for introducing such sentences in the light of empirical evidence on public opinion and sentencing and, specifically, "three strikes" sentences.

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## **Police and Union Protocol at the Picket Line: Preventing Violence for the Public Good**

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Historically, the policing of large-scale industrial dispute was characterised by violent confrontations. In the 1990s, more communicative, compromising and sophisticated responses from both police and unions, combined with policing protocols, resulted in the negotiated management of potential conflict situations and mitigated the likelihood of violent clashes at pickets and lockouts.

The 1992 APPM dispute at Burnie witnessed an accommodating rapport between local police and striking mill employees, a peace that was broken only after a Supreme Court judgement. Police, during the 1998 waterfront dispute, generally acted with restraint and maintained public order and control through a consultative and non-confrontational approach with the MUA and the union movement. This paper argues that these two case-studies demonstrate the desirability of peace-keeping and flexible policing strategies in cooperation with well-organised and non-violent picketers. Police, however, retain a monopolistic right to exercise coercion against any union or protest challenge on the street. The rapport that has generally developed between police and the union movement contrasts with police encounters against the loose alliance of S11 protesters during the World Economic Forum.

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## **Property Crime Victimisation and Crime Prevention on Farms**

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Agriculture remains the largest segment of the economy in most rural communities of Australia. Unfortunately, the problem of property crime on Australian farms is widespread, and can involve serious financial and personal losses. Yet, this issue has never been researched in a systematic fashion. The isolation of many rural areas, the ease of access to most properties and the portable nature of livestock and equipment, means farms are an inviting target for thieves, vandals and other criminals. This paper reports on the initial findings of a study which investigated the extent and impact of property-related victimisation on farms involving crimes such as the theft of stock, chemical, fuel, machinery and equipment, as well as vandalism and arson. It also examines the relationship between victimisation and physical deterrence factors. The extent and pattern of security practices undertaken by farmers and their possible association with property crime was assessed.

Data for this research comes from a survey mailed to 1,000 randomly selected farmers in rural New South Wales. Follow-up telephone interviews were held with farmers who had been victims of crime. Police officers were also interviewed to assess their knowledge and views about the extent and nature of crime on farms in their locality. Similar information was also gathered from agricultural professionals, such as stock and station agents and sale-yard managers. The results highlighted the problems of policing and preventing agricultural crimes due to the difficulties in maintaining security on farms, the widespread under-reporting of agricultural crimes, the large movement of stock between states for slaughter or live export, and the inconsistencies in legislation regarding stock identification. The findings highlight the need for more research into the unique, costly and little understood nature of agricultural crime, and of ways to effectively reduce incidents.

## **The Role of Coroner in Evaluation of Contractual Performance in Private Prisons. Effectiveness Of Recent Multiple Inquests Into Deaths In Custody In Victorian Private Prisons**

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In 1999 and 2000 the Victorian Coroner conducted a large number of concurrent inquests into the spate of suicides in the new private prison at Port Phillip after it had opened in 1997-8. The prevention of inmate suicide or overdose is a vital component of the function of a prison as demonstrated ten years ago by the Muirhead/Morling Royal Commission into Deaths in Custody and in fact this is an important component for evaluating contractual performance by the Department of Corrections

The recent multiple Coronial Inquests obtained widespread publicity and this paper will describe the complex interactions of the various roles of Departmental and Coronial Investigators and whether this criteria is a valid indicator of contractual performance. In addition the paper will also discuss the actual mechanism of coronial inquests and the new powers and policies of the coroner following the recent legislative changes and whether the coronial machinery is appropriate for the investigation of systemic corporate negligence involving private corporations. In addition the question arises whether the coroners extensive evidence gathering powers can be used to overcome the commercial confidentiality provisions of the contracts made with private firms active in Corrective Services

Even though the set of inquests in 1999 were extensive and broad, the style of the inquests were exclusive in nature and were not nonlawyer friendly. In particular the final report was lengthy but could not be obtained except for a considerable fee. It failed to address the issue of independent monitoring and review of the private prisons as an additional safeguard and why the independent visitor system was inadequate for this purpose. Suggestions will be provided for improving the use of coronial inquests into deaths in custody in private correctional institutions.

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## **The Effect of Correctional Orientation on Community Correctional Officers' Attitudes Towards Actuarial Penological Initiatives**

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Numerous authors have noted the international proliferation and enhancement of managerial, actuarial and bureaucratic objectives in contemporary penological systems. This revised mandate relies on different technologies of control, and prioritises the processing of actuarially derived aggregates over individualised assessments of, and responses to, the criminal act or particular circumstance. The probabilistic underpinnings and apolitical nature of these approaches are claimed to make the longstanding conflict between rehabilitation and retribution redundant. However, despite being an undeniable policy direction, the shift to managerial and actuarial justice may not yet be complete. Recent research has shown that an element of juridical, judicial, and practitioner ambivalence remains, and that this resistance is often due to a reluctance to abandon traditional sentencing objectives. Research into these implementational obstacles has not, however, attempted to identify which practitioners show the most resistance to these trends.

With this gap in mind, the present study investigated the role that correctional orientation plays in Community Corrections Officers' (CCOs) implementation of, and attitudes toward, contemporary correctional policies. Within the 120 officers surveyed (representing over half of the operational CCOs in Victoria), three distinct groups emerged: (1) those who show strong support for rehabilitative ideals, (2) those who clearly prefer a retributive model, and (3) a group who showed no clear preference between these two approaches. These three groups differed significantly in their reported implementation and attitudes toward contemporary policies. These differences remained after the effects of age, years of experience, role conflict, and perceived supervisory support for new initiatives were taken into account. The organisational, practical, and criminological implications of this selective policy adherence are discussed.

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## **Community Protection or Individual Autonomy? A Therapeutic Jurisprudence Analysis of Psychologist Role Conflicts Within the Correctional System**

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Therapeutic jurisprudence is a conceptual framework where legal rules, procedures and actors are viewed as social forces that may have therapeutic or anti-therapeutic effects. It is an interdisciplinary endeavour involving law, psychiatry, criminology, criminal justice, public health, philosophy and psychology. Knowledge, theories and insights of such disciplines may help shape the law. Therapeutic jurisprudence analysis determines ways to reform law by minimising anti-therapeutic effects and maximising therapeutic effects without interfering in due process or other justice values. Role conflicts for psychologists are evident within the correctional system in relation to rehabilitative and punitive goals in the sentencing of offenders. Likewise, community response is marked by uncertainty as to whether anti-social behaviours should be punished or psychological disorders treated in order to prevent re-offences in serious offenders. This paper will consider whether the law, in its concern for punishment and deterrence (public good), and psychology, in its concern for dignity and autonomy (private interest), are compatible.

## **Crime and the 'Punitive Public'**

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Perceptions of the public's attitudes to the criminal justice system include suggestions that: the public has grown weary and apprehensive of crime and is now clamouring for measures that promise to establish law and order (Cullen, Clarke, Cullen and Mathers 1985); that the public is an obstacle to the implementation of various progressive correctional reforms (Riley and Rose 1980) that the public is frustrated with the leniency of the criminal justice system (Stalans 1993, Roberts and Stalans 1997), and that the public incorrectly assesses the prevalence, incidence and seriousness of crime in society (Zimmerman, Val Alstyne and Dunn 1988). Such perceptions lead to the belief that the public is extreme, uncompromising, merciless and retributive in its approach to criminal behaviour and sentencing. On this basis a perception of a 'punitive public' has emerged. However there are now studies which show that the public opinion expressed in polls and voiced in the media is often not an accurate representation of that opinion. This paper will explore some of these more methodologically sound means of gauging popular opinion. Definitions of 'punitiveness' will be discussed, and finally, the paper will examine some of the specific factors which may determine the mood and temper of the public, including the role social frameworks (that is legal, political and media networks) may contribute and provide some explanation for a notion such as the 'punitive public'.

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## **Hollow Victories and Paper Tigers: An Evaluation of the Impact of Victim Impact Statements from Family Victims to the Sentencing Process in NSW**

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Recent decisions of the NSW Supreme Court indicate that, despite a statutory obligation to accept victim impact statements from family victims, these statements are not considered as a separate factor during the sentencing process. Although the cases acknowledge theoretical concerns discussed in the literature which suggest that such statements should not be taken into account during the sentencing process, there is little evidence or judicial analysis of the victim impact statements in the individual cases which supports these concerns. In this paper, I will present the preliminary findings of a research project that examines the content of victim impact statements submitted to the NSW Supreme Court with a view to addressing these analytical lacunae.

## **The Impact of the Introduction of Public Defenders on the Juvenile Court in Israel: Preliminary Findings**

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Israel's Juvenile Court is a traditional, welfare-oriented court. Since January 1999, all children appearing in the criminal jurisdiction of the Juvenile Court in Israel have been provided with public defender (legal aid) representation. This paper will present some of the preliminary findings of a study on the impact of this development on the Court. Consideration will be given to the impact of public defender representation on the Court's underlying philosophy, the role of Juvenile Court judges, and defence counsel. These findings will be presented within the context of previous, mainly North American, research.

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## **Intimate Homicide: Diminished Responsibility and Lack of Intent**

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Previous research has demonstrated that a history of domestic violence typically provides the context for cases where women kill their male partners. The ability of the criminal justice system to accommodate this reality has been extensively critiqued in relation to the defences of provocation and self-defence. This paper will address the use of the 'other' defences to murder when women kill: the defences of diminished responsibility and lack of intent in relation to women who kill their male partner. This will involve an investigation of the cases between 1990 - 1999 in the Supreme Court of New South Wales where women were convicted of manslaughter in respect of the death of their male partner on either the basis of reliance on the defence of diminished responsibility or the lack of necessary mental state for murder (leading to conviction for involuntary manslaughter on the basis of an unlawful and dangerous act). This paper will consider the circumstances of the killing in cases where women rely on diminished responsibility and involuntary manslaughter. In addition, the application of these defences will be considered in light of previous research that has identified the tendency of the criminal justice system to 'pathologise' criminal women. It will be argued that the portrayal of the female offender as emotional and irrational has important implications in relation to the availability of the 'rational' defences of self-defence and provocation for women who kill their abusive partner.

## **Restorative Justice and the "Restorative Vision": the case against a "Domestic Violence" Approach to Aboriginal Family Violence.**

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This paper is based on a number of research and policy development projects undertaken principally in Western Australia on aspects of Indigenous family violence prevention, intervention and treatment. I argue that the orthodox zero tolerance approach, based on the increased criminalisation of Indigenous men, simply perpetuates the cycle of violence in Indigenous communities. Aboriginal community structures are also often marginalised by "Duluth" style coordinating bodies, yet these structures may be playing a vital role in family violence crisis intervention. Restorative justice practices need to be nurtured that support community healing and genuinely empower Indigenous people victimised by violence. Wherever possible, models of intervention should work through existing community structures and be focused on family violence as a community, rather than simply a criminal justice, problem. Key areas of focus include developing a "restorative vision", self determination and community healing, rather than more punishment. Preference should also be given treatment models working from within Indigenous cultures and world views, only these can challenge the widely prevalent myths of Aboriginal male "entitlement" to violence.

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## **Restorative Justice, The Criminalization of the State and Armed Conflict**

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It is argued that both the restorative justice and responsive regulation paradigms are useful for reconfiguring how to struggle for world peace. This is especially true of the conditions since 1989, where war has been widespread but not about confrontations between major powers. While it remains true that major powers can use their clout to mediate disputes in the shadow of a pyramid of coercive interventions, this rarely solves the underlying sources of late modern wars. We find the sources of these wars are often the fragmentation and low legitimacy of weak states, ethnic divisions that are prised open by warmongers who seek to plunder weak states as much as to rule them. The capacity of bottom-up restorative justice to build state legitimacy, heal ethnic division and undercut hatemongers has a distinctive relevance to these new geopolitical conditions. However, a responsive global regulatory strategy is also needed to complement and connect restorative peacemaking to top-down preventive diplomacy and negotiated cessation of hostilities.

## **Shame management and self-regulation: institutional and psychological tensions in optimizing law abidingness**

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This paper looks at the importance of shame management, the regulatory institutional contexts in which shame management is most likely to occur, and the extent to which such contexts are at odds with those most frequently associated with dealing with activities that are illegal or against the spirit of the law. This issue will be discussed in relation to taxpaying behaviour, using data from a large survey of 2000 Australian taxpayers, "The Community Hopes, Fears and Actions Survey".

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### **The Abstracted Body**

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In criminology the scene of the dead body is displaced and undermined. Removed from the wider framework of criminological dialogue about 'the body', the mortuary becomes a specific space to read the dead body, and to frame this body through documentation of death. As a piece that engages with the representation of the dead body in photography, this paper explores contemporary art practice which has illuminated and enlarged images of the dead within the cultural landscape, whilst also witnessing and incorporating dialogue from law and forensic pathology. Drawing on a will to 'evidence', photography simultaneously ruptures the evidentiary. Discussing photography as a tool for the documentation of death, my aim is to draw the dead body into criminology from the juncture of law, forensic pathology and artistic practice. As a subject for investigation, how might criminology read the dead body?

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### **Chaos and the Criminal Justice System**

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In the space of five years, the prisoner population in Queensland more than doubled. This dramatic increase occurred at a time when there was little upward movement in recorded crime and no obviously responsible changes in government policy or legislation. A CJC report released in early 2000 concluded that the increase in prisoner numbers was ultimately due to "the uncoordinated operational agenda of the key justice system agencies" and called for a more 'joined-up' approach to the administration of the criminal justice system in

Queensland. This paper draws upon police, courts, and corrections data in order to focus upon the question of how best to understand the wider criminal justice system as a particular type of organisational structure. The paper argues that chaos theory offers a useful perspective for identifying how and why the criminal justice system at times appears to operate in a 'random' or 'disorderly' manner. The paper concludes with a discussion of the policy implications of conceptualising the criminal justice system as 'chaotic'.

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## **Lethal violence in Cambodia**

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This paper estimates homicide and murder rates and describes the nature of lethal violence and crime for Cambodia. Limited and fragmented data allows only a partial picture of the nature of lethal violence. The post-war and post-revolutionary conditions in Cambodia combined with a weak "legal culture" contribute to an elevated rate of homicide. Frequent acts of mayhem, political violence and banditry present a major threat to development and modernization. A murder rate of approximately 5.7 per 100,000 but a homicide rate of about 8.6 per 100,000 was estimated for 1996, higher than most countries in the region except the Philippines. Political and economic adversity drove 1998 homicide rates between 10-11.6 per 100,000. Victims were mostly male and murder between affines, murder-robbery, and disputes and quarrels were commonplace with most deaths arising from gunfire. Extra-judicial death arising from police action or "mob actions" accounted for high rates of suspect death and contributes significantly to the homicide rate. Rates of violent crime were higher in rural areas but Phnom Penh experienced high levels of property crime compared to the provinces. The homicide rate is compared with neighbouring countries and the role of modernization and crime discussed.

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## **Excess and Alterity in the Penal Domain**

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Recent trends toward more severe forms of punishment in Western nations have been interpreted as undermining the central tenets of penal modernity: rationality, scientism and restraint. Analyses of the turn to penal severity have emphasised the importance of 'criminologies of the other' in underpinning this departure from modern penal doctrines. In this paper I argue that penal excess and 'the other' are foundational and central elements of penal modernity. Drawing upon nineteenth century historical material from a quintessentially modern formation - the colonial state - I illustrate how such ideas and practices were central to the constitution of the state in British India and to the governance of its population.

## **Tales of Ordinary Madness: Reflections of a Life of Crime**

**Professor David Brown,**

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This paper will present a light hearted reflection on 25 years as an Australian academic criminologist from the influence of the "new criminology" in the early 1970s, the rise of Foucault, through to the politics of law and order. The tenor will be autobiographical, hopefully without being self indulgent. The main focus will on the links between "critical" criminology and social movements, especially the prison movement. An attempt will be made to speculate on the future of social movement/"critical" criminology alliances and prospects.

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## **State Terror – A Widely Neglected Concept and Research Field in Criminology**

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Traditional Criminology is still - worldwide - very reluctant in analysing and investigating the 'misuse of state-powers'. Accordingly empirical research in this field is scarce. This, however, is surprising, because there are not only many historical documents (for instance with respect to the 'Third Reich' and in 'Stalinism') which are rich resources to be exploited by empirical research, but there is, also, an abundance of current mass-media-news and shocking reports published by amnesty international dealing with state-organized torture and other forms of brutality in many countries of the contemporary world. From a sociological perspective, however, 'misuse of state powers', 'state crime' and 'state terror' is neither understood primarily as specific activities committed by individual representatives of the state (politicians, state employees etc) nor restricted to violent, criminal and terroristic behavior of state agents in executing state functions. The terms under discussion refer instead primarily to violence, crime and terror organized and executed by the state as a nation wide social organisation. Looking closer it might be, therefore, worthwhile to distinguish between: (a) state-organized violations of national and international laws, state disregard for human rights and laws of nations - aiming at suppressing, persecuting, terrorizing, expelling people from their own country and even exterminating specific individuals, social groups or minorities. (b) 'repressive crimes' which include in particular the creation of new laws, which - being put into force - legalize and justify state-suppression and state-terror against individuals, social groups and minorities as 'lawful' and consequently prevent that acts of

state violence, crime and terror can be prosecuted and punished. (c) state organized mobilisation of the general public by propagating 'useful' ideologies (such as racism, feelings of superiority and disrespect for political opponents), seducing the population to be loyal to the state and by asking for cooperation through denunciation; in order to make the suppression and terror against certain minorities and so-called 'enemies of the state' possible and effective 'on behalf of the state'. Finally, analysing 'state-terror' does not mean focussing exclusively on extreme terrorist activities like 'torture', 'pogroms', 'concentration camps' and 'executions'; but studying also state-terror in 'every-day-life', such as 'discrimination', 'segregation', 'degradation and humiliation', including their psychological effects on victims: identity problems, feelings of despair, of being powerless and helpless, or, finally, even suicide as a last act of resistance.

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## **Are Negative Attitudes Towards Women an Indicator of Violent Behaviour outside of the Home? A Comparison of Violent Offenders and the General Public on Attitudes Towards Women**

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Empirical research has demonstrated that rapists, sex offenders, and men who commit violence against family members have negative attitudes towards women, suggesting these attitudes are a key factor underlying the violent crimes perpetrated against women. Furthermore, conservative attitudes towards women, or an adherence to more traditional gender roles is often associated with the belief that some degree of physical violence is normal between men and women, and that women enjoyed being hurt or dominated by men. Based upon information such as this, many cognitive-behavioural offender treatment programs endeavour to address these gender issues and promote more positive beliefs regarding women. However, few studies have investigated the attitudes towards women held by generalist violent offenders. Further, no Australian study to date has compared offenders' attitudes towards women to those held by the general public. The current study administered the Attitudes Towards Women Scale to a sample of almost 150 violent offenders, and a comparison group of 340 people from the general population. Demographic variables were matched, or statistically controlled for, across the two groups to eliminate several possible confounds. Results indicate that significant differences exist between the groups on some specific subscales of the Attitudes Towards Women Scale, raising a number of questions regarding the role that gender beliefs may play in violent offending behaviour, regardless of the target of the violence. Alternatively, results such as these may indicate that violent offenders demonstrate cognitive beliefs that are similar to those held by family violence perpetrators or sex offenders. Implications of the findings will be discussed with particular reference to theories involving violent behaviour against women, and specifications of subgroups of offenders.

## C

### **Protecting whistle-blowers in South Africa: The Protected Disclosures Act No. 26 of 2000**

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This paper places the South African legislation to protect whistleblowers in the context of recent anti-corruption initiatives and questions how it might promote accountability within organisations.

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### **Programs for Women in Prison**

#### **Dr Margaret Cameron**

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This paper examines statistics relating to women in Australian prisons with a view to intervention programs and the reduction of repeat offending. Many women are incarcerated for drug related crime, and those incarcerated are characterised by high levels of repeat offending. Often, they have low education and are unemployed. While there is considerable emphasis on treatment programs for offenders presently, this paper focuses on the effectiveness of programs that address illicit drug use, and educational and vocational programs. It argues that if prisons are to be effective and operate to reduce reoffending, drug programs and employment and education programs should be carefully planned and evaluated.

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### **Drug Offenders in Victoria: Trends in Offences and Offender Characteristics, Links with Other Crimes, and Implications for Public Policy**

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A strong link is believed to exist between drug offending and other forms of criminal behaviour. Some commentators attribute the majority of crimes to the 'drug problem'. However, the extent and nature of such a link remains unclear, hindering progress on relevant public policy. This paper reports on a research project conducted jointly by the Department of Justice, Victoria, and the Department of Criminology at the University of Melbourne. The research involves analysis of two data extracts provided by the Victoria Police. The first contains all recorded criminal incidents involving illicit drug charges between 1996/97 and 1998/99. This phase investigates over 36,000 such incidents for recent trends in drug offences and drug offender characteristics. The second extract contains complete recorded criminal histories for 3,000 drug offenders, including all 43,000 drug charges and non-drug charges laid against the sample throughout their entire criminal careers. The research investigates links between drug crimes and other offending, evidence of involvement with different drug types, the frequency of offenders' processing by police and offenders' trajectories through the criminal justice system. Results of the analysis and implications for criminal justice policy and practice relating to drug offending will be discussed.

## **Evaluation of a Community-Based Drug Law Enforcement Model for Intersectoral Harm Reduction - Fairfield (NSW) case study**

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This paper presents case study material from an evaluation of the trial use of a Drug Action Team (DAT) and Drug Reference Group (DRG) model in Fairfield, New South Wales, Australia. Fairfield is a region of significant ethnic diversity. More than half its population of just under 200,000 was born overseas. Compared with other parts of Australia, Fairfield has a large proportion of young people and high rates of unemployment. Cabramatta, a suburb within the Fairfield Local Government Area, has been designated by some media as the 'heroin capital of Australia'. The Drug Action Teams and Reference Groups emphasised partnership and intersectoral cooperation. Implemented on a pilot basis, the seven objectives of this eighteen-month initiative included promoting harm reduction as the philosophical basis for all drug law enforcement in the region and implementing, assessing and documenting a range of harm reduction approaches. As well as discussing achievements of the Fairfield Drug Action Team, the paper reviews factors that hampered reform of drug law enforcement. Finally, the paper explores similarities and differences between Fairfield and the other three sites where the DAT/DRG model was tested, and considers the impacts that factors unique to Fairfield and Cabramatta may have had on achievement of the trial objectives.

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## **Evaluation of a community based drug law enforcement model for intersectoral harm reduction – Gippsland case study**

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This paper presents case study material from Gippsland in Victoria, Australia. Gippsland is a rural region, beginning approximately 80 kilometres to the east of Melbourne and running to the New South Wales border. Three of Gippsland's five local shires were involved in the trial. Prior to the trial, police characterised the central town of Morwell – and the larger Gippsland region – as having significant and growing levels of illicit drug production, trade and consumption, largely involving marijuana and amphetamines. While heroin was rarely detected, police sensed that there was 'much more happening' in the area and that some 'big time' dealers and manufacturers were operating locally. Pervasive problems of high unemployment were thought to be exacerbating both drug use and involvement in drug production and distribution.

The presentation will detail briefly the development and implementation of the Drug Action Team / Drug Reference Group model in this site. It will explore similarities and differences between this site and the other trials. It will consider how issues unique to this site impacted on the achievement of the trial objectives.

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## **On Markets For Public Safety**

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The concept of public safety, operationally defined as the amount of orderliness, safety and cohesion that prevails in communities, is analysed within an economic framework. The paper discusses the role that factors such as social trust, inclusiveness, voluntary cooperation, restraint, poverty and inequality play in shaping both demand for and supply of public safety, via current levels of crime. The main hypothesis of the study is that communities with low levels of social capital and high levels of socioeconomic disadvantage tend to experience high levels of crime which increases demand for public safety in the form of imposed or enforced law and order. This increase in demand for public safety causes further erosion in

the levels of social trust and participation among community members, which in turn results in increased levels of crime and further increases in the demand for public safety. On the other hand, communities that enjoy high levels of social capital together with low levels of poverty and inequality tend to experience low levels of crime therefore demanding low levels of public safety. These concepts are tested by fitting a model to data for Local Government Areas in the mainland Australian states.

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## **Death and the Triumph of Governance? Lessons from the Scottish Women's Prison**

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Analyses of the consciously moral attempts to combat suicide at a women's prison via organizational innovation provide important lessons not only in the governance of women's prisons, but also in the conditionality and politics of contemporary penal probity. At the policy level they call into question the adequacy of quantitative methods for assessing staff efficiency in delivering an appropriate anti-suicide policy. In the realms of theory and penal politics they provoke an unease with theories of governmentality which give primacy to the teleological meanings of explicitly reform-oriented penal strategies. Insofar as such theories omit to specify the points at which prevailing power relations and their conventional practices were under threat or open to challenge, they also omit to identify new configurations of resistance to penal oppression. Thus, while, on the one hand, successive studies of governmentality suggest that prevailing power relations ensure that all practices of imprisonment are inevitably illegitimate, and, on the other, successive governments continue to evaluate women's prisons according to totally inappropriate criteria, present opportunities to recognise, record and extend the genuinely therapeutic practices which reduce the damaging pain of women in penal custody will be lost. Either they will not appear in teleological depictions of an ever-triumphant governmentality; or they will be suppressed by official audits looking for quantitative evidence that the prisons are 'good value for money'. Possibilities for a 'remoralization' of prison regimes will thereby be occluded by the mystifications of a positivist empiricism and a theoreticist social theory. It will be argued that such occlusions are not in the public interest.

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## **Domestic Violence: Views of Queensland Magistrates**

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In 2000 a survey was conducted of Queensland Magistrates' views on issues concerning domestic violence and the operation of the Domestic Violence (Family Protection) Act, 1989 (Qld). This was a replication (where possible) of the NSW Judicial Commission's survey of magistrates conducted in 1999. Within both surveys, Magistrates were asked to engage with a range of issues to do with domestic violence in general as well as specific issues relating to the administration and enforcement of the appropriate Act. This paper will present the results of preliminary analysis of the Queensland results, and where appropriate, discuss similarities and differences between Queensland and NSW magistrates with regard to their legal and social understanding of domestic violence issues.

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## **The Technology Game: How Information Technology Is Transforming Police Practice**

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This paper draws on an Australian case study to examine the impact of information technology on police practice. It argues that technological change has altered important aspects of the 'field' of policing - technology has redefined the value of communicative and technical resources, institutionalised accountability through built-in formats and procedures of reporting, and restructured the daily routines of operational policing. Although the cultural dominance of law-enforcement policing style and resentment towards the demands of management and external agencies remains, there is evidence that information technology is gradually changing the deeply embedded assumptions of police practice.

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## **A Case Study of Victorian Efforts to Achieve an All of Government Approach to Crime Prevention and Community Safety: The Community Safety Crime Prevention Board and Safer Cities and Shires**

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Crime prevention/community safety policy requires a re-configuration of the traditional policy making processes, from a hierarchical and departmental process, to one based upon the development of crosscutting policies and joined up policy initiatives. This is typically referred to as an all of government approach. However achieving such coherency within, and between government departments and agencies, presents real challenges for policy makers and practitioners. This paper will present preliminary results of research into two Victorian crime prevention/community safety initiatives. Both the former Victorian Community Safety

Crime Prevention Board and the Program Safer Cities and Shires will be assessed, the aim being to highlight the major difficulties and challenges in achieving an all of government approach to crime and community safety.

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## **Black Women's Experience of the British Criminal Justice System**

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The number of ethnic minority women sentenced to prison has increased over the years. In 1998 ethnic minorities accounted for 18% of the male prison population (12% black, 3% Asian and 3% other). Female ethnic minorities make up 24% of the total female prison population (18% black, 1% Asian and 5% other). When one considers the fact that ethnic minorities make up only 6% of the total population of England, Wales, it is clear that they are over-represented in British prisons.

Black (i.e. of African-Caribbean origin) females are well over represented in prison. Black people make up only 2% of the general population. What are we to make of black people's female prison population? Do these figures mean that they are prone to crime or commit more serious crimes?

My analysis of the experience of black women and the (CJS) will look at such variables as race gender and class. The way Black women are portrayed e.g. as strong and dominant, does play a part in the way the CJS deal and sentence them.

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## **Do Targeted Arrests Reduce Crime?**

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In recent years there has been renewed interest in the possibility that police may be able to influence or control crime. This interest has been encouraged by evidence that targeted arrests

of high rate recidivist offenders, or targeted policing directed at crime 'hotspots', can reduce local area crime rates. It has also been encouraged by the so-called New York 'Compstat' process. Under this process, police are pressed to devise strategies to reduce crime, and their performance in this regard is critically assessed at a local level through trends in recorded crime. Compstat has been credited, at least in some circles, with helping to produce a drop in crime in New York.

Police in several Australian states have adopted management practices similar to the Compstat process. In New South Wales, for example, this process takes the form of Operation and Crime Review (OCR) panels. Police attending OCR panels have been urged to try a wide range of crime control strategies but special emphasis has been placed on the targeted arrest of repeat offenders. This paper presents results from a time series analysis of crime in NSW before and after the introduction of OCR panels. The results of the analysis lend moderate support to the hypothesis that the OCR process may be partly responsible for recent falls in crime in NSW.

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## **Organized Youth Gangs in Taiwan**

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This study focuses on the internal structure and formation process of youth gangs. Data are collected from police files of 30 organized youth gangs and interviews with 10 gang members.

It is found that gang members are predominantly male senior high (vocational) school students or dropouts. Active in commercial areas of inner cities, gangs usually consist of less than 20 people. It is interesting to discover that the majority of youth gangs are initiated (or formed) by adult organized crime figures for the psychological purpose of mutual protection and the economic purpose of money making. However, the latter purpose of gang formation is much more emphasized. Youth gangs use violent methods to collect debts for their clients, extort protection fees and force the sale of merchandise. Gangs can be loosely organized similar to Thrasher's "Near Group". Or they can be a rational design with hierarchical structure and rudimentary division of labor. Organized youth gangs frequently adopt "Pyramid Sales Strategy" to forcefully sell merchandise.

Moreover, there are initiation ceremonies, code of honor and special code of communication among members. These all indicate a special gang subculture. They frequently recruit friends, classmates, schoolmates as new members by using "Pyramid Model of Recruitment". In other words, strangers are difficult to get involved in gangs.

Data also indicate that the motives of juveniles to join the gang include: mutual protection,

free enjoyment, desire for money and power as well as peer pressure etc. Youths who join gangs tend to be marginal in terms of family, school, and social backgrounds.

It is concluded that five stages of gang formation can be identified: 1) play group consisting of marginal youths, 2) initiation by adult organized crime person, 3) recruitment of new members, 4) challenges from outside or within group, 5) split-up, expansion, co-opt by other groups or disbanded.

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## **The Safe City Strategy in Central Sydney: An Evaluation**

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The Safe City Strategy is a multi-faceted crime prevention intervention developed by the City of Sydney Council to maximise personal safety in the public domain of the central city area in Sydney. Although many aspects of the Strategy are designed to be ongoing, most of the Strategy initiatives were implemented in 1998 and 1999. The present study evaluated the short-term effectiveness of the Strategy, both in terms of its effect on city users' perceptions of personal safety in the city area and in terms of its impact on the number of criminal incidents in the city area. A survey of 1,808 city users aged 14 years or over was used to examine the initial effect of the Strategy on perceived safety, while the Strategy's initial impact on crime was examined via an analysis of recorded criminal incidents. The survey results revealed that the Strategy received high levels of endorsement from city users who evaluated all the Strategy initiatives positively. The survey results also generally suggested that the Strategy increased the public's confidence in the city's safety. The results of the recorded crime analyses were, however, not clear-cut, providing only limited support for the notion that the Strategy had an impact on crime in the short term. The implications of the results are discussed.

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## **Some emerging public good transformations in criminal justice for vulnerable social groups**

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This paper is based on process evaluation data obtained during the past year from 31 projects, funded by the Bureau of Justice Assistance of the U.S. Department of Justice. Both public and private sector involvement is evident in this 1998 Open Solicitation Grant Program, with projects being implemented by various criminal justice system agencies (particularly police, courts, district attorneys and public defenders), as well as by and in conjunction with

government and private non-profit community agencies. Projects are diverse in terms of specific goals to be addressed, although introducing changes to criminal justice system procedures and operations are the common threads. Different behaviours (eg. prostitution, drug use, hate crime, fraud, misdemeanour offences) and different social groups (eg. mentally ill offenders, elderly victims, young people, Native Americans, refugees, homeless and the poor) structure alternatives to traditional criminal justice system responses to such behaviours and over-represented groups in judicial proceedings and local jails.

Data indicate that these projects, collectively, demonstrate some shift in how the criminal justice system constructs both its discourses around crime and its dominant mode of responses to particular social groups who come into contact with the criminal justice system. Initiatives such as establishing alternative judicial and policing strategies for handling mentally ill, homeless, refugee, non-English speaking, racial minority and poor offenders offer potential for replication elsewhere.

Profound and protracted economic, cultural and racial problems remain for those caught up in the criminal justice system. Clearly, vulnerable social groups, by virtue of behaviour or social status, remain as prime targets of intervention. The BJA funded projects, however, may inspire renewed community and culturally led reforms that emphasise the economic, social and cultural conditions of those who are processed through police, courts and jails. These kinds of background issues are being emphasised in framing alternative criminal justice system responses, albeit in a small sample of U.S. communities. In opening up collaborative agency working relationships, involving the private non-profit sector, there seems potential for developing constructive advocacy operations for those targeted by criminal justice system processing and control. Project accounts reveal improved access to social services and increased mobilisation of community resources, as well as providing improved justice outcomes for project 'clients'. Also, some projects have identified legislative areas for legal challenge. Of course, there are program issues that require attention before any replication of such initiatives is attempted. Developing public/private partnerships for many of these BJA projects has not been easy. The paper includes observations on some fundamental difficulties with these partnerships (eg. out-sourcing and client referral service arrangements, agency status and political clout in criminal justice system and community circles). It concludes with outlining the kinds of structures that could facilitate public good outcomes from criminal justice system change initiatives, funded under the auspices of public funds for a range of community based criminal justice and non-criminal justice system agencies.

## **Three Strikes Mandatory Sentencing Laws, the Violation of Human Rights and State Crime**

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This paper considers mandatory imprisonment in Australia under various 'three strikes' styled legislation. The analysis considers why the legislation breaches fundamental human rights. A key focal point of the political campaign to repeal the laws has been around the issue of international human rights standards. There is widespread agreement that the laws breach the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, and the Convention for the Elimination of All Forms of Racial Discrimination.

The paper analyses how the 'meta-narrative' of human rights has brought together sections of conservative, liberal and left politics around a range of issues in opposition to the mandatory sentencing legislation. The paper considers these arguments, in particular focusing on whether the 'three strikes' mandatory imprisonment undermines traditional notions of the rule of law and whether it can be analysed as a form of state crime.

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## **'Finding God Behind Bars' - The Phenomenon of Religious Conversion in Prison.**

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This paper focuses on recent doctoral research into religious conversions in the prison environment. The author discusses the catalytic role of crisis in conversion and applies the crisis-conversion thesis to British and American inmates who have converted to Christianity during their imprisonment. The powerful transformative effects that a religious conversion can have on converts' personal and social identity is discussed in detail, with particular reference to converts' autobiographies as 'desistance narratives'. Overall, the paper emphasises the general role that powerful religious experiences have in the transformation of identity among inmates.

## D

### **The Criminal Characteristics of Apprehended Drug Offenders in Victoria, Australia: Cluster Analysis of Illicit Drug Offenders**

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This presentation reports on the results of a research project conducted jointly by the Department Of Justice, Victoria, and the Department of Criminology at the University of Melbourne. Although it is well known that illicit drug offenders are not a homogenous group, it is less clear what delineates different groups of drug offenders. Using a cluster analysis approach, an analysis was carried out enabling differentiation between groups of offenders processed by Victoria Police for illicit drug offences. In particular, the analysis seeks to identify differences in characteristics and offending patterns over time. The analysis was conducted on two data sets. The first data set contained all recorded criminal incidents involving illicit drug charges between 1996/97 and 1998/99. The second data set contained complete recorded criminal histories for 3,000 drug offenders, along with the 43,000 charges - both drug and non-drug - laid against the sample throughout their criminal careers. Results of the analysis will be discussed.

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### **The Meaning of Rights for Young Offenders in the Conference Process**

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The idea of rights of young offenders in a criminal process is rather clear from stated legal principles, but more murky in practice. From the UN's Beijing Rules (1985:273), rights include the 'basic safeguards such as the presumption of innocence, the right to be notified of the charges, ...the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses, and the right to appeal to a higher authority'; and they also include a juvenile's 'right to privacy' and to a sentencing process that is 'proportionate, frugal, and consistent' (see also Barga 1996; Warner 1994). When juvenile cases are disposed by diversion from court (the major site of conferencing activity in Australia and New Zealand), the Beijing Rules (1985: 276) suggest that 'care should be taken to minimise the potential for coercion and intimidation at all levels' and that juveniles 'should not feel pressured ... or be pressured into consenting to diversion programmes'. But what do

these legal principles actually mean in practice? And to what degree do diversionary conference practices conform to the legal principles? Drawing from SAJJ project data, I describe problems of guaranteeing rights for juveniles in legal practices marked by pragmatism for participants (young offenders, victims, and their supporters) who have minimal legal knowledge.

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## **Constructing a Curriculum: Introducing Social Work Students to Corrections**

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Social workers are frequently employed in social work settings to provide services to 'statutory' clients. However, work with offenders and prisoners has not been easily accommodated in discourses about the profession or in the teaching of social work within university schools despite Stanley Cohen's assertion, made as long ago as 1985, that, social workers 'were now just agents of social control, disguised storm troopers of the state' (Cohen, 1985, p. 130). This paper assumes that working with offenders and prisoners is an important part of social work practice and outlines the development of a curriculum to introduce final year social work students to such work. The curriculum is grounded in the Australian Association of Social Workers ethical emphases of 'commitment to social justice' and 'client self-determination'.

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## **Private Power in the Secret State: Information, Security Intelligence and Democratic Accountability**

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In the information age, new information remains narrowly actionable or profitable as a direct result of the integrity and protection of informational proprietary rights. Both specialized and generic forms of security intelligence have been proliferating to meet the demand for information security. While boundary maintenance activity has been identified with the modern public or state police function, in the information age there is a need for a re-democratization of this policing role in light of dramatic changes both to police visibility and to the secret state. One of these changes is the gradual integration of foreign counter-intelligence and domestic law enforcement. Another has been the trans-nationalization of the security intelligence function. A third has been the selective use of security and signals intelligence for commercial espionage. These changes call for attention to existing inadequacies in democratic accountability and oversight in the governance structure of

surveillance and information systems, specifically: the new 'free rider' problem in which multinational corporations benefit from opaque, state-funded trans-national security infrastructures but tax-paying citizens may not; the underdevelopment of democratically-informed international agreements guiding new international information security licenses and powers; the absence of institutionally autonomous, democratically-informed, and internationally representative agencies to oversee or govern the emerging global information monitoring systems. These developments in the structure and control of information access are producing unprecedented concentrations of power for a new information elite. This will continue to undermine democracy and destabilize societies and economies unless action, grounded in an adequate theory of global governance, is taken.

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## **dFACE - Visual Display re: Facial Analysis Technologies**

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### Poster display

The face is one of the most sacred features of our self. It is the primary way we identify each other, and our complex expressions enhance the way we communicate. Sophisticated software and hardware is capable of interrogating the human face in fine detail, matching identities with faces and evaluating expressions. However, this automatic analysis relies mostly on stereotyping the human face and its attributes. Therefore, these systems will make their evaluations based primarily on the way we look.

Facial analysis is conducted by law enforcement agencies throughout the world. The mug-shot and identity kits are helpful in identifying culprits and solving crime. Sophisticated systems for the "public safety market" can detect the faces of known troublemakers and exclude them from entry or participation. Many companies market software packages capable of detecting a face and putting an identity to it. They market the technology with the claim that it reduces crime, and increases security and safety. There is little critique of automatic identification technologies such as facial analysis and the impact they have on our behaviour and actions in both public and private spaces.

Facial analysis is promoted as being able to increase safety and security, however it really increases the efficiency of the security function by automating discrimination. The impact of facial analysis of the way we behave in both public and private space is great and there needs to be further debate about the use of automatic identification systems in our society. The dFace project is a 'media campaign' aimed at raising awareness about current and potential applications facial analysis technologies claim to be able identify us and predict our behaviour. The project doesn't call for the banning of such technologies, rather it wishes to

provoke further debate about facial analysis and suggest that more consideration is given to the nature of problems before implementing 'automatic' security systems such as facial analysis as solutions.

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## **The Restorative Treatment of Trauma Victims - The Example of Cognitive Behaviour Therapy.**

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Abstract: This presentation will outline the differences between debriefing and treatment for acute stress disorder and post traumatic stress disorder following criminal victimisation. It is proposed that any response to victims of crime needs to be aware of the differences between such disorders and the evidence of treatment efficacy. Until now such issues have been argued from ideology rather than empirical evidence and it is proposed that the evidence currently supports the notion that an intervention at the community level would benefit from adopting a restorative treatment component. However, such an approach requires continued familiarity with the clinical literature and a working knowledge of empirically supported treatments. An example of controlled research into the treatment efficacy of two approaches with victims of crime will also be presented.

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## **Some Myths Concerning Police Interrogation**

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Police questioning of suspects is surrounded by myths emanating from police and popular culture. The dominant image is of dedicated interrogators who face devious suspects and use skilful techniques to lead them from denial to confession. This paper will show that everyday police questioning of suspects is very different. The paper draws on the first Australian research to be based on large random samples of audiovisual records of police interviews with suspects.

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## **The Trials of the Communist Party, 1930-1955**

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In contrast to conventional criminal trials, political trials frequently involve attempts by both the prosecutor and the defendants to use the trial as a forum for achieving political objectives. Such attempts are, however, complicated by the difficulty of knowing how particular trial strategies will yield politically desirable outcomes. For communists, guidance was provided by authoritative guidelines issued by International Red Aid, a party front organisation devoted to the legal defence of victims of capitalism. However, while Australian communists paid some heed to these guidelines, the trials of communists were often run along relatively conventional lines. Especially in the higher courts, trials tended to be run with a view to maximising the likelihood of legal outcomes favourable to the party and its members. The International Red Aid's complained in vain about the legalism which characterised many Australian political trials.

While the strategies used by communist defendants were in one sense ideologically deviant, they were in another sense, politically rational. Higher Court successes provided both symbolic and substantive victories. Lower court successes were less frequent (and possibly for this reason, politicisation was more likely). But even in lower court cases, there were advantages to be derived by running cases along relatively conventional lines. Political defences were likely to play into the hands of prosecutors who were often at pains to rely on the defendant's politics to help make their case. Conventional defences helped make political points. They also sometimes helped keep activists out of jail and free to perform party work. Moreover, by the mid-1930s, the party was abandoning the revolutionary fervour of its early years. The defendant as heroic revolutionary was giving way to the defendant as innocent martyr. Prosecutors

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## **The Role of Formulation Based Treatment for Sexual Offenders**

**Chris Drake**

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**Tony Ward**

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The focus on group treatment for sexual offenders has likely played a role in neglect of the role of individual case formulations in delivering treatment. In this paper we briefly investigate the relative strengths and weaknesses of manual based treatment (MBT) and formulation based treatment (FBT) for sex offenders. On one hand, FBT has the advantages of greater flexibility, a more individualistic focus, and arguably is better equipped to deal

with more complex clinical presentations. On the other hand, MBT has the advantages of standardisation, less reliance on clinicians' (flawed) judgement, and may be a more efficient use of scarce resources. Although it appears that clinicians should initially provide manual based treatment rather than that based on individualized case formulations, two lines of argument will be made that suggest individual case formulations should play a greater role in treatment. First, we suggest that there are at least four situations where FBT represents a valuable strategy, namely when confronted with particularly complex or unusual cases, when standardized treatment has failed, or when there are significant threats to the therapeutic relationship. Secondly, two recent theories of sexual offending will be outlined. These emphasise the role of individual differences in leading to the onset of sexual offending, as well as differences in the offence process. It is suggested that the range of individual differences identified in these theories support the role of individual case formulation in delivering treatment.

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### **Young People on Crime, Policing and Crime Prevention - 'No one really cares what young people think'**

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Young people, youth 'at risk' and youth offenders are the primary targets of crime control and crime prevention strategies. Yet, crime control and crime prevention discourses have largely ignored young people's views and experiences of crime, victimisation, policing and crime prevention. This paper presents some of the findings from a survey of 1139 young people in Wellington, New Zealand. In particular, it examines young people's views and experiences of crime and policing, and their ideas about crime causation and prevention. The results challenge negative stereotypes of young people and illustrate that they have valid and useful contributions to make to crime control and crime prevention discourses and policy.

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### **What Do Crime Victimisation Surveys Reveal About Types of Victims?**

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Crime victimisation surveys provide valuable information on the occurrence of crime in the community, regardless of whether the victims reported the incident to police. In spite of methodological limitations, survey data can reveal much about the different types of victims and the circumstances in which they were victimised (Mirrlees-Black, 1998; Robert & Zauberman, 2000; Kury, 2000). Using a cluster analysis, data from the 1996 and 1999 Victorian Crime Victimisation Survey was used to identify a typology of victims which is masked in the usual descriptive results. From the findings of the cluster analysis, implications for developing crime prevention policies and programs are discussed.

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## **Deaf and the Corrections System**

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Prisons with Deaf inmates face very specific problems, not only for the institution but for the Deaf inmate as well. In hopes of avoiding problems some prisons in the United States are moving their Deaf inmates to one central location. Other prisons are dispersing them throughout the Corrections System. Although such precautions have been made, the problems still exist. In the United States, Deaf have specific rights under the Americans With Disabilities Act. Even with such laws in place Deaf are still being denied certain services and opportunities. This paper will address such problems as language, problems within prison populations, early release problems, equipment for use by Deaf, interpreter problems, "Deaf Gangs", nonmanual communications and lack of funds.

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## **E**

### **Young People, Crime and Policing in Northern Ireland**

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The data presented here were gathered during a research study funded by the United Kingdom, Economic & Social Research Council (ESRC). The study adopts a multi-dimensional approach to the study of young people, crime, policing and victimisation in Northern Ireland, and is the first to consider in a comprehensive fashion their experiences of crime and policing, and the strategies they adopt to 'manage' their risk of victimisation (particularly that which has a sectarian nature). The project design meant that the data were gathered in three phases. Phase One was quantitative in orientation and involved the distribution of a self-report questionnaire to 1000 young people in twelve schools and four youth groups within the Belfast Urban Area and three schools in an area outside Belfast (a total of fifteen schools).

Phase Two of the project involved exploring in a qualitative fashion a number of issues raised in Phase One of the research and involved the participation of 120 young people in twenty focus-group interview sessions. Phase Three comprised a workshop session organised as part of a one-day conference held at Queen's University, Belfast where a number of young people from each of the participating schools and youth groups attended.

The present discussion will provide a preliminary analysis of the survey data in terms of the following: (a) offending patterns of young people in Northern Ireland, (2) the nature and extent of their 'ordinary' criminal victimisation, (3) the nature and extent of sectarian victimisation (i.e the extent to which young people are victimised because of religious-ethnic affiliation), (4) and the degree to which young people feel that they have been victimised by members of the security forces in Northern Ireland (with a particular focus on the Royal Ulster Constabulary). This latter aspect is of particular relevance given the centrality of policing and justice issues to the dynamics of conflict in Northern Ireland, and the recent debate about reforming the Royal Ulster Constabulary under the terms of the Good Friday Agreement. Finally, the paper will address a number of methodological difficulties and constraints in conducting research in a 'divided society' such as Northern Ireland.

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## **Processes in Sexual Aggression: What are the Parallels Between Children with Intrusive Sexual Behaviours, and Adults Who Sexually Offend?**

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Our society has difficulty in understanding children who show sexually aggressive behaviours. Their young age seems at variance with the types of intrusive and sexual behaviours which may present. Therefore, the behaviours may be either dismissed as unimportant, or else demonised. Both professionals and parents can become confused by the array of apparently contradictory issues at hand. Theoretically, children with sexualised behaviours are not considered in models of etiology, which conceptualise relevant behaviour

as beginning in adolescence (Marshall and Barbaree, 1990).

This paper looks at proximal factors (such as planning, targeting, and the maintenance of secrecy) and distal factors (including patterns of sexual arousal, sexual scripts, and emotional dysregulation) in children aged from 4- 12 who show recurrent problematic sexual behaviours. A conceptual approach which accurately rates etiological and behavioural factors and yet which sets the children in an appropriate context of developmental stage, disadvantage and vulnerability, is suggested.

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## F

### **Is Boredom a Spur to Crime?: The Everyday Lives of Young Offenders**

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Boredom is also often cited as coexisting with engagement in illegal activities of young offenders. Although research suggests that it is important to understand the subjective experience of a person as they engage in illegal behaviors, few studies have sought to investigate this further.

This paper will discuss the findings from a study that investigated the time use and subjective experiences during occupation, such as boredom, of 37, Melbourne based, young offenders, as they engaged in their everyday lives. The study used a combination of research methods, Experience Sampling Method (ESM) and interviewing. Participants were each beeped 60 times over seven days and, each time, they were asked to complete a questionnaire about occupations engaged in and subjective experiences while engaged in these occupations.

Participants were interviewed both before and after the ESM data collection. Participants were bored 42% of the times that they were beeped, and 62% of their reported time was spent in occupations that they experienced as less challenging than their self-perceived skill levels. Boredom was experienced almost half of the time when they were engaged in passive leisure and personal care occupations, and was less likely to occur when engaged in education, labor force or active leisure occupations. Interview data indicated that, for many participants, both the lack of challenges, and experience of boredom, were directly related to engagement in illegal activities.

Findings from this study suggest that these young offenders are disadvantaged by their lack of engagement in productive and leisure pursuits that could lay the foundation for supporting a range of occupational roles including the worker role. Their pattern of time use is likely to be associated with poor mental health and may further impact on their development of skills for independent living. Implications for practice with young offenders will be discussed.

## **A Theoretical Argument on Medicolegal Statistic Generation: The Sociology of Scientific Knowledge and Public Policy**

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Agencies such as the United States' Bureau of Justice Statistics and the Center for Disease Control publish national homicide and suicide rates for public use with these calculations being used to set public policy, such as law enforcement efforts, crime prevention efforts and emergency medical and/or psychiatric services. Yet, how often are these figures challenged? From where is the credibility underlying these scientific claims made? The argument that knowledge is socially created has already been forwarded in the social sciences. However, what has rarely been forwarded is the assertion that "official statistics" are also socially created (for an exception, see Cameron and McGoogan, 1981). "Official statistics", such as homicide and suicide rates, are neither recognized to be socially created nor to contain error. This paper will examine the social production of scientific knowledge and hypothesize the impact that public statistic generation has on a society. Using the Sociology of Scientific Knowledge, this paper will summarize the current literature and then detail the process by which medicolegal statistics (e.g. homicide, suicide rates) are created. Sociological theory will be used in the examination of accumulating medicolegal death knowledge and to establish the impact such information has on a society's response. It is the goal of this paper to demonstrate that "what we know to be true is socially created" and that society's response to that knowledge is structured.

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## **Globalisation and Crime: Planning for Solutions**

**Mark Findlay**

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This paper introduces notions of globalisation and the manner in which crime and globalisation interrelate. In particular, the importance of analysing crime and control at both local and global levels is emphasised. Issues of crime and space are addressed in the context of urbanisation. The tendencies of the city to marginalise, and the consequential criminal outcomes from this environment of modernisation (and the modern city) are discussed. Urban planning has had a crucial part to play in the global push towards urbanisation, and crime prevention is now a recognised feature of globalised city planning. Crime accompanies urbanisation, and recently has shadowed urban planning. The paper concludes with a consideration of the manner in which urban planning in Australia can impact on crime trends and patterns, beyond crime prevention through urban design. The globalisation theme is reintroduced when suggesting a more integrated crime prevention and control strategy within which urban planning has a role to reduce social marginalisation and hence crime.

## **A Fair Trial for the Unrepresented?**

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Legal representation in Australian courts has fallen steadily in recent years to the point where in the NSW Local Court slightly less than half those appearing do so without counsel (only 54.3% were represented in the year 1998/99). The 1992 Dietrich decision affirmed defendants' right to a fair trial and this study seeks to test whether this right is being afforded to the many appearing unrepresented in the Local Court. The study considers whether persons without representation receive different court outcomes and penalties than defendants who are represented. Over 2000 individual defendants who appeared before the NSW Local Court in 1999 with legal representation were paired with a similar non-represented defendant. Subjects were matched based on age, gender, court, prior convictions, charge, case type (charge, summons, CAN), bail status, Aboriginality and plea in order to control for differences in the represented and unrepresented populations. No significant difference was found in the likelihood of acquittals or the type of penalties received by these represented and unrepresented defendants. Where the matched defendants received the same penalty, there was also no significant difference in the value of the fine or the duration of recognizance received. The findings show that, for the defendants considered, legal representation had no impact upon outcome or penalty imposed in the Local Court. The study includes only first offenders and the results apply generally to less serious offences. The findings indicate that the fair trial ideal 'that all are equal before the law' does apply to represented and unrepresented defendants in the NSW Local Court.

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## **Someone to Watch Over Us: Back to the Panopticon?**

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Are we becoming a surveillance society? Sophisticated devices and techniques have greatly enhanced the capacity of government to intrude into the lives of citizens. Many of the new forms of surveillance are well suited to the networked society. Technology now allows the compilation, storage, matching, analysis and dissemination of personal data at high speed and low cost. But the private sector is also involved. Simply by participating in modern commerce, individuals are significantly eroding their own privacy. While there may be broad public support for the preventive role of many forms of overt surveillance, there are also serious weaknesses in the legislative frameworks within which the monitoring of citizens by overt and covert means takes place. There are concerns about accountability, fairness, and the effects on the privacy rights of those who may be unwittingly caught up in the process. The

new forms of surveillance are evocative of the old in the use of surveillance as an exercise of power and discipline.

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## **Criminal Injuries Compensation reincarnated**

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Financial compensation to victims of violent crime is only just over 30 years old in Australia. In the late 1960s the notion that the state should pay money to victims of crime was a radical initiative and much heralded as the product of humanity and vision by governments at last recognising the impact of crime upon those most adversely affected by its incidence. However, crimes compensation has changed dramatically since the 1960s and is quite different in terms of its form, its mechanisms and the amount of money that it makes available to victims around Australia. In many jurisdictions, it has come to be regarded as a "right", although the calls from a number of quarters latterly have been for its reconceptualisation. Fundamental questions have come to be asked about whether it achieves its objects and whether it might in fact be counter-therapeutic to its recipients. This paper analyses the emergence of criminal injuries compensation as a significant political issue in contemporary Australia. It reviews within an international context the arguments advanced for the abolition, preservation and reconstitution of victims assistance schemes. It contrasts the rhetoric with the reality and adopts a therapeutic jurisprudence and restorative justice focus upon the phenomenon of the state giving money to victims of crime and upon legislative provisions enabling courts to order offenders to compensate their victims. The paper's analysis is undertaken against the backdrop of the abolition of such compensation in Victoria in 1997, its re-introduction in Victoria in 2000/2001 and the substantial changes to schemes made recently in the ACT, New South Wales and South Australia. It argues in favour of a sophisticated combination of measures targeted at promoting the return to physical and mental health of those injured by violent criminal conduct.

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## **Health and Well-being Outcomes of the NSW Drug Court Trial: Preliminary Findings**

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Drug courts are being adopted across the United States of America, and now in several Australian states, at an astonishing rate. In the United States of America over 200,000 adults have enrolled in drug courts, and there are over 450 drug courts in operation. Although thorough evaluations of this relatively recent form of legally coerced treatment are sparse, most outcome evaluations to date have been concerned with retention rates and with success of drug courts in limiting recidivism. Little has been done to examine the client impact of such programs. The evaluation of the NSW Drug Court Trial, being conducted by the NSW Bureau of Crime Statistics and Research, includes an assessment of the health and wellbeing of drug court participants throughout their participation on the NSW Drug Court program. The study also investigates client satisfaction with various aspects of the program.

The health, wellbeing and participant satisfaction study consists of five rounds of interviews conducted at approximately four month intervals, commencing prior to acceptance on the NSW Drug Court program and ending with a follow-up interview, four months after program graduation. This presentation will outline the design of the study, currently in the final phases of data collection. Preliminary results will be presented, examining changes in the health and wellbeing of participants prior to program entry and once they have been on the program for approximately four months. Participant satisfaction with the NSW Drug Court program will also be discussed.

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## **Sentencing Reform in Victoria**

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This paper outlines the progress of a recent review of sentencing with which the author has been involved. This Review has been asked to consider a range of matters including maximum penalties for drug offences, existing and new sentencing options, home detention, mechanisms to inform the sentencing process, guideline judgments, the role of a judicial studies institute in Victoria, sentence indication schemes and spent convictions. It puts these changes into the context of recent developments in sentencing in England, South Africa, Canada and the United States.

# G

## **From Profit to Protection (and back again?) Parens Patriae and Child Welfare**

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This paper will examine the role of the modern State in child protection and juvenile justice. I will trace the development of the parens patriae doctrine from medieval English law through to the evolution of the benevolent parent State in the 17th century at which point the doctrine of Parens Patriae was developed. Initially the doctrine was employed by the crown to justify intervention in the lives of private subjects for profit and control, however this, eventually developed into a responsibility on the part of the Crown/State to intervene for the benefit of children and individuals.

Social factors such as the postindustrial population increase and concerns for urban welfare saw the role of the Crown/State superseded by that of private organisations and charities. It is this privately based charity, which was transported to Australia and transplanted, in the fertile soil of social disadvantage in colonial Australia.

This paper will examine is the role of the State and how this has changed over the past one thousand years and, more specifically, over the last forty years in Australia. NGOs enjoyed extraordinary discretion with regards to private individuals and, more importantly, their children. In Victoria at the moment, the State is being called upon to exercise more control in youth welfare, yet if the State did begin to actively intervene in the service provision would it be the first time in history? What is the role of the State? Why should private individuals and organisations be able to exercise control over their fellow citizens because the State, traditionally has not? The powers of parens patriae are extraordinary, but how are they executed in modern Australian child welfare/protection and juvenile justice? This paper will a raise and address these questions in light of the present state of child protection and juvenile justice in Australia.

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## **What's Wrong With Australia's Model Forensic Procedures Bill?**

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E-mail: J.Gans@unsw.edu.au Abstract:

The Model Forensic Procedures Bill is a legal blueprint for an anticipated transformation in Australian investigative policing in the Twenty-First Century towards an increased reliance on information derived from people's bodies. The detailed provisions of the bill also

exemplify a trend towards more comprehensive codification of the legal rules that purport to govern policing practice. The model bill's imminent adoption in most Australian jurisdictions has sparked debate about its contentious provisions on non-consensual procedures and the database of DNA profiles. This paper looks to a less obvious source of controversy: the many holes in the Bill's regulation of forensic procedures and the use of forensic information.

The paper will outline three potential issues that are likely to arise in forensic policing practice, but which are inadequately dealt with by the model bill: the covert gathering of forensic material, the classification of some suspects as 'volunteers' and DNA profile matching outside of the proposed database. Each of these difficulties reflects unresolved questions in general policing law that arise in more traditional policing contexts; namely 'covert' policing, 'consensual' policing and the control of information gathered by the police. The paper will argue that the same pressures that have led Australian governments to codify rules about the gathering and use of information derived from people's bodies will eventually require the resolution of these difficult aspects of general policing law.

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## **The Future of Crime and Justice Statistics: Where to From Here?**

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The National Centre for Crime and Justice Statistics is always seeking to develop further its statistical collections and its classifications systems. As part of this drive for improvement, the Centre is currently running a number of projects that are designed to enhance our national statistics. This paper presents a discussion of three of these projects: the National Crime and Justice Statistical Framework; Offender-Based Statistics; and the Indigenous Statistics project. Included in the paper is the theoretical background to each of these projects, as well as some brief examples of the way in which this work will help further the statistical leadership role of the Australian Bureau of Statistics.

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## **Representations of the Public Good and Private Interest in Financial Services Regulation**

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This paper considers the dilemmas associated with adequate representation of the interests of the public good, the business sector and individuals in the regulatory structures and processes of financial markets. Financial markets and affiliated industries within financial services are at the forefront of developments in global late-modern capitalism. Developments in information technology, allied with liberalisation of regimes controlling capital exchange, have created trading environments within the financial services sector that are increasingly anonymous and international in their nature. These developments raise questions of governance of the financial services sector and how the legitimate interests of individuals, corporate actors, nation states and regional groupings should be mediated. The financial services sector is growing in size and influence within the global economy. Its size and influence is increasingly assured through the rising numbers of people within advanced economies who invest directly in financial products and markets. These burgeoning levels of share ownership accentuate broader questions relating to the social, political and economic influence of the financial services sector and how it should be regulated. Any meaningful regulation of the financial services sector must involve at the very least alignment, and in many instances, integration, of both public and private systems of justice. These processes of regulatory alignment and integration are occurring at local, national and international levels within the financial services sector. This paper analyses how notions of the public good and private interest are impacting upon these regulatory developments.

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## **Corporate Deviance and the New Citizenship Vision**

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The criminal justice system imposes restraints on individuals to ensure that all individuals in the polity will have as much freedom to exercise their free will as is consonant with the liberty of all. The private is regulated to fortify individual responsibilities consonant with the State's vision of liberal democracy. In our era this vision increasingly resembles a libertarian philosophy, one in which citizenship is seen as requiring the promotion of egoistic individualism and the devaluation of mutual responsibilities. Street crime is to be regulated to help the private economic sphere flourish while the market, as the ultimate private economic institution, is to be left alone. The for-profit corporation is the preferred means of wealth owners for participating in market activities. Their institutionalised irresponsibility is feted in the new citizenship context. The corporate actor, as a market actor, is to be given freedoms it never had. The corporation is no longer there to aid the State attain its citizenship goals. The indifference with which the criminal justice system treats corporate deviance underlines the deepening divide between the public and the private and reinforces the movement to the dilution of democracy and the primacy of wealth. The study of corporate crime is a useful

way to study the undermining of liberal democracy in polities which perceive themselves as liberal capitalist democracies.

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## **Rehabilitation beyond Programs: A Study of the Needs of Offenders with Intellectual Disability and Psychiatric Disorder**

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Recent and renewed criticism of offender rehabilitation programs has focused more on their unsatisfactory outcomes rather than the reasons for their alleged lack of success. In particular, the assumptions of the "program" model of service delivery are rarely questioned. This study of offenders referred to a specialist forensic dual disability clinic (i.e. for those with both intellectual disability and psychiatric disorder) demonstrates that most have service needs which extend far beyond the "disability" or "psychiatric" labels. It is not surprising, therefore, that they have not benefited from the traditional programs offered to them which often operate with strict eligibility criteria, rigid time-frames, standardized content and limited outcome measures. We argue that pragmatic and humanistic considerations warrant a reconceptualisation of the "program" approach for offenders with special needs.

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## **Police, States, and Fear**

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This paper examines the position of police forces in societies characterised by high levels of internal disorder and collective violence. It takes as its central concern the failure of state police forces to protect life. It critiques the position of many human rights analyses for their failure to locate policing contextually in relation to domestic state-society relations and the changing international environment (transnational organized crime, US drug policy, international investment etc). The paper advocates the need for strengthening state police forces in order to provide greater protection for ordinary citizens, and suggests ways in which this might be done.

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## **New Institutional Forms of Policing: The Balance of Advantage**

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The traditional differentiation between public police and private security is no longer adequate to embrace the various hybrids which characterise what Bayley and Shearing refer to as the "multilateralization" of policing. Each of these organisational forms entails a combination of inputs from and benefits to the police, the general public, and one or more private institutions. This paper will explore the extent to which various forms of public/private interface benefit some interests at the expense of others.

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## **Official Misconduct in Corrections: A Theoretical Conception and Typology**

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While official misconduct by police officers has been subject to extensive scrutiny in recent years, almost nothing is known of a systematic nature about official misconduct amongst correctional officers. At times corrupt activity and misconduct have been highlighted by official inquires (eg. Nagle, 1978; Kennedy, 1988 etc) however whilst such inquiries have been useful in highlighting the some types of corrupt activity and in setting out reform agendas, what is clearly needed is an ongoing capacity to monitor and prevent official misconduct within correctional systems.

In Queensland, responsibility for the oversight of official misconduct in publicly managed correctional institutions has recently been transferred to the Queensland Criminal Justice Commission (CJC). Whilst the CJC has a range of well-developed expertise in the investigation of corruption within police and public-sector organisations, the unique dynamics and environment of correctional institutions and the lack of established literature on the subject of misconduct within correctional institutions has been identified as a serious impediment.

The current research project underway is a response to the current deficiency in fundamental and applied research on the issue of official misconduct within correctional institutions. It is hoped that ultimately this project will provide techniques and methods for monitoring misconduct and lead to a reduction in the incidence of official misconduct in Queensland correctional centres. This paper will give a brief overview of the project and will then explore

the initial theoretical conceptualisation of official misconduct in corrections and propose an initial typology from the review of literature. Further the paper will then investigate how the research will attempt to expand upon the theoretical model and typology through its findings.

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## **Crime and Older Australians - Future Challenges**

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Australia's population is ageing. At the present time 2.3 million people or 12 per cent of the population are aged 65 years and over. During the next 20 to 30 years as the baby-boom generation has even more of a demographic impact, this group of people will account for almost one-quarter of the total population. Older people are a very diverse group, mostly female, both poor and rich, urban and rural, healthy and less so, Australian and overseas born, to mention just a few characteristics.

The challenges of the demographic shift are significant. Vibrant older people are more likely to be the victims of crime as they go about their daily lives, though the evidence shows that their risk of predatory crime is not high. Older people who are asset rich are at risk of fraud as they plan how to spread 40 years of earnings over 80 years of life. Frail older people, whether in health care establishments or at home, are at risk of abuse by carers who may not care well, and demented older people are at great risk in terms of having their interests protected across a wide range of fronts. When understanding and responding to crime and older people in the 21st Century, there are therefore three issues which need to be discussed. These are: crime and abuse which includes predatory crime, duty of care and relationship crime, as well as economic crime; fear of crime; and risk assessment and strategic partnership. These are significant issues for future policy and practice.

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## **State Crime, Legitimacy and Civil Society**

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We have argued elsewhere that criminology needs a concept of state crime which is both independent of the states own definition of crime and reasonably congruent with the concept of crime used elsewhere in criminology. We proposed that state crime should be defined as state organizational deviance which involves violation of human rights. The seemingly

disparate concepts of human rights and deviance are linked by a third concept: that of legitimacy. In this paper we focus on the concept of legitimacy in the context of both the definition and the explanation of state crime. Together with the related concepts of civil society and hegemony (particularistic and universal), this allows us to sketch a framework within which to study the causes and prevention of the many varieties of state crime in the late modern world.

Criminology needs to rethink its view of the state. Rather than treating the state as something antithetical to crime, it would be more realistic to consider states as ranging along a continuum of criminality, with the armed gang at one end and the *Rechtstaat* (an ideal type with no precise counterpart in reality) at the other. Concepts such as legitimacy, hegemony and civil society help to explain how states move towards one end of the continuum or the other.

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**The Battle for the Streets: A Review of the Pilot Schemes to Remove Young People from Public Places Set Up Under the Children (Parental Responsibility) Act 1994 (NSW).**

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Numerous proposals have been suggested to deal with the problem of a perceived link between juvenile crime and juveniles gathering in public places such as streets, shopping centres and on public transport. Proposals to break this perceived link have ranged from the sublime (for instance, consultations between youth and shopping centre developers prior to shopping centre construction) to the seemingly ridiculous (for instance, the playing of music by Bing Crosby and the installation of pink lights in public places). One proposal that was given imprimatur in NSW was the ability for police to remove juveniles from public places if police officers believed, on reasonable grounds, that the person was under the age of sixteen and was not supervised or under the control of a responsible adult. This proposal was adopted

under the Children (Parental Responsibility) Act 1994 (NSW) and was first implemented in the form of a pilot scheme that operated in Gosford and Orange for a period of one year commencing on 13 March 1995. The efficacy of the legislation and pilot schemes was reviewed by a consultant to the NSW government but was not tested on the basis of conclusive objective data or scientific analysis. Despite this, and the consultants' recommendation to repeal the legislation, the 1995 pilot schemes provided the basis for the introduction of similar schemes throughout NSW under a subsequent Act, the Children (Protection and Parental Responsibility) Act 1997.

The object of this paper is to determine, on the basis of juvenile crime data in Gosford and Orange, before, during and after the 1995 pilot schemes, whether the Act fulfilled one of its main objects which was stated to be the prevention and reduction of juvenile crime.

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## **Public Accountability in Private Prisons**

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Public institutions such as prisons are subject to a number of mechanisms of accountability, such as scrutiny by Ombudsman and Auditors General, Freedom of Information (FOI) Legislation, Ministerial accountability, and annual reporting requirements. This paper will explain how these individual avenues of accountability operate to provide a coherent system of accountability of public action. It will be argued that these forms of accountability provide a system of accountability that is naturally more suited to public bodies. Governments in Australia have sought to extend such public sector forms of accountability to privately managed prisons, often with little or no modification to take account of the differing nature of privately managed prisons. This approach has led to structures that provide an ill-suited and incomplete system of monitoring for privately managed prisons. Examples will be drawn from the Victorian prison system covering FOI, review by the Auditor-General, coroner's inquiries and Ministerial action. It will be suggested that, if traditional forms of public accountability are to be applied to privately managed prisons in an effective manner, they must undergo significant amendment.

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## **The Engineer's Dilemma: Regulation, Juridification and Legitimation in the Control of Risk**

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This paper traces the compliance dilemma facing a hypothetical engineer of a major hospital. As a middle manager, the engineer is responsible for the smooth running of the maintenance systems of a major hospital (including emergency services, electrical power, infection control, heating and cooling). This role includes responsibility for compliance with multiple, often contradictory regulatory regimes, from Health and Safety regulations and Building Standards to Fire Safety Regulations and Environmental Protection regimes. His dilemma in meeting these contradictory requirements has been recently described by Teubner as resulting from "inadequate systems coupling" a disjunction between the systems of law, politics and economics. We argue that explanations grounded in systems theory ignore critical aspects driving the dynamics of regulatory control. In exploring the engineer's dilemma we draw on notions of professionalism as a historical source of regulatory control and previous regulatory policies which allowed for a restriction of competition and oligopolies to drive forward higher regulatory standards. We argue, however, that such models no longer meet the accountability demands of late capitalism. Rather, current levels of juridification can best be understood as resulting from the crisis tendencies in late capitalism as presented by Habermas in his notions of fiscal, legitimation, rationality and motivation crises and modified in recent years as the "regulatory trilemma". The paper outlines how the proliferation of outcome based regulation, valorization of certain form of expertise (eg cost benefit analysis), increase use of administrative penalties and greater emphasis on prosecution all result from the conflicting demands of fiscal constraints and legitimation demands. We argue that in designing regulatory frameworks, governments have abrogated their responsibility to provide a communicative sphere for regulatory development and instead relied on markets and competition, coupled with an appeal to egalitarianism and law and order politics to provide the basis for regulatory control. This allows them to safely ignore those caught in the mire of middle management by responding to the market demands for "flexibility, innovation and efficiency", or appealing to public sentiment of the need for "tough regulation". Ultimately, this perpetuates the development of regulation tied to crisis demands and the consequent necessity of non-compliance.

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## **Coriander on the Rice? Reforming industrial safety in Thailand in the aftermath of the Kader Toy Factory Fire**

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In Bangkok in 1993 the Kader Toy Factory Fire, the worst industrial fire in history, killed nearly 200 workers and injured over 500. The fire graphically demonstrated the underbelly of industrial development. Investigations revealed a litany of hazards unacknowledged by the Kader management, from blocked exits to poor building standards that exacerbated the loss of life. In a manner reminiscent of the Triangle Shirtwaist Factory fire some 90 years earlier, there was a public outcry demanding change. Yet today reformers admit frustration with the degree of change since the fire. This paper describes the degree and nature of change in Occupational Health and Safety regulation since the Kader Fire, identifies and analyzes the forces that inhibited, encouraged and shaped that change, and assesses the role of various players. It focuses particularly on how globalization has influenced these forces and players, and evaluates how it has helped or hindered productive change. The research illustrates how globalization can, in different regulatory regimes, acting either from the "bottom up" or from the "top down". Compensation and health and safety laws were primarily driven by pressure from below, with local protests organized by Thai NGOs and unions drawing support from international sister organizations.

Legislative change is thus driven in a piecemeal fashion - and can be bogged down in the ponderous legislative process or thwarted by political interests. In areas of a more technical nature, for example building safety standards and fire prevention, reform is driven from above with governments drawing on international expertise. Legislation in these cases can be comprehensive. In both cases, however, the major stumbling block remains enforcement, which remains hampered by labyrinthine government bureaucracies, a weak inspectorate, lack of resources exacerbated by the Asian Financial Crisis and the shadow of corruption.

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### **An Aesthetic of Prevention: The Case of Burglary**

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This paper critically examines a recent crime prevention initiative of the federal government which involved, amongst other things, the distribution of materials (i.e. brochure and letter) about burglary prevention to various households around Australia. Through an exploration of the interplay between author, audience, text and truth, it is suggested that the object of these materials was not - indeed could not be - crime nor its prevention, but rather the production of an aesthetic of transgression and victimhood. Relatedly, it is contended that such materials - although seldom the object of criminological analyses - function as important discursive devices for effecting the visceral participation of citizens in 'the problem of crime'. The paper concludes by exploring issues and problems associated with the nature of this participation.

## **Antitrust Delinquency: Identifying the Criminal Element**

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This paper is part of a wider study of the legal control of anti-competitive trading cartels and addresses the choice of legal sanctions for that purpose, in particular the criminalization of such corporate behaviour. The US has a well-established tradition of using criminal law; EC competition law employs a 'virtual' system of criminal sanctions formally described as administrative measures; and many legal systems also enable civil proceedings to be used to deal with anti-competitive conduct. A comparison of these options, and any evaluation of the use of criminal process in this context, requires an analysis of the delinquency inherent in anti-competitive, and more specifically cartel-based behaviour on the part of major corporate actors.

Historically, European legal systems have displayed a more ambivalent attitude towards such commercial activities compared to that found in North American systems. This discussion probes these differing reactions as part of an investigation of the degree and kind of delinquency arising from participation in anti-competitive cartels and argues that this history of differing perceptions has an important impact on both the contemporary 'culture' of cartel behaviour and the theory and policy of legal enforcement. While two main elements of delinquency may be identified within cartel activity - an element of illegal conspiracy and an injury to economic and political values - these may be appreciated differently in European and North American legal cultures. This discussion should then inform the justification for assigning a criminal label to such elements of delinquent corporate behaviour.

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## **Legal Control of Private Investigators and Associated Private Agents: Profile and Issues**

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Effectively regulating the conduct of private investigators is a difficult task. The broad scope of their activities exposes them to a number of areas of common law and various statutes. Unfortunately, the State and Territory legislation relating to the licensing of investigation and commercial agents does not come close to a comprehensive code of conduct and there is little consistency across the different jurisdictions. The licensing schemes have contributed little to the effective regulation of private investigators, largely due to the lack of effective mechanisms to enforce accountability. The piecemeal regulation also leaves private investigators uncertain as to their rights and obligations under the law and members of the public unsure as to what to do when they are aggrieved by a private investigator's conduct. This article reviews the laws relating to private investigators, including the various licensing schemes. It also considers the relationship between private investigators, their clients and the public. It concludes that the law as it currently stands is generally adequate to balance the rights and interests of all, but that there is a need to improve accountability mechanisms by improved uniform licensing schemes, training and an enforceable code of conduct.

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## **Evaluating Projects To Cut Theft By Disrupting The Markets For Stolen Goods - The Involvement Of The Private Sector**

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The authors are involved in the evaluation of two Home Office Crime Reduction Programme-funded projects in England aiming at reducing acquisitive crime by targeting the markets for stolen goods - based on the premise that most thieves are rational operators who steal most property to sell on, and that if they can't sell on they will therefore not steal.

Both projects necessitate the participation and compliance not only of a multi-agency group of public sector bodies but also private sector organisations - second hand shops, pubs, clubs, businesses - and the use of non-traditional policing tools - spreading a message, changing attitudes. The paper seeks to examine the complexities of evaluating such projects' impact when not only is the chain of mechanisms which it is hypothesised might eventually result in "success" long and convoluted, but the various parties to the project have differing definitions of success.

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## **Police and the Fear of Crime in the 21st Century**

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The Western Australia Police Service commenced a comprehensive change management process in the mid 1990s under the umbrella of the Delta Program. The agency is currently developing a five-year strategic plan to build on the Delta reforms and to set the agency's future business focus and style of policing. To achieve the central focus of the agency's mission statement (... to create a safer and more secure Western Australia...) a reduction in crime is an obvious principal objective.

A reduction in crime can be tackled through a variety of strategies which range from early intervention with groups at risk of offending, to 'target hardening'. In addition, a number of technological and business process reengineering initiatives will greatly enhance the capacity for intelligence led policing and best use of resources. Regardless of advances made on these fronts, perceptions of safety and the fear of crime need to be tackled simultaneously with traditional crime prevention strategies. While there is a great deal of information about the levels of perceived community safety, there is very little local knowledge about the drivers of these perceptions or the fear of crime.

To fully understand the perception of crime there may be a need for detailed research to assess the full range of influences on safety and security perceptions. However, this is a long-term and expensive exercise. Another alternative is to look at what information police agencies already have on hand. In 1998 a seemingly minor change in a question in the ABS population Survey Monitor, in which 6,700 households were surveyed over the past four years, revealed that there is a major difference in the public perception of crime depending on the level of data aggregation. For example while only 31.9 percent of WA respondents felt that illegal drugs were a problem in their own neighbourhood 92.5 percent felt that they were a problem in the wider community. Similarly, violence was deemed by 13.8 per cent respondents to be a problem in the neighbourhood as opposed to 85.4 per cent who felt it was a problem in the wider community.

This paper will look at the need to understand the drivers behind perceptions of crime and the circumstance in which they apply, before policy decisions can be made. It will also argue that it is no longer sufficient for police agencies to concentrate on traditional crime reduction strategies to secure a safer environment, without addressing the public's perception of crime.

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## **Family Conferencing in South Australia and Re-offending: Preliminary Results from SAJJ Project**

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This paper examines whether the conference process has some impact on reducing the likelihood of juvenile re-offending. Is variation in the conference process (e.g., number of

participants present, evidence of procedural justice, offender orientation to the conference) related to post-conference re-offending? Or, is re-offending better predicted by a young person's pre-conference behaviour or some combination of conference and offender characteristics? For what groups of young people might conferences have an "effect" on reducing re-offending? The paper draws from the SAJJ project to determine the relative importance of conference dynamics and offender characteristics in dissuading young offenders from committing further crimes.

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## **Social Theory, Rights and Criminal Justice**

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The growing importance attached to individual autonomy and rights during recent years has been largely ignored in terms of their implications for theoretical analysis of the criminal justice process. This process is confounded by the transnational and cross-jurisdictional nature of rights law and the absence of any coherent conceptualization of rights in criminal justice theory. In terms of accommodating the impact of cross-jurisdictional rights enforcement in domestic sentencing systems the theoretical problem remains one of accounting for the context of how the philosophical justifications of penalty are negotiated, compromised and enforced by the institutionalisation of rights law. The overall purpose of this paper is, therefore, to establish how rights may be accommodated within existing social theory in the criminal justice context and to demonstrate why this is necessary.

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## **Procedural Safeguards for Young Offenders: Comparing The Emphases of Adolescents, Judges, Magistrates, Barristers and Solicitors**

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What procedural safeguards do adolescents emphasise for young offenders? How do young people's emphases on safeguards for adult/child interactions compare with the procedural safeguards emphasised by legal professionals? We developed a set of safeguards for children in the justice system, drawing on criteria shown to be important for securing procedural, as opposed to distributive, justice in adult settings. Although procedural justice for children is an important aspect of UN goals and Australian reforms, there is little systematic investigation of adolescents' preferences about ways of safeguarding their rights, and little comparative data. We asked a sample of high school students from Year 9 classes (n=362) and Year 11 classes (n=370) at local Catholic high schools to rate the importance of 20 procedural safeguards in the case of a young shoplifter. Then we obtained similar ratings from 876 members of the legal profession in Victoria. Comparisons revealed differences in the procedural safeguards emphasised by adolescents and legal professionals, and amongst legal professionals in relation to their own roles. Adolescents were more concerned than legal professionals that the young offender be represented, have some say in the decision and some control over proceedings. They were less concerned about the magistrate's explanations, efforts to be fair or demeanour. Judges and magistrates agree with the adolescents rather than with barristers and solicitors about the importance of having a parent to speak up for the young offender. Compared with barristers and solicitors, judges and magistrates emphasised the magistrate's explanations of the penalty, but were less concerned about representation for the young offender. Understanding young people's concerns about procedural safeguards, and where they are at variance with the views of court officials is a crucial basis for reform of adult-child interactions at all levels of the legal system.

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## **Criminology and Globalisation: Theoretical Problems and Possibilities**

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'Globalisation' poses an enormous challenge to contemporary criminology. Over recent years, however, criminological discourse in this area has tended to display signs of essentialism and determinism. It is argued that criminology might usefully turn its attention to the links between socio-economic, political and cultural transformations and the recent changes which have occurred in western systems of crime control. Current administrative and correctional concerns in criminology, however, are tending to outweigh theoretical and empirical work that might focus productively on the changing nature of crime control in neo-liberal states. Post structural, post colonial, social movement and feminist theory seem best placed in this regard.

## **Capturing the 'Get Tough' Politics of Crime Control**

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The term 'law and order' is typically used pejoratively to refer to crime control policies that have emerged from political processes framed by populist punitiveness. A variety of explanations for increased political contestation in the area of crime control and the increased public appeal of 'getting tougher' on offenders have been proposed. Among these explanations are Scheingold's (1984) 'myth' of crime and punishment; the conservative 'shift to the right' (Brake & Hale 1992, Hogg & Brown 1998); the limits of the sovereign state (Garland 1996, 2000); and the expressive and cohesive functionality of punishment for a polity fractured by the pressures of globalisation and post-modernity (Tyler & Boeckmann 1997, Caplow & Simon 1999). In this paper I present an analysis of criminal justice policy developments in 58 state jurisdictions in Australia and the United States from the 1970s to the late 1990s. Results indicate that there is wide disparity in criminal justice policy outcomes among state jurisdictions, which is not explicable within the homogeneous political processes presumed to drive contemporary 'get tough' law and order crime control policies.

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## **Youth Violence: A Global Perspective: Public Good or Private Interest**

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This presentation is a descriptive study to provide a global perspective on youth violence as it exists in selected countries throughout the world. This presentation will address the issue of youth violence in regard to the extent, how it is viewed and the social issues it causes, the effects this violence has on schools, and what has been done by agencies and other organizations to prevent and/or alleviate the problem. This presentation includes a historical commentary on which interventions were effective or successful and which were not. Violence and violence prevention have been identified as a major public health issue. Methods: This study examined youth crime statistics, government documents and materials.

Among the countries studied are Australia, Cambodia, Canada, Great Britain, Germany, Jamaica, Russia, South Africa, Slovenia, St. Lucia, Thailand, and United States. A secondary team of international scholars contributed to this study by providing research and translation services. All research and program materials were reviewed in context of their respective languages and the countries social structure.

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## **Perception of Crime and Violence in the Classroom: An Iowa Perspective**

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This study is designed to survey Iowa teachers regarding their perception of crime and violence in the classroom setting. Background: Crime and violence in schools have been increasing throughout the United States. This violence is not limited to inner city schools, but has struck virtually every strata and socioeconomic level of American culture and society. The Center for the Prevention of Community Violence of Des Moines University - Osteopathic Medical Center, in collaboration with the Iowa State Education Association (ISEA) conducted survey research designed to investigate the perceptions of Iowa teachers.

The specific focus of this project is

- o Measure teachers perceptions related to crime and violence in the classroom, and on school property
- o Compare perceptual differences between rural and urban teachers Compare perceptual differences between elementary, middle, and high school teachers
- o Determine how effective teachers perceive current programs and policies
- o Determine perceptual differences between elementary, junior level and senior level

teachers

- o Determine the effect of anti-social and aggressive behaviors in children
- o Examine the extent of weapon carrying, fighting, drug and alcohol use in Iowa schools.

The results of this research will be used to assist in determining educational programming and policy related to violence intervention strategies. A comparative analysis between teacher and principals will be conducted.

Methods: A representative sample of approximately 1500 teachers currently in practice throughout Iowa were mailed survey documents. Teachers practicing in all settings were queried. This representative sample was mailed and completed anonymously to assure the integrity of results.

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## **Crime, "Community" & Civic Contexts**

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The idea that crime and violence occur mainly in urban settings amounts almost to an article of faith in western criminology. In treating crime as a predominantly urban phenomenon, shaped by the social ecological factors of the modern city, much criminology has assumed that rural communities are naturally cohesive, relatively crime free environments because they more closely conform to the *gemeinschaft* type of community. Consequently there has been little attention focused on the specific nature of crime and violence in civic contexts, other than metropolitan ones. One purpose of this paper is to redress this imbalance, by over-viewing the empirical distribution of crime rates according to localities, differentiated by degree of urbanisation or rurality. This paper consciously avoids privileging the urban community as the social laboratory of criminological research. A review of the available empirical evidence regarding crime in rural Australia and America raises some doubts about the urban-centric focus of much criminology and opens up a range of other interesting questions concerning the differential social construction of crime problems in some rural localities. Our interest in this topic stems from a three-year study of the historical, cultural and socio-economic dimensions of violence in six rural communities.

## **Enforcement of Securities Laws: A Comparison between the United States, Mexico, and Canada**

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This paper examines the investigation and enforcement of securities laws in the U.S., Mexico and Canada. A description and analysis of each countries enforcement efforts is presented. Canada, for example, focuses most of its enforcement efforts at the provincial level, while the United States supervises the securities market primarily at the federal level. This is somewhat unusual, given that Canada has a uniform criminal code for the entire country, and a national law enforcement agency in the RCMP. While the U.S. also has national law enforcement agencies, e.g. the F.B.I, each state has its own criminal code. It is the uniqueness in each countries legal and political history that has led to the current situation. Given the national and international makeup of many securities investments, it is argued that it is best to investigate and enforce securities laws at the national level. In addition, there is a need for international cooperation to control illegal activity in the trading of securities.

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## **Developmental Prevention in Disadvantaged Communities**

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There is persuasive evidence from carefully designed field experiments that developmental interventions can prevent crime and related problems. However, such interventions frequently fail at the point of implementation. A major challenge is to implement in disadvantaged communities a package of evidence-based programs that influence multiple risk and protective factors in a way that empowers local residents and changes developmentally relevant institutions and social policies. One way of thinking about how to do this is to combine the insights of developmental prevention and community development. Developmental prevention involves intervention early in developmental pathways that lead to crime and related problems, emphasising investment in "child friendly" institutions, communities and social policies and the manipulation of multiple risk and protective factors at different levels of the social ecology and at crucial transition points, such as around birth, the commencement of school, or graduation from primary to high school. Community development workers seek through participatory processes to redress inequality and exclusion, with a focus on groups seen to be marginalised socioeconomically, culturally or politically. In this paper I describe a prevention project in a disadvantaged community in Brisbane. The focus of the project is life transitions, including the transitions to primary and high schools. Selection of programs is being guided by a "bottom up" process of consultation

and observation, including detailed data collection in indigenous and other ethnic groups. Possible programs are divided into two broad, inter-related categories: Family Support and Preschool/ School Programs. One specific program being piloted involves communication enhancement groups in a number of preschools. These groups will involve parents with their preschool children and will focus on the development of communication skills in play, conversational and book-reading contexts. Allied to this, play groups with similar language and communication goals will be conducted for younger children with their mothers.

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## **A Study of Delinquency in Taiwan: An Integration of Social Control and Social Learning Theories**

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Social control received a widely empirical support in western societies and in Taiwanese society as well. However, few efforts are oriented toward an integration of social control theory and other criminological theories. This research attempts to integrate social control and social learning theories. Data for analysis are from students in Taiwan. A total of 1,808 samples are collected. The research concludes: (1) low self-control is related to juvenile delinquency; (2) social bonding factors, including commitment and attachment, are related to delinquency; (3) social learning and social control are interacting with each other and produce a mutual effect on delinquency. Especially, we conclude that after controlling one's level of social control, a juvenile would decrease his or her involvement in delinquency when he or she perceives a higher chance of being arrested. Overall, our data are in line with Hirschi's social control tradition as well as Akers' social learning approach.

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## **Risk assessment in sexual aggression**

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The reasons for good risk assessment strategies are probably self-evident and a frequent part of clinical practice. Some accurate notion of how a man that has been convicted of such an offense is likely to behave in the future, at least with respect to further sexual assaults, is of

substantial importance in at least four related domains. If treatment resources are scarce who is likely to profit the most. Second, men who have been under the responsibility of a correctional system are most typically released at some point; when is best guided by the probability of future sexual assaults. Third, in the community, decisions need to be made with respect to the level or intensity, and the "how" of these supervisory process. Finally, with detention at the end of sentence now possible in some places, who this should be reserved for becomes a serious issue. Good estimates of the probability, and under what circumstances, that the man is at risk of re-offending, serves to inform all of these processes.

This paper uses the distinctions drawn by Hanson and others between static, stable dynamic and acute dynamic risk factors. The need for dynamic predictors is critical but the literature is sparse. Data from the Kia Marama program is reviewed that suggest, broadly that prosocial attitudes and indirect measures of sexuality do best, with affect scales being almost of no value. Speculations as to why and what we need to do are offered.

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## **Wrongful Conviction: Causes and Public Policy Issues**

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A great deal of public attention has been focused in recent years on those cases in which an innocent defendant was convicted and served time in prison but was later shown to be innocent of the crime(s) for which he was convicted. A number of these cases have included biological evidence on which DNA testing could be performed. This paper will provide an overview of the causes of such miscarriages of justice and will address a number of important public policy issues, including some recommendations for reform. This paper represents an initial component of what is envisioned to be a cross-cultural analysis of this issue, including both the USA and Australia.

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## **Spectres of Crime**

### **Peter Hutchings,**

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Ghostly, illusory powers; a pervasive taint of criminality: the nineteenth century subject is haunted by crime, by its signs, stories and the shapes of institutions designed for its regulation. Against Michel Foucault's account of the shift from a spectacular regime of sovereignty (in which law functions visibly through its effects upon the condemned's body) to a disciplinary regime (in which law functions invisibly through its effects upon the prisoner's subjectivity) can be counterposed an account of the massive production of a highly public

image of the law through narratives of criminality. The law's spectacle alters from public, physical performance to public, imaginative engagement: a scenario which complicates, rather than disputes, Foucault's thesis. Panoptical regimes of policing, identification, and evidence transformed the entirety of social life into an imagined (if not actual) theatre with its associated stagings, disguises and props.

This less material, yet more pervasive, structuring of the social establishes the spectral as a key social mode: Marx's "Schlemihls in reverse" become both the new rulers and the new threats to order. The criminal is, thus, not some shadowy counterpart of the law-abiding citizen but as spectre the very form of law and the shape it seeks to control, a spectre jointly produced through the discourses of law, literature, psychiatry, aesthetics and criminology.

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## I

### **Public Opinion, The Media and Populism**

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One of the most powerful influences on crime policy is the status of crime as a symbolic political issue. This is evidenced recently by the controversy over mandatory sentencing. Good crime policy and effective approaches to prevention are hampered by the political exploitation of crime. This paper will describe contemporary understandings of the relationship between crime and political decision making. The focus will be on the ways crime is presented and exploited in the media and in political discourse. For example the ways that political and media uses of crime distort public understandings of crime will be outlined. The role of public opinion in this process will be discussed with a view to delineating the "limits of populism". The paper will conclude with a discussion of strategies that may be useful in challenging populist crime policy. This discussion will include ways of demanding greater accountability in crime policy and disseminating information about crime and punishment.

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### **“Something from Nothing”: Confidence in Community Correctional Programs in Australia.**

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Growth in the number and size of community corrections programs in Australia has occurred despite concerns about the effectiveness of those programs. In this article, we examine the debate that has occurred among researchers and practitioners about the credibility of community corrections following Martinson's apparent assertion in 1974 that 'nothing works' and investigate what little is known about the confidence that various groups in Australia are prepared to place in them.

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**J**

**Subordinating Hegemonic Masculinity**

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This paper starts with a paradox, namely, the widespread talk of a 'crisis of masculinity' and, simultaneously, the strong endorsement of Bob Connell's concept of 'hegemonic masculinity', a term which implies (following Gramsci's use of hegemony) the opposite of crisis. This produces the paper's first objective, namely, a critical look at the origins of the term hegemonic masculinity and its subsequent usage. This finds it problematic on several grounds: its tendency to be used attributionally (despite Connell's insistence on the relational nature of masculinity) and, within criminology, focussed specifically on negative attributes; its use in the singular implying it is not a contingent, context-specific notion; and its oversocialised view of masculinity. This last problem produces the paper's second objective, namely, to attempt to develop a more adequate, psychosocial view of masculinity. It does this in several stages, starting with two attempts to produce more psychologically complex accounts of masculinity: one by Wetherall and Edley which argues for the (Lacanian inspired) idea of a psycho-discursive subject but fails to produce an authentic inner world; another by MacInnes which distinguishes between sexual genesis (being born of a man and a woman) and sexual difference (being born as a man or a woman), thus recognizing an inner world 'beyond social construction', but fails to address how the two are related: how particular experiences of sexual genesis are connected to particular investments in positions within gender relations (the social ideology of biological sexual difference). The final section of the paper attempts to put together the rudiments of a more adequate psychosocial understanding of masculinity, starting with the importance of sexual genesis and the early vulnerabilities and anxieties to which this gives rise, and the unconscious defences

necessarily precipitated. Contrasting accounts of the unconscious follow: Freud's Oedipal, repression-based account in which gender is inherently implicated versus Klein's pre-Oedipal, splitting/projection-based account in which gender is not implicated. The problems with Freud's gendered account provide the basis for taking the Kleinian route. Thereafter, how to conceptualise the link between (psychic) anxiety and (social) gender is explored through the writings of Elliott, Chodorow, Layton and Ogden in particular. It is on this terrain, I contend, where both fantasy and the social are co-present but irreducible, that a more adequate, psychosocial understanding of masculinity needs to be produced.

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## **Fear, Risk and Visibility**

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This paper is based on a pilot research project on fear of crime among visible minorities. The aim of the project was to compare fear of crime among selected visible minorities with the findings of a national Fear of Crime study conducted by members of the Centre for Cultural Risk Research into Risk (CCRR) in 1997. Literature reviewed for the Fear of Crime Literature Audit (Tulloch et al. 1998, Vol. 1) suggested that visible minorities, such as African Americans and Hispanic Americans, have somewhat different triggers for fear of crime than white Americans and that those who live in high risk areas might not feel fearful because their significant others are living close by and can provide support in times of distress.

Of particular interest in this study of visible minorities is the security felt by Indigenous informants who are living in localities which members of other racial/ethnic groups avoid due to their fear of assaults, thefts and incivility from alcohol and drug-affected members of community, especially young men. The reason for this feeling of security among Indigenous informants has been stated as 'I know everyone', 'this is a small community'. Nevertheless, certain subgroups of Indigenous informants did feel fearful, i.e. elderly women feared young men. Certain times and spaces gave rise to fear, with 'pay day' giving rise to heightened perceived risk of assault and theft. In this paper the authors tentatively begin to explore the geography of fear of crime among Indigenous people in Australia.

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## **Closing the Credibility Gap: Police Responses to Rape Complaints**

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Considerable concern has been expressed in recent years over the ways in which negative perceptions of women's credibility impact on their courtroom experiences during rape and sexual assault trials. The chances of a rape case even progressing to court are, however, extremely rare. As the gatekeepers to the criminal justice system, the police occupy a central role in determining how rape complaints are responded to; the extent to which they are investigated; and the likelihood of any one individual case proceeding to trial.

This paper presents an overview of the conclusions drawn from a study of police rape files. It explores the factors apparently involved in police decision-making concerning complainant credibility, seeking to identify the cues triggering suspicion amongst investigating officers. Comments made by both police officers and rape complainants are examined to ascertain the views and perceptions held by each about the nature and effects of rape. Attempts are made to explain the emergence and establishment of what often appear to be vastly divergent and even contradictory views.

Case examples are used to illustrate the critical role police play as interpreters of victim behaviour, and to focus attention on the fundamental gap that often separates victims' experiences from police understanding. The paper argues that a key factor in closing the credibility gap is enhanced police comprehension of the 'realities' of rape and the consequences of victimisation, then suggests that this easy 'solution' is more complex than it sounds!

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## K

### **The Tragedy of Victimisation Rhetoric: Resurrecting the 'Native' Subject in International /Postcolonial Feminist Legal Politics**

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My talk will examine how the women's rights movement in the international arena has reinforced the image of the woman as a victim subject. I examine how this subject has been replicated in the post-colonial context using the example of India, and the implications this kind of move has more generally on women's rights. My main argument is that the victim subject reinforces certain kinds of feminist legal politics in the international women's rights arena and also buttresses claims of some feminist positions in India, that do not produce an emancipatory politics for women.

More specifically I will talk about how the victim subject has been reinforced by an almost exclusive focus on Violence Against Women (VAW) at the international level and the implications this has had on women's rights more broadly. I argue that the victim subject has reinforced gender essentialism and cultural essentialism. And these have been displaced onto

a third world and first world divide that resurrect the native subject and justify imperialist interventions. I will then address how the victim subject has also been central to feminist legal politics in India and how this in turn is a symptom of post-coloniality.

A focus on the victim subject has invited interventions from State primarily in the form of reform of the criminal law and I argue that this has not produced an emancipatory politics for women. I will end with some suggestions about the importance of transcending the victim subject for transnational reasons in favour of recognizing women's multiple subjectivities.

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## **Regulating Elites in Modern Societies: Social Exclusiveness, Crime and Control**

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In modern democratic societies, elites are more directed by the public than they are directing the public (Ronald Inglehart). But even in the most egalitarian societies, they have retained their exclusiveness. The way, how they exert control and how they are subjected to public and formal controls, makes an important part of their exclusiveness. The interaction between private and professional controls of their own members, their influence on formal systems of control and finally shielding themselves from public control contributes to their opportunities to commit typical "elite crimes" as well as to difficulties prosecuting members of elites. Social distance of elites and closed, exclusive networks are causal factors for elite crimes and simultaneously for problems of elite crime controls.

This paper takes this "interaction model" of private and public mechanisms of elite control as its starting point. First, the results of a cross-national study on corruption as well as of several case studies show, how social distance of elites contributes to the detrimental impact of this "elite control mix" on the amount of elite crime in society. In a second step, strategies to improve the regulation of political, economic and administrative elites are discussed. It is argued, that such strategies should advance specific characteristics of the public/private control mix and should calibrate a new equilibrium between public and private controls of elites.

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## **The Competent Correctional Officer?**

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The work of correctional officers is central to the conduct of prisons. The adoption of

national correctional services competencies by Australian correctional administrators in the late 1990s has established a framework for the development of correctional officers in their work which will reach well into the next century.

This paper reviews the policy contexts in which the competencies were adopted with particular emphasis on the intersection of developments in the spheres of employment and training and correctional services. In addition to exploring the Australian contexts for the adoption of competencies, the paper identifies other jurisdictions in which similar developments have occurred.

Changes to the role of correctional officers in the twentieth century have been significant. In placing the national correctional competencies in the context of changed understandings of the role of prisons and of correctional officers' work, this paper critically examines the underpinning assumptions of the correctional services competencies. In particular the paper examines the extent to which the correctional services competencies are flexible enough to encompass the range of roles undertaken by correctional officers and what future orientation underpins the competencies.

In conclusion the paper examines the implementation of the correctional services competencies throughout Australia. It explores the link between implementation in each state or territory jurisdiction and the dominant understandings of the role of correctional officers in prisons in that community.

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## **Female Perpetrated Homicide**

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This paper will outline and analyse the findings of an empirical study on women who kill. The study examined all cases in which a woman was investigated by police as a perpetrator in a homicide in Victoria between 1985 and 1995. The aim was to investigate the range of circumstances in which women killed. Seventy-seven cases were identified and information was obtained from the Victorian Coroner's office and the Office of Public Prosecutions.

Women who kill tend to be viewed as highly deviant because they depart from stereotyped notions of women and femininity. Previous research has identified women who kill as victims of men's violence or as psychologically disturbed. While women do kill in these circumstances there is much greater diversity than has previously been revealed. Three primary relationship categories were identified in the study: women who kill their partners, women who kill their children and women who kill people outside of the family. This third category involved women who killed friends and acquaintances. This paper discusses cases from each of these categories and also examines the legal system's treatment of women who kill.

## L

### **The Statewide Forensic Service: A Model of Assessment and Treatment for Offenders with an Intellectual Disability**

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#### **Jenny Butler**

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The Statewide Forensic Service has developed a specialist service and treatment model for offenders with an intellectual disability who have committed sexual and non-sexual violent offences. The service evolved from the recognition that, nationally and internationally, this group received little or no intervention for their offending behaviour. Based on a modified cognitive-behavioural framework, it provides a continuum of treatment using a three level model of intervention. These three levels comprise (1) a specialised treatment facility, (2) offence specific and related group and individual intervention, and (3) consultancy to departmental and generic service staff.

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### **Sentencing Thieves: The Centrality of the Sentencer's Decisions and Interpretations**

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Our aim was to analyse magistrates' interpretive contributions to their penalties for 1129 thieves. We used multiple methods, first compiling an extensive data-base of 14 magistrates' courtroom sentencing decisions from court, police and Justice Department records. Measures of primary sentencer effects were magistrates' consistent tendencies to impose different penalties in the courtroom, and the interactions of those primary effects with case details. Then we constructed measures of the same magistrates' interpretive schemas from information obtained in interviews, including their simulated sentences and generalised ratings of the importance of 36 common offender and offense details of stealing cases. Logistic regressions and factor analyses were used to construct the measures. Correlations (Pearson and canonical) revealed associations between primary sentencer effects and case details related to an offender's age, manifestation of remorse, and appearance in custody. Magistrates' primary sentencer effects and differential attention to specified case details (e.g., remorse, appearing in custody, committing a theft at night) could be interpreted in terms of magistrates' general attention to indicators of culpability and seriousness (such as a determined or greedy thief, and community attitudes to stealing), obtained in their ratings away from the courtroom. We argue that a sentencer's contribution to sentencing outcomes is primarily expressed as individualized preferences that nevertheless are responsive to the features of cases, within legislative constraints. Large "sentencer effects" can be understood and interpreted in the light of the information that a magistrate, on reflection, treats as important for assessing culpability and seriousness and for determining an appropriate penalty. Moreover, sentencer effects are an inevitable consequence of granting magistrates the freedom to act on their interpretations of the key factors identified as legally relevant in legislation.

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## **Hypothesis Based Research: The Repeat Victimisation Story**

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This paper describes the research and implementation programmes associated with the development of the notion of repeat victimisation as a means of preventing crime. A number of separate projects are briefly described with emphasis upon the way in which one led to another through an iterative, hypothesis driven process. The discussion covers some implications for the way in which government funded social science research is commissioned and the expectations of policy advisers, practitioners and social researchers if current aspirations to evidence-based policy and practice are to be delivered.

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## **Fear of Crime: The Birth of a Criminological Object**

**Murray Lee**

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In 1969 Richard Harris authored an extraordinarily insightful book titled *The Fear of Crime*. It was the first publication to actually take 'the fear of crime' as a title. Harris surely would not have realised that his publication - that traced the progress of a piece of legislation called *The Omnibus Crime Control and Safe Streets Act 1968* through the US Congress and into law - would help bring into discourse an object of criminological inquiry that would become almost a sub-discipline in itself (Hale 1996). This paper discusses the processes that enabled 'the fear of crime' to become a criminological topic and governmental object. The processes traced here have implications for the future of criminology in the 21st century.

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## **Psychopathology of Sexual Offending**

**Joseph K. P. Lee, Pip Pattison, Henry J. Jackson, and Tony Ward**

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Institute of Forensic Mental Health

A close examination of the literature on sexual offending suggests that offenders' problems can be divided into two broad-based constructs, anger-hostility and social-sexual incompetence. Using these two constructs, this paper presents an empirical study investigating the general, common, and specific features of psychopathology for different types of paraphilias (i.e., pedophilia, exhibitionism, rape, and multiple paraphilia). A group of 64 sex offenders and other group of 33 non-sex offenders were recruited for this study. A specific data analytic approach was also adopted to overcome the methodological problems associated with overlapping paraphilic diagnoses. The results indicated that these two constructs were able to distinguish between sex offenders and non-sex offenders, and largely between different types of sex offenders. The implications of these results and the specific data analytic approach are discussed, and ideas for future research outlined.

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## **On the Road With Maverick: A Case Study of the Impact of Information Technology on Policing**

**Margot Legosz and David Brereton**

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One of the many recent technological developments in policing has been the introduction of systems which enable police to do instant warrant checks while on mobile patrol. This paper, which draws upon research undertaken for a larger study of the impact of information technology on policing, examines both the 'micro' impact of this innovation on routine police work, and the potential 'macro' impact on the broader criminal justice system. The case study is also used as a basis for exploring some broader theoretical questions about factors which shape the response of police to the introduction of new technologies.

## **Japan: Little crime? High social costs?**

### **Dag Leonardsen**

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Most criminological research on Japan concludes that, since the Second World War, Japan has had significantly less crime than Western societies. It has been common practice to regard low crime rates as an indicator of sound social conditions in that society. In this paper both these assertions will be assessed: Is Japan really a low crime country? My answer to this question will be a conditioned "yes". Should we draw a casual line between little crime and a sound society? My answer to this question will be a conditioned "no".

In the first part of my presentation I will present evidence of Japan as a low crime society. I will then discuss methodological and heuristical arguments which will modify the traditional picture of "low crime Japan". For example, do we find "functional equivalents" to crime in Japan? The "Yakuza" as controllers or as criminals, will be discussed in this connection.

In the second part I will ask at which price Japan attains its low crime status. From a durkheimian consensus perspective it is probably reliable to celebrate Japan as a "moral society". However, from a critical or a conflict perspective, that consensual order is more dubious. Paying attention to power relations, hierarchy, paternalism, repressive tolerance etc, Japan might be better described as closer to a "hypernomic" society.

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## **Macau, Crime and the Casino State**

### **Leong Veng Mei B.Soc.Sc Macau, MPhil HKU**

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Under Portuguese rule, gaming businesses have been legalized in Macau since 1847 and this small former Asian overseas province of Portugal has become known worldwide as the "Monte Carlo of the Orient". Macau like Nevada has, "... built government around the gaming industry" (Zendzian 1993: 13). Since 1988 more than 30% of government tax revenue is collected from the monopoly operator of the casinos, Sociedade de Turismo e Diversoes de Macau (STDM), so that Macau may be said to be a "Casino State". This paper focuses on both the macro and the micro-aspects of gambling and crime. At the macro level, the formal legislation governing the gambling industry is analyzed and compared with practice in Macau casinos. Here the focus is upon who defines the law in Macau and in whose interest does the law serve. Through an examination of the role of government and

legislation in regulating the gambling industry, the question of whether the state is regulatory or permissive is discussed. The laws on gambling appear to create or leave loopholes for Hong Kong and Macau triad involvement in the casinos, especially through the "bate-ficha" business which is based on the widespread use of non-transferable gambling chips. Although the concept of "bate-ficha" does not exist in the laws of Macau, the practice is monitored by police. It is hypothesized that changes in casino management combined with "cronyism" are the main reasons for the evolution of the "bate-ficha" business. In this context the potential for capture and corruption of the regulators by elements of the gambling industry are also assessed. The function of triads and the role of violence in the casinos, especially in the "bate-ficha" business, are described.

The complex relationship between the government, the STDM and the triads is undergoing rapid change in response to the changes in administration and jurisdiction. Due to the expiration of the STDM's exclusive franchise in 2001, the demand for more effective economic, legislative and regulative approaches in managing the gambling industry has begun to force changes in casino operations. Critical theories are applied to explain the relationship between the government, the gambling industry and the triads, so that law makers and law enforcers can have some appreciation of the implications to better regulate the gambling industry and to reassert public interest after the handover.

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## **Fraud, Organised Crime and the 'Risk Society'**

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The paper will contrast the ambiguity in social definitions of fraud with the relative clarity in social definitions of organised crime. It will go on to discuss the areas of overlap and to examine what is known about fraud risks to different sorts of victim, before concluding with a discussion of the place taken or not taken by fraud risks in discussions of the risk society and of the private-public 'security quilt' identified by Ericson and Haggerty.

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## **The Effectiveness of External, Civilian Oversight Agencies**

### **Dr Colleen Lewis (B.Com (Hons); PhD)**

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For over fifteen years in Australia complaints against state and federal police have been subjected to oversight by an external, civilian body. The time has come to evaluate their

effectiveness, but this will not be an easy task. Because of Australia's federalist structure no two oversight bodies are alike. They perform different functions, have different powers and are subject to varying forms of support by governments and parliaments, all of which impacts on their ability to be effective. To complicate the evaluation process further, there has been no attempt by oversight agencies to try to introduce a uniform method of recording complaints data so that even basic comparative studies can be undertaken. This paper will discuss the difficult issue of determining appropriate performance indicators for these institutions. While the discussion is timely for bodies which oversight complaints against police, it could also prove useful for other arms of the criminal justice system. Some Australian states are in the process of examining the advantages and disadvantages of particular oversight models for the legal profession. There are important differences between the two professions, not the least of which is the public sector nature of the police service and private sector nature of the legal profession. Nevertheless, legal practitioners and policy makers could learn valuable lessons from the complaints against police experience, not the least of which are the problems that arise when trying to evaluate their effectiveness.

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## **Stolen Generations: The Forcible Removal of Aboriginal Children from Their Families 'Identity and Belonging'**

**Cynthia Lim**

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This paper explores the ways in which members of the Stolen Generations have sought to make sense of, and establish their sense of belonging and negotiate their Indigenous identities. In order to appreciate the unique-ness of the Stolen Generation experience and the challenges faced by individuals in forging their places of belonging, understanding the climate and context in which members of the Stolen Generations lived in is vital. Members of the Stolen Generations were confronted with and have had to come to terms with the paradoxes of history. Members of the Stolen Generations were taken away by, and raised in the very cultures and systems that damaged their societies of origin, and which continued to stigmatise Aboriginality as inferior. Within this context of analysis, the research gives attention to the various ways in which Aboriginal individuals in non-Aboriginal care came to their earliest sense of their Aboriginality. This exploration acts as a commentary of the construction of Aboriginality within the wider non-Aboriginal context - the stereotypes, the racism and the ignorance that informed those opinions. The ensuing search for a fuller understanding of what Aboriginality means to those members of the Stolen Generations is a highly complex and challenging one. For those trying to re-establish their ties with their birth families and communities, the years of physical and cultural isolation make it difficult for individuals to unproblematically find their place/s within the Indigenous families and to negotiate their Indigenous identities. Added to this, the experience of finding places of belonging and acceptance are inevitably shaped and determined by the attitudes and responses of the Koori community towards members of the Stolen Generations. The phrase "bringing them home", which in many ways has become synonymous with the issue of the Stolen Generations, carries with it the assumption that those who were 'lost' simply make

their way back home, back to a recognizable and re-existing community that is ready to welcome these individuals with open arms. The present research draws attention to the fact for most, there is no simple and straightforward route 'home'. This research explores the complexity of this journey -giving careful attention to the ways in which this rupture from cultural heritage and family base poses challenges for those trying to find that 'home' or 'belonging place' and intricacies involved in the negotiation of those Indigenous identities.

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## **A Stock and Flow Simulation Model of the NSW Criminal Justice System**

**Bronwyn Lind, Marilyn Chilvers and Don Weatherburn.**

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In NSW there was a 12 per cent increase in the prison population between June 1998 and June 1999. Following a five-year period of stability, the increase was unexpected but appeared to result partly from a change in policing policy. This fact highlighted the need for some means of assessing the impact of policy and procedural changes on the criminal justice system. In response the NSW Bureau of Crime Statistics and Research has developed a simple stock and flow model to simulate the NSW criminal justice system. In this paper we describe how the model operates and how its parameters were estimated. We present the results of validity and sensitivity testing and show a sample simulation using the model. While the model has limitations, we conclude that it has potential use as a policy tool.

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## **Sentencing, Proportionality and the Multiple Offender: A Study of Judicial Practice in Victoria**

**Dr Austin Lovegrove**

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Department of Criminology

The University of Melbourne

This paper presents the results of a study of the sentencing of offenders convicted of two or more offences at the one hearing whose principal offence is armed robbery, burglary or rape. Data are taken from archival records in Victoria for the years 1995 and 1996. The first part examines the relationship between the effective sentence and the sentences considered appropriate to the offences comprising the case. In the second part, the actual effective sentences imposed are compared against theoretically derived proportionate sentences.

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## **Evaluation of a Community-Based Drug Law Enforcement Model for Intersectoral Harm Reduction - Background and Methodology**

**Loxley, W., Sutton, A., Midford, R., Boots, K., James, S., Lenton, S., Canty, C. & Acres, J.**

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In 1998 the National Community Based Approaches to Drug Law Enforcement (NCBADLE) Board of Control funded a consortium of researchers from the Department of Criminology at Melbourne University and the National Drug Research Institute at Curtin University of Technology in Perth, to undertake an evaluation of a 16 month trial of community based drug law enforcement in four pilot locations. The programs were in Fairfield (New South Wales); Gippsland (Victoria); Geraldton (Western Australia) and Mirrabooka (Western Australia).

The purpose of the pilots was to help Australian police agencies ensure that their enforcement activities at the community level become more consistent with principles of drug harm reduction and intersectoral partnership and collaboration. There were seven specific objectives for the trial and participant sites were required to adapt a British model of local Drug Action Teams (DATs) and Drug Reference Groups (DRGs). The evaluation assessed processes and outcomes in each trial location against the above seven objectives and incorporated qualitative and quantitative information on processes of reform in each site.

In this presentation the theoretical and strategic background to the trials is outlined and the evaluation methodology is described. The presentation sets the stage for succeeding presentations which will present some of the findings and conclusions of the study.

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## **Evaluation of a Community-Based Drug Law Enforcement Model for Intersectoral Harm Reduction - Western Australian Case Studies**

**Loxley, W., Acres, J., Lenton, S. & Midford, R.**

### **Associate Professor Wendy Loxley**

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This paper presents case study material from Geraldton and Mirrabooka in Western Australia. There were a number of issues which were common to the two Western Australian sites but

different to the other sites including the use of existing structures and WA drug policy. There were also major differences between the two sites. Geraldton is a major regional centre: a port city 432 km north of Perth. Its population is approximately 19,816 but grows in the summer with tourism and seasonal crayfishing. Mirrabooka is a major metropolitan Police District which comprises 34 suburbs in the northern Perth corridor. It has approximately 230,000 residents.

The presentation will explore the extent to which the trial objectives were met in the WA sites, and describe how differences between the two sites, and between sites in WA and other states influenced the extent to which objectives were realised.

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### **The reliability of self-reported drug use by adult detainees: an analysis of DUMA data from four sites.**

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**Toni Makkai**, PhD,  
Australian Institute of Criminology;

**David Indermaur**, PhD,  
Crime Research Centre,  
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Drug Use Monitoring in Australia (DUMA) is a pilot project that seeks to measure drug use amongst those people who have been charged with a criminal offence. On a quarterly basis, voluntary interviews and urinalysis are conducted among people who have been arrested and brought to a central booking facility. These data are analysed to provide estimates of recent drug use in this high-risk subgroup. DUMA is being conducted in four Australian sites: one in Brisbane, two in Sydney and one in Perth. Surveys commenced in January 1999 and will continue for 3 years.

US research comparing self-reported drug use and urinalysis on American detainees indicates discrepancies between self-report and urinalysis for different race and age categories. In this paper, Australian DUMA data from four sites are used to assess the reliability of reported cannabis, opiate, methadone, amphetamine and benzodiazepine use, using urinalysis screening and confirmatory results and other sources of evidence such as reported use of prescription and over the counter drugs in the week before interview. Between site differences are explored as are differences relating to age, gender, offence type and drug use. The data are used to assess the extent to which the findings can be explained by the data collection procedures, and whether or not they can be generalised to other studies.

## **Serial Rape in New Zealand: The Effectiveness of Geographic Profiling in Predicting Offenders' Home Base**

**Samantha Lundrigan**

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Serial Rape in New Zealand: The Effectiveness of Geographic Profiling in Predicting Offenders' Home Base. It has long been recognized that the locations at which offenders commit their crimes are far from random. Building on past research, recent advances in Geographic Profiling (Rossmo 1998, Canter 1999) have led to the development of a number of decision support tools designed to predict the base of a serial offender from an analysis of the location of his crimes. The present study tests the effectiveness of one such system, DragNet, across sixty New Zealand rape series. The results support the potential for using such systems within an investigative context as well as contributing to our understanding of criminals' spatial behaviour.

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## **M**

### **Is the Rehabilitation of Violent Offenders a Viable Proposition? An Investigation of Two Conflicting Theories Through the Evaluation of a Community-Based Anger Management Program**

**Rachel MacKenzie**

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**Terry Bartholomew**

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The feasibility of rehabilitating violent offenders continues to be debated on theoretical, practical and financial grounds. From a theoretical perspective, argument exists over the postulated causes of violent behaviour. The diversity in opinions is exemplified by the 'The General Theory of Crime' (Gottfredson & Hirschi, 1990) and the State-Trait Anger Theory (Spielberger, 1983). The fundamental premise of the general theory is that a stable disposition called 'low self-control' is the cause of all crime. Gottfredson and Hirschi claim that an individual's level of self-control is set by the age of eight, and as such rehabilitation is not a viable proposition. In contrast, the assumption of the State-Trait anger theory is that, while anger is an important emotional mediator of aggression, its susceptibility to change makes the reduction of violent behaviour possible.

The present study compared the predictive value of the two theories as operationalised by the

Self-control scale (Grasmick et al., 1993) and the STAXI (Spielberger, 1996), and measured whether the constructs of self-control and anger change across time. This involved comparing a group of 59 community-based violent offenders, mandated to complete an anger management program, to a matched sample of 70 non-offenders from the general public. Changes across time were explored by re-testing the offenders on completion of the program. To determine the possible influence of temporal effects, the general public was re-tested following a 15 week interval (the mean time for offenders to complete the program). While no differences were found between the general public's first and second testing sessions, the offenders reported significantly lower post-program anger and greater self-control than their pre-program scores. Recidivism rates also indicated a reduction in violent offending compared to aggregate figures reported by the Victorian Department of Justice. The results are discussed with particular reference to the static or dynamic nature of the constructs, program efficacy and wider correctional implications.

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## **NESB Women's Legal Status and Domestic Violence Services**

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Feminism has long been concerned with women's experiences of domestic violence and has acted on this via the lobbying of government for the provision of services, such as refuges. Both post-modern feminism and policy emphasis, in Victoria, on multiculturalism suggests a need for domestic violence services to meet the needs of its poly-ethnic population. This is particularly important since research has shown domestic violence services to have contact with a significant number of Non-English Speaking Background Women (NESB) from a diversity of backgrounds.

The provision of accessible and culturally sensitive domestic violence services has been met with particular challenges, both at the levels of policy development and service provision. Such challenges at the level of service provision have included funding cutbacks, staff shortages, and an inability by domestic violence services to meet demand. Challenges specific to NESB women have included language barriers, and little knowledge on the existence and role of domestic violence services.

Interviews with workers (refuge and outreach services) and NESB service users have highlighted a range of needs and experiences. These needs and experiences reflect both similarities and differences between NESB women and their English Speaking Background counterparts. However, one particularly unique and little understood issue facing NESB women is that of legal status: the need for and the experiences in seeking permanent residency.

This paper will focus on the issues surrounding the indeterminate legal status of women who have experienced domestic violence in the first two years of migrating to Australia. The role domestic violence services have had in assisting women apply for permanent residency will

be highlighted. The experiences of these workers and their NESB clients will illustrate the challenge facing domestic violence services in meeting the needs of these NESB women.

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### **Latest Trends from the DUMA Monitoring Program**

**Toni Makkai** BA (Capricornia IAE),  
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(University of Queensland)  
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The National Drug Strategy was first implemented in 1985. Since this time there interest in illicit drugs has waxed and waned but more recently illicit drugs and crime have been a major focus of Federal, state and territory governments. As part of the National Illicit Drug Strategy the Australian Institute of Criminology was funded to assess the feasibility of collecting self-report and urine from police detainees over a three year period. This project, called the Drug Use Monitoring in Australia (DUMA) project has been running since January 1999 with 4 collection sites; 2 in New South Wales, 1 in Queensland and 1 in Western Australia. This paper focuses on the quarterly results from the DUMA program over the last 2 years. The drugs to be analyzed are cannabis, opiates, and amphetamines. Patterns of use will be presented by males and females. The paper will then examine the association between testing positive to these drugs and the type of offence for which the person was arrested and whether variations in the trends over time are associated with different arrest profiles in the sites. The paper will conclude by outlining some the significant policy implications that flow from the analyses.

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### **The Treatment of Sex Offenders**

**Professor Bill Marshall**  
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Canada

A brief outline will be provided of the structure and content of a typical cognitive/behavioural treatment program for sexual offenders. This will be followed by a consideration of the problems that beset anyone trying to evaluate such a program and the suggested solutions. A description of a number of evaluations will be provided, some of which have demonstrated a treatment effect and some of which have not. The conclusion drawn from a consideration of these evaluations is that overall the results are encouraging. Furthermore, a cost-benefit analysis reveals that providing treatment for sexual offenders not only reduces the number of innocent victims subsequently abused by these men, but also saves considerable money.

## **Mapping Crime, Offenders and Socio-Demographic Factors**

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This paper describes the development and content of the same-titled report (available at [www.justice.wa.gov.au/division/policy/statistics.htm](http://www.justice.wa.gov.au/division/policy/statistics.htm)). It will present examples of statistical information from the report and illustrate how this can be (and is being) used by Commonwealth, State and Local Governments, and non-government organisations, to target particular geographical areas, issues or groups of people for primary, secondary or tertiary preventative programs. It will also describe how the statistics in the report and in those to follow can be used for evaluation of these types of initiatives, with secondary analysis of the underlying data where necessary. The paper will also describe the further work that is beginning at Crime Research Centre with inter-agency support from Commonwealth and State governments.

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## **Neither Panopticon nor Panacea: Competing Meanings of CCTV in the Australian Context**

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Representations of CCTV tend to be polarised: video surveillance cameras commonly are depicted either as a silver bullet or Big Brother. This paper is based on a study of public CCTV surveillance systems operating in Sydney which attempts to find a more nuanced way of considering the application of CCTV technology, and how best to regulate it. We consider the criminological, economic and political contexts for CCTV surveillance (Norris & Armstrong 1999). We also draw on the insights of Girling, Loader and Sparks (2000)

concerning CCTV and surveillance in the "moral architecture" of a place. The paper offers a comparison between two Sydney CCTV initiatives: Townsafe in Cabramatta and SafeCity in the inner city. In Cabramatta, crime in the form of drug dealing is understood predominantly by reference to notions of crisis or catastrophe. CCTV is widely used and loosely regulated. By contrast the inner city has a more complex set of competing crime stories which reflect the duality of the city as a site of both danger and pleasure. We argue that the meaning of CCTV and strategies for its use and regulation cannot be derived simply from its technical capacity, nor its alleged efficacy in crime control, which in any event is disputed, but is much more contingent on local factors including the stories told about crime contact:

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## **Touring Safely**

### **Dr. Gail Mason**

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In their recent book on tourism and culture, Rojek and Urry suggest that tourism represents the desire for contrast and escape. Yet this desire is increasingly affected by challenges to the possibility of tourism itself. Crime, which is said to threaten the very safety of tourists, is one of these challenges. Whilst criminological research has explored the impact of tourism upon the crime rate, less consideration has been paid to the impact of crime upon tourism. This question has, however, been of considerable concern to the Australian tourism industry during the 1990's. Much of this attention has focused upon the way crime is represented in the media. This paper will look at the relation between tourism and crime through theories of risk and risk management. It will consider media representations of several high profile violent crimes in recent Australian history towards a consideration of the threat they are said to pose to particular tourism markets.

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## **Family Group Conferences and Reoffending in New Zealand**

### **Dr. Gabrielle M Maxwell,**

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This article examines whether or not family group conferences can contribute to the prevention of reoffending. Data on early life experiences and offending histories, conference

experiences, and post conference experiences including reconviction history some six years later are presented based on file information on and interviews with 108 young people in New Zealand who had offended and had a family group conference in 1990/91. Information from their parents was also available on 98 of these young people. Results of statistical analyses indicate that the experience at family group conferences can have an impact on reconviction independently of other early life events and that those factors relating to conferences which are effective predictors of reconviction reflect key restorative values, processes and outcomes.

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## **Privatisation from the Inside; An Inmate Perspective of a Private Prison in Queensland**

**Carole McCartney** BA(Hons) Sheff.. MA (Crim) Bond. Phd candidature  
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This paper will report on research undertaken in a private prison in Queensland where inmates were surveyed and focus groups were convened to gauge the 'quality of confinement' at the prison. The results of the study will be presented as well as conclusions drawn on the quality of the private prison with examples of both favourable and concerning findings.

The use of inmates as a reliable or indeed, relevant data source will be examined and the difficulties in delineating and measuring 'quality' with the penal context will be explored. The need for, and relevance of such research will be explained within the context of the dramatic privatisation of prisons seen in Australia and the importance of independent, non-partisan research into these private facilities.

There will also be discussion of the problems of research in such facilities and the consequences of undertaking such study into private companies with their interests and viewpoint not necessarily being in tandem with research aims or findings.

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## **Globalisation and New Police Weapons: Alternatives to Deadly Force or Coercive Net-Widening?**

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Globalisation and the waning of nation-states has seen a decline in national wars and an increase in internal wars and tension. Over the past twenty-five years arms manufacturers have developed lucrative new markets in less-than-lethal weapons which are used in these internal wars, and by police and paramilitary organisations. Britain and the United States are

the leaders in the research, development and manufacture of these weapons. In 1972 the United States National Foundation Report on, what were then called 'non-lethal weapons', listed thirty-four different weapons including: chemical and impact weapons, electrified water jets, combined stroboscopic light and intrasound weapons, dart guns, stench pots, and taser shockers.

Commercial organisations are increasingly involved in the manufacture and marketing of these weapons. More than three hundred companies now make and market, for example, chemical weapons to military, security, prison, and police forces around the world. These companies heavily promote their products to police through advertisements in police and security magazines, exhibitions, conferences, and the provision of free training packages. In pursuit of expanding markets and higher profits companies often exaggerate the effectiveness of their weapons and play down-safety concerns. Although less-than-lethal weapons are promoted as life saving alternatives to deadly force, there is an increasing body of evidence to suggest that the weapons are used as additional rather than alternative weapons, increase conflict, and are responsible for a growing number of deaths in custody.

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## **Community Supervision of Female Offenders: Client and Staff Perspectives**

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In the UK increasing emphasis is being placed upon the use of cognitive behavioural methods of intervention with offenders within a broader effectiveness agenda. However the accumulating knowledge about 'what works' with offenders is based almost exclusively upon research that has focused upon the supervision of men and it cannot be assumed that emerging principles can equally be applied to the supervision of female offenders. Attention is now being given in the UK and elsewhere to the development of gender specific programming which reflects the differing characteristics and needs of women who offend. In Scotland policy makers have articulated a commitment to reducing the use of imprisonment of women through the increased use of community-based disposals such as probation and community service.

A recent Scottish study examined the use of probation with female offenders through, among other things, an analysis of information in case files and interviews with supervising social workers and female probationers. This paper will draw primarily upon the interview data to describe and evaluate the process of supervision from the perspectives of women and their social workers, including the methods used and their perceived effectiveness in addressing women's offending and other problems. The paper will conclude by considering the implications of the findings for the development of gender-appropriate probation practice.

## **Criminal Histories Databases on the Internet: Public Good or Private Interest?**

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In May 2000, a murder retrial in the Victorian Supreme Court was aborted due to the availability of information about the defendant on the Internet, which was published by a local e-business that sells access to criminal history records. Although criminal history information is often available to the public via police record checks and published legal judgements, this incident sparked concern about the accessibility of such information on the Internet and calls for the closure of the business.

This paper will explain the circumstances of the aborted retrial and the legal use of criminal history information. It will also outline examples of other cases where individuals have published criminal history indexes and raise for discussion the phenomena and social impacts of e-businesses that deal in criminal history records. The global nature of the Internet makes it potentially difficult to close such e-businesses, without them re-hosting their websites overseas. In recognition of this, the paper will also suggest ways that criminologists and the public sector might work with private companies to tailor their online services to balance public and private interests.

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## **An evaluation of the Magistrates Court Diversion Program: Is a special court for offenders with a mental impairment in the public interest?**

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The Magistrates Court Diversion Program (MCDP) commenced in July 1999 in the Adelaide Magistrates Court with the pilot phase concluding in June 2000. The program is designed to meet the needs of individuals who have committed summary and certain minor indictable offences and have impaired intellectual and/or mental functioning.

Key objectives of the program are to assist the courts in the identification and management of cases involving a defendant with a mental impairment, to provide timely and accurate assessments for those referred to the program, to divert eligible and consenting defendants from the criminal justice system where appropriate, and to foster effective interventions for

participants.

An evaluation of the program, undertaken by the authors on behalf of the Office of Crime Statistics, examined the performance of the program over the pilot period including: whether the program was implemented as intended; the level of demand for the program; impacts on service providers; and outcomes for defendants who used the program. Information was collected using a range of methodologies including analysis of statistics compiled by the program and extracted from other databases, interviews with program clients, consultation with key stakeholders and observations of court sessions.

This paper will outline the key findings of that evaluation. It will also consider the implications for defendants and the community given the program aim to avoid the 'revolving door' scenario whereby minor offenders are in danger of being returned to the community without their needs for support or treatment being identified or addressed.

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## **Indonesian Police: and Example of Half-Hearted Reform**

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As Indonesia is rapidly changing to be a more democratic society, such a reform involving public institutions is now taking place. In the past time, public institutions enjoyed their positions being inefficient, corruptive and disregard their nature to give the best service to the public. The police, as one of them, was foremost. This organization was also ironically known as being friendly with such a power abuse and exercising paramilitary policing style due to its position as military wing. A reform within the police was then initiated under the idea of democracy, transparency and accountability regarding the increasing public expectation. A year after the initiation of police reform, indication of such a half-hearted reform become rather significant. Instead of making up its relationship with the public by providing a more efficient, effective and accountable service, police community seems ready to carry out a minimum change due to maintain the establishment they have enjoyed so far. On the other hand, the fact the public has ignored even resisted to the police becomes clearer nowadays. As police professionalism also fails to show up, there are many parties within the society which are now slowly but sure replacing police's position in creating safety and security. Polri is now as much relying on its formal position given by the law and trying their best to avoid being systematically controlled by the public.

## **Who are the public and what are their interests?: Philosophical issues Community Conferencing**

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Through the 1990s, increasingly wider applications were found for community conferencing. The process was initially used only for cases involving young people in juvenile justice and care and protection matters. Its use was then extended to schools, where it was used first with students, then more broadly with staff and other members of a school community. Conferencing is now being used to deal with conflict in workplaces and in geographically and/or ethnically defined communities. It is an appropriate response in cases of: undisputed harm; many disputes that are symptomatic of ongoing conflict; conflict between individuals as a result of their group allegiances.

The success of community conferencing in dealing with such cases raises important philosophical questions about the role of the state in dealing with disputes and conflicts in the criminal justice system, and beyond. The paper outlines these questions and some possible responses.

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## **Mandatory Sentences in Australia: Where Have We Been and Where Are We Going?**

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In November 1996, Western Australia introduced a mandatory minimum of 12 months' imprisonment or detention for 'third strike' home burglary offenders. In March 1997, the Northern Territory introduced a system of mandatory minimum penalties for a wide range of property offences. This paper reviews and compares these laws and provides a conspectus on the major legal and criminological themes that have emerged. It shows that the official justifications for the laws have continued to shift. In large part this is the result of mounting evidence that the laws have not achieved any deterrent effect and do not operate as a means of incapacitation. It has recently been claimed that they may reduce recidivism rates; this claim is also without foundation. What the laws have achieved - despite efforts by the courts to avoid injustice - is the erosion of just sentencing practices, the subversion of due process and an exacerbation of the problem of Aboriginal over representation. On a more positive note, there is some evidence that the lessons in this paper may be attracting greater acceptance. If this is so, we may have gone beyond the high point of mandatory sentences in Australia, at least for the foreseeable future.

## **Matrix Sentencing in Western Australia**

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In mid-1998, the Western Australian Government proposed the development of a 'matrix' approach to sentencing. This appears to be the first time that a 'grid' approach to sentencing has been seriously proposed outside the United States. The official aim was to increase transparency and accountability in sentencing and the scheme sought to achieve this by means of regulations limiting judicial discretion. There were to be three levels of control over sentencers - 'reporting', 'regulated' and 'controlled' offences. In October 2000, legislation passed through the Parliament to give effect to levels one and two. However, following some acrimonious debates about basic principles, the third (and tightest) stage was rejected. This paper analyses the evolution of the matrix laws and the arguments which shaped the legislation and led to the rejection of stage three (including the issues of transparency and accountability). It also considers what the laws will mean for the courts and likely future developments.

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## **Repeat Burglary in Australian cities: Indicator of short-term or long-term risk**

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This paper will examine and compare patterns of repeat burglary in Perth and Adelaide. UK research has highlighted the elevated risks for burglary for first-time victims, particularly in the early weeks after the burglary. These results support rapid preventive action with burglary victims. The growing Australian research reveals some variations on the UK experience. The paper is in two parts. First it explores methodological issues connected with the analysis of repeat burglary and finds that biases in commonly used methods lead to over-estimates of the extent of short-term repeats. Second, it examines patterns of repeat burglary in Perth and Adelaide. In particular, it examines the evidence from a large-scale Adelaide project concerning the effectiveness of intervention with burglary victims. The results indicate that the benefits of intervening with burglary victims may best be evaluated in the long term rather than the short term. The paper explores the proposition that proper analysis of repeat burglary, and evaluation of interventions, needs to be informed by more detailed hypotheses about the mechanisms by which burglary occurs and is interrupted.

## **Lay Participation in Judicial Decision-making**

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The English model of lay participation in judicial decision-making - the dominance of lay magistrates in the lower courts - has for the most part been abandoned in all the jurisdictions that initially adopted it. England and Wales is now unique in its reliance on lay magistrates - over 30,000 of them sitting weekly or fortnightly, increasingly trained, but still unpaid - dealing with approximately 85 percent of criminal court cases and exercising the power to sentence to imprisonment up to six months. Yet the model is now being questioned in England and Wales also, yet so far looks likely to prove highly resilient. This paper examines the arguments - philosophical, political, criminal justice and fiscal - which characterise the English debate about the value of having a lay magistracy and summarises the evidence as to their performance compared to legally qualified professional judges.'

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## **Private Health Services in Victorian Prisons**

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Caraniche is a private psychology company that has provided specialist psychological and drug and alcohol treatment services within Victorian prisons since 1994. Over the last six years Caraniche has witnessed, and been a party to dramatic shifts in the way private health providers are contracted within the prison system. This paper outlines the experiences of Caraniche in working within the Victorian prison system. It explores the change that has occurred in the way that private health providers are utilised, the advantages and disadvantages of being a private provider and the accountability and monitoring processes that work to maintain the quality of service delivery.

## **Can Restorative Justice Reduce Reconvictions?**

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Many countries are now exploring new models of justice in the hope that they can be more effective than the traditional criminal justice system in reducing the probability of reoffending. This paper describes two pilot schemes for adult offenders which displayed elements of restorative justice processes and presents data on the reconvictions of participants in these pilots compared to matched control groups who were dealt with through conventional court processes and correctional outcomes.

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## **Construing Crisis and the Journal of Serial Killer Frederick West**

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The personal construct system contained in a 111 page autobiographical account of a serial killer ought to be readily accessible. What if the killer never mentions any offending behaviour? How would 'his' constructs be identifiable? Analysis of Frederick West's journal using content analysis and Smallest Space Analysis (SSA) indicates his constructs are accessible via the choice of people he wrote about, the context of his story telling and the construing behind his offending behaviour. The crisis points in his construing within the range of convenience of his everyday life indicates why he chose to not to write about his offending behaviour. Further research into identifying personal constructs may be useful in the forensic context and in analysis of serial offender autobiographical accounts.

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## **Private Versus Public Control: A Situational Analysis of Homicide in Australia**

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The prevention of homicide in Australia rarely features in discourses concerning the

prevention of crime and violence in our society. It has become accepted that the most extreme form of violence can never be entirely prevented. Although there may be some truth in this premise, there are some types of homicides that may be more amendable to control. For example, homicides occurring within a public arena such as an entertainment venue, pub or on a public street present far greater opportunities for control and prevention, than do homicides that occur within the private domain of the home. This paper presents the findings of a situational analysis of homicide in Australia over an eleven-year period. It compares homicides that have occurred in a private setting (primarily within residential premises) with those homicides that have occurred in public arenas. This is followed by a discussion of both the public and private preventative measures associated with controlling lethal aggressive behaviour in Australia, and which, if any, show the greatest promise in the prevention of lethal violence.

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### **The Criminologist and the Homicide Detective: Dancing with the Devil?**

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Criminology is an applied science, with criminologists making concrete contributions to many areas of criminal analysis, including drug use, public policy, and corrections. One area, however, in which criminologists have had little impact is in the practical investigation of serious crimes, such as murder and rape. Traditionally the pure application of formal criminological theory contributes little to solving individual crimes. Criminologists are usually only too happy to keep the practical reality of homicide investigation (autopsies etc. ) at a safe, academic distance. Similarly many detectives are not interested in applying general social theory to eye witness statements, let alone having "outsiders" come in and tell them how to do their jobs! A complex homicide investigation can uncover a vast amount of information which usually arises from a range of different sources and is often of variable quality. Criminologists (and researchers generally) have considerable experience processing and managing this type of information and providing a level of data linkage in order to draw

inferences regarding why such offences occur. In contrast a homicide detective is usually more interested in detecting the offender and preparing the case for the prosecution process rather than in understanding why the homicide happened. The authors set out to investigate what might happen if we put these two approaches together and discusses a new initiative in policing and homicide research being trialed in Victoria.

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## **The Role of Masculinity in Non-Intimate Femicides**

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A large proportion of all femicides, both in Australia and elsewhere, are perpetrated by an intimate partner. The role of masculinity in these intimate femicides is well accepted, and usually involves domestic violence, issues of power and control and sexual jealousy. What is less understood is the circumstances in which women are killed which do not involve an intimate partner, and more specifically, what role masculinity plays in these other homicides. In some of these other femicides, such as cases of rape-murder, the role of masculinity is quite obvious, whilst in others it might be less so. The current study examines a sample of these other femicides, looking specifically at the role that the masculinity of the offender played in the crime.

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## **Harm, Transgression and Pleasure: Towards a Decriminalisation of Criminology**

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Poverty, malnutrition, pollution, medical negligence, state violence, corporate corruption and so on carry with them widespread and damaging consequences but are rarely if ever included in assessments of the 'crime problem'. This paper revives an abolitionist imagination of the 1970s by exploring the potential for challenging and deepening criminological agendas when the concept of crime is subjugated to that of social harm and when the concept of crime control is subordinated to that of social justice. Notions of 'crime' offer a peculiarly blinkered vision of the range of misfortunes, dangers, harms, risks and injuries that are a routine part of everyday life. If the criminological intent is to reveal the extent of social harm then the concept of 'crime' has to be rejected as its sole justification and object of inquiry. However whilst the concept of harm is clearly capable of broadening criminology's horizons and radically unsettling its traditional agenda, it continues to operate within a discursive frame of

the negative. When we acknowledge that harm is not only a source of fear, but also a source of fascination and entertainment we are faced with a quite different set of possibilities. The way we enjoy violence, humiliation and hurt casts doubt on the universal applicability of harm as always connoting trouble, fear, loss and so on. The pleasure of transgression, of doing wrong or of breaking boundaries is also part of the equation and needs to be thought through. This paper explores the possibilities and potentialities for criminology of fusing the concerns of European abolitionism with those of cultural criminology.

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## **Criminology Online for the 21st Century**

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In recent years the Australian Institute of Criminology has made significant progress in the provision of online information services. In the 1980's and 1990's the Institute had developed a high profile research library. The work of the library included production of CINCH, the Australian Criminology Database, an abstracted index of Australian criminal justice literature, and also involved extensive networking with other libraries and researchers.

The emergence of Internet-based services has provided an opportunity for the Institute to broaden the impact of its information services work. Initially the AIC's website was a simple facility, communicating information about the Institute's corporate objectives, program and products. This facility has now developed to the point that it is a portal of criminal justice information, offering a wide range of online services, including a number of external websites.

The paper will describe these services and outline the steps that the Institute has taken in their development. The basis of this work of the Institute is the expertise of library professionals, but the information services being offered extend far wider than those of a traditional library. The paper will also outline the likely path of development for online services, and demonstrate that the Institute's plans for this work are in full accord with the requirements of the Australian Government's Office for Government Online.

# N

## **Title of Paper: Everyday is Different: New Zealand Prison Officers at Work**

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This paper problematises the Prison Officer role and dispels the myths of official and academic discourses about this group through an analysis of the minutiae of everyday prison life utilising the Sociology of the Mundane. The Prison Officers' presentation of self reconstructed the ordinariness of the prison world and the mundane nature of prison life. 'Extreme' incidences were in fact, very rare. Until recently, this subculture had helped unite the Prison Officers and gave them opportunities to glamorise their work, while at the same time providing them with reassurance and certainties. Nonetheless, there are indications that the culture is now beginning to fragment as the role of the Prison Officer is changing to fit the 'reinvented' Prison of 2000 and onwards. This leaves Prison Officers unsure of the 'known' ways of surviving the pains of their occupation and its awful mundanity - resulting in the emergence of subculture far less cohesive, cooperative and collegial.

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## **Female Child Sex Offenders: Clinical and Demographic Features**

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This paper addresses the under-researched subject of female child sex offenders. More specifically, it provides a review of the literature on female sex offenders and a detailed examination of 12 cases of female child sex offenders in the correctional system in Victoria, Australia. Information was obtained through clinical assessments completed whilst women were incarcerated or in the community setting and from sentencing comments. An analysis of this information revealed that the characteristics of these women and their offences generally fit the profile of female sex offenders described in the current literature. However, the findings revealed that women differed in some respects to the typical portrayal of female sex offenders. The most recent and comprehensive typology developed by Mathews et al (1989): teacher/ lover, pre-disposed or male-coerced only described less than half the sample. Although the majority of women were co-offenders with males, only a few females appeared coerced and motivated by fear. Almost half the women seemed to fit Mathews' (1987) earlier

typology of male-accompanied offenders. These findings, in part, are consistent with the recent study conducted by Canadian Corrections (1999) on sample of 19 women which included another category to the Mathews' typology, namely anger/ impulsivity. In the group of male accompanied offences in Victoria, women were also motivated by rejection, leading to the development of a new typology. Finally, this paper briefly considers the assessment and treatment needs of female sex offenders in the light of typology, which are based on these characteristics.

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## **Public Accountability in Victoria's Prisons**

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Accountability of the prison system - public and private - is central to its legitimacy. Governments setting up regulatory regimes must ensure the accountability of corrections providers to government and to the community, including accountability for the operation of the internal disciplinary processes of the prison. This paper examines the accountability structures in place in Victorian prisons, with special attention to the regulation and monitoring of internal disciplinary proceedings.

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## **Mind Your Attitude: Towards the Development of a Multidisciplinary, Intellectual Framework for Offender Rehabilitation**

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Forensic psychology is characterised by on-going debate around the issue of offender rehabilitation. While on the basis of current research findings effective reduction in recidivism is an established reality, an integrated system across the disciplines and into the broader criminal justice system is essential to innovative developments in the field. Beginning with Spencers' 1862 First Principles focus upon the preservation of a 'right attitude' to controversy, a philosophical approach is utilised to challenge both the clinician and the 'anti-rehabilitation' and generally 'anti-psychological' bias of mainstream criminology. Echoing historic attitudinal studies of the early social psychologists, the paper advances a humanistic yet intellectual framework for the analysis of contemporary research. Positive and constructive views of offender rehabilitation are outlined. The paper concludes by promoting an eclectic approach to offender rehabilitation which acknowledges the equally valid potential of contributions from genetics, bio-chemistry, pharmacology and psychology, the social sciences and criminology.

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# O

## **Age, Gender and Criminal Trajectories**

### **Dr Emma Ogilvie**

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### **Mark Lynch**

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The vast majority of research into youth offending has documented that offending behaviours escalate during adolescence and then decrease in the twenties (see Farrington, 1996). Similarly, research has shown that young females' "peak" age of offending tends to be younger than that of males. Unfortunately, while longitudinal studies of offending are well established within criminological research, less analysis has been done on gender and offending across time, most particularly within the Australian context. This paper utilises a longitudinal study investigating differences in female and male offending across two time periods, 1995 and 1999. Changes in criminal practices are tracked across three separate cohorts, a "school cohort", a "community" cohort and an "offender" cohort, and the value of "age sensitive" theories of gender and criminality are explored.

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## **Maximizing Therapeutic Effects of Sex Offender Treatment Programs: Harnessing the Correctional Service System**

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Since mid-1996 CORE Sex Offender Programs has provided a coordinated and integrated system of assessment, management and intervention. Environmental strategies designed to manage sex offenders and protect the Community are considered equally important as sex offender treatment; intervention without systemic support is considered ineffective. In particular, correctional staff are trained in the case management of sex offenders by Sex Offender Programs staff. Based upon Prochaska, DiClemente and Norcross (stages of change), Miller and Rollnicks (motivational interviewing) and Bergman (masks and personas) a three-dimensional model has been developed.

The staff training model addresses: (1) the degree of denial and resistance expressed by offenders, (2) the concomitant skills required of correctional staff, and (3) attitudes and beliefs that influence staff responses to sex offenders. To date, training has been delivered to 400 correctional staff and an evaluation of its effectiveness is currently underway.

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## **The National Coroners Information System - A New Coronial Research Tool**

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The modern role of the Coroner is very much focused on prevention. Coronial records provide a wealth of information from which to learn about sudden, unexpected, violent and unnatural deaths.

The National Coroners Information System (NCIS) has been developed by the Monash University National Centre for Coronial Information (MUNCCI) to provide a more effective, efficient and timely method of accessing these records. It has the potential to better inform researchers and policy makers about the factors involved in coronial deaths, which has the potential to allow early identification of key risk factors and development of specific interventions to prevent death and injury.

The NCIS is an Internet based data storage and retrieval system of coronial deaths in Australia. It contains information from police reports, forensic medical and scientific reports and coroners' findings. It stores information in both fields (coded and text) and documents. It will allow cases to be identified by mechanism, cause of death, the activity at the time of the incident, whether or not it was a work-related incident and whether or not the death was accidental or intentional. The presentation will demonstrate the capabilities of the NCIS as a research tool and explain how access to NCIS data may be obtained.

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## **P**

### **Prioritising Local Policing: A New Form of Governing Police?**

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Over the past two years the Victorian Police Force has embarked on what they refer to as a major organisational reform program - Local Priority Policing. This involves a re-structuring of police Regions and Districts, a flattened rank structure, devolved management

responsibilities and localised service delivery, and a new Local Safety Committee consisting of police and other 'community representatives' auditing crime and safety issues and producing annual plans. This paper briefly outlines key aspects of the changes before focusing on analysing the extent to which Local Priority Policing represents a 'new model of service delivery' and new forms of police governance and accountability.

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## **Penitentiaries and Implicit Costs: The Benefits and Perils of Privatization**

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What seems clear when analyzing privatization issues, particularly penitentiary privatization, is that there is no consensus about costs and benefits. There are many complex and controversial issues to examine when investigating privatization impacts. Many of the issues are economic but a significant number of the benefits and costs are social. Most research has examined explicit costs and benefits. This paper examines the many implicit impacts that most of the privatization research seems to have ignored.

There is a long history of debate, frustration, and suspicion over the issue of prison privatization. Economists, Sociologists, Criminologists, Psychologists, Demographers, other professionals, and the public, cannot agree on the impacts of privatization because they have not accurately measured (or even agreed on) all the costs and benefits.

Most explicit costs and benefits incurred building and operating a penitentiary can be fairly well measured. What are the implicit or non-pecuniary costs associated with siting, building, and maintaining a correctional facility? Are these costs different for private and public facilities? This research focuses on the implicit costs associated with siting, constructing, and maintaining, a correctional facility and compares the differences between private and public facilities. Much of the empirical work for this paper examines the implicit costs (and some benefits) of specific penitentiaries. Some of these data may be unique to these facilities but most would be applicable to all penitentiaries.

Some of the non-pecuniary costs examined and associated with the siting and operation of a facility, are listed below.

- The impact of parolees and releasees.
- Crimes committed by visitors to the penitentiary.
- Crimes committed by the family members of current inmates who have moved to the host community to be closer to those incarcerated.
- Acts of crime and delinquency committed by the children of inmates currently incarcerated in the institution

## **Current Issues in Stalking**

**Dr Michele Pathe**

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Stalking emerged in California in the late 1980s as a media term to describe those who persistently followed or otherwise intruded on the famous. The word stalking captured the public imagination. Its usage rapidly expanded, first to cover the harassment of women by ex-partners and then to a wide range of situations characterised by repeated unwanted approaches and communications which were fear inducing. Stalking is now a specific form of offending, a category of fear and a subject studied by behavioural scientists.

This presentation will be based on clinical and research work undertaken at the Victorian Institute of Forensic Mental Health in Melbourne. This includes a clinical study of over 170 stalkers and an epidemiological study investigating the prevalence and impact of stalking in the general community. A typology of stalkers will be presented, together with predictors of violence and management approaches. This work will be placed in the context of the rapidly expanding research on stalking now being undertaken in most Western nations

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## **Crime, Fiji and Oceania Regional Order**

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The coup in Fiji in 2000 again highlighted the lack of a deeply embedded commitment to the rule of law and democratic governance in some South Pacific states, especially in a time of crisis. Of course, Fiji is not unique in this regard, but it does provide a useful case study as to how easily some groups in Pacific societies will resort to crime in order to achieve political goals. This paper considers the prospects for regional integration, EU-style, as a means of encouraging adherence to the rule of law in Pacific societies to prevent such crime, bearing in mind the existing political, ethnic and economic tensions in states such as Fiji.

The paper finds that regional integration does not offer a panacea to all the problems in the South Pacific. However, led by Australia, a greater commitment to the supranational rule of law and the introduction of new regional institutions would encourage increased adherence to the rule of law domestically and begin the process of narrowing the gap between values and law (as has occurred in Europe).

## **Mental Health Courts: An Emerging Strategy for Addressing the Needs of Defendants with Mental Illnesses**

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Mental Health Courts: An Emerging Strategy for Addressing the Needs of Defendants with Mental Illnesses The United States Department of Justice estimated in 1999 that approximately 2 million people with a mental illness and/or substance abuse problem were under the control of federal, state, and local authorities. Of the 10 million individuals booked into United States jails each year, it is estimated that at least 700,000 have serious mental disorders, with 75 percent of those individuals suffering from a co-occurring substance abuse disorder. As a result, jails have become a primary locus of care for people charged with minor offenses who are acutely mentally ill. This often exacerbates the illness, while resulting in increased administrative costs for the jails. One response has been the creation of specialty courts designed to place people in treatment rather than resolve their cases through criminal sanctions. For example, there are now nearly 500 drug courts in the United States. In the last 3 years, "mental health courts" have emerged as another response. These courts, while they differ somewhat in design, have as a common goal the diversion of individuals (usually misdemeanants) from the criminal justice system into treatment. The courts are usually explicitly non-adversarial, and are based on the premise that the judge, prosecution, defense counsel, and treatment providers should work together in the best interests of the defendant. The authors are the principal investigators of the Broward County Florida Mental Health Court, the first MHC in the United States. This presentation will describe the design of mental health courts, and present preliminary data from this evaluation, including data on perceived coercion, procedural justice, and treatment outcomes of individuals under the jurisdiction of the mental health court. The implications of these data for mental health courts, and for other countries struggling with the issues presented by people with mental illness in the criminal justice system, will be presented. Finally, we will consider questions regarding the role of counsel and judges in such settings.

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## **Common Sense and Original Deviancy: News Discourses and Asylum Seekers in Australia**

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This paper is interested in analysing recent media discourses surrounding asylum seekers and refugees in the Australian Press. Two 'quality' broadsheets are investigated over a three year period - the Brisbane Courier Mail and the Sydney Morning Herald. The paper argues that refugees and asylum seekers have been routinely constructed not only as a 'problem' population but as a 'deviant' population in relation to the integrity of the nation state, race and disease. In problematising this construction the social functions of representations of deviance are considered in relation to the construction of the 'normality' of prevailing social orders and the reproduction of hegemony.

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## **Evaluation of a Drug and Alcohol Treatment Program in Victorian prisons**

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Caraniche is a private psychology company that is contracted to provide specialist psychological and drug and alcohol treatment services across eight Victorian prisons. From July 1999 to June 2000, 1573 male prisoners accessed Caraniche drug and alcohol programs within CORE prisons. Of these, 283 prisoners completed more than 24 hours of program and participated in the Caraniche evaluation. This paper outlines the Caraniche drug and alcohol program evaluation process and presents demographic information about the prisoners, including their criminal and drug using histories. Initial pre and post program evaluation data will be presented based upon a range of psychometric measures including the Coping Resources Inventory (Hammer 1983), State Trait Anger Expression Inventory (Spielberger 1988) and the Coopersmith self Esteem Inventory (Coopersmith, 1981). An analysis of the relationship between personal history, criminal behaviour, drug use and scores on the psychometric measures will be discussed.

## **Contemporary Issues in Psychopathy Research**

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In the past three decades psychopathy, as measured using Hare's Psychopathy Checklist - Revised (PCL-R), has emerged as perhaps the key individual differences construct in the psychology of criminal offending. In offender populations psychopathy has been related to several important social policy outcomes and issues, most importantly as a predictor of (1) risk for future violence and criminal recidivism and (2) poor treatment compliance and outcomes. These same relationships have also been demonstrated in research with other populations. This paper will present a brief overview of three important directions that research in psychopathy is taking: First, researchers are attempting to identify subtypes of psychopathy.

Theorists have posited that people with psychopathic features may differ in terms of etiology (e.g., constitutional deficit versus abuse/trauma history versus inadequate parenting) and that these groups may differ in terms of treatment responsiveness and risk level. Hypothesaed distinctions among these groups will be described and the results of preliminary cluster analyses will be presented. Second, new self-report measures for assessing psychopathic features have appeared. Investigators are examining the reliability and validity of these measures in comparison to the resource-intensive PCL-R to determine their research and clinical utility. A brief overview of Levenson's Psychopathy Scales (LPS) and Lilienfield's Psychopathic Personality Inventory (PPI) will be provided. Third, investigators are extending the assessment of psychopathy to youth and adolescents. A brief overview of Prick's Psychopathy Screening Device (PSD), Lynam's Child Psychopathy Scale (CPS), and Forth and Hare's Psychopathy Checklist Revised: Youth Version (PCL:YV) will be provided.

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## **Parallel Approaches in Criminal Justice Outcome: The Magistrates Court of Victoria's Vision.**

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Although tension clearly exists between the notions of "Public Good" and "Private Interest", the two need not necessarily be mutually exclusive. The approach of the Victorian Magistrates' Court is to combine both notions.

Participants in conferences such as this seek case studies exemplifying the contentions made by contributors. I propose to use the Parallel Services such as those provided by the Magistrates' Court of Victoria as the case study in this paper. This case study will demonstrate the tensions and conflicts in public and private interest but also demonstrate how the two may coalesce for the greater interest of the community.

The Chief Magistrate Michael Adams has stated that the vision of the Court is "to lead in the administration of Justice by providing a professional, accessible and responsive Court system which ensures equality for all in the community which we serve".

In addition to Court based diversion programs, the Court employs specialist officers in the areas of illicit drugs, disability and youth issues.

The Court envisages further enhancing parallel services by appointing bail advocates and cultural advisers. The Court is also reaching into the community in a leadership role to combine with Local Government, business, community and social service organisations to address the issues in the community which result in criminal behaviour.

The Court's approach of utilising both the traditional court role and parallel services addresses an offender's personal needs for the benefit of the community. The outcome fulfils the broad aim of "harm minimisation" within the entire community .

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## **A Reconsideration of Nils Christie's 'Crime Control as Industry': Beyond 'Gulags Western style'?**

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Nils Christie in *Crime Control as Industry* has suggested that our spiraling prison populations, particularly in the United States, represent a move "towards gulags Western style." In much the same way that Zygmunt Bauman sees modernity itself as creating the possibility for the Holocaust, so for Christie the current 'gulagization' of the West is not an aberration of modern society but is something that occurs naturally within it. On the one hand, industrialization, technology, expertise and bureaucratization make possible a 'solution' to the problem of crime today: criminals are not to be killed off of course, but simply sent to prison in ever increasing numbers. On the other, processes of depersonalization and 'otherness' make such a solution culturally acceptable. Large prison populations assume a new cultural significance - security and virility rather than shame.

While sympathetic to Christie, this paper seeks to extend some of the themes of his book. In particular, and even more worryingly, it suggests that we may already be moving into an area of penal control that takes us 'beyond the gulag.' This involves two trends. First, there is the changing nature of the Western gulag itself: there are signs that this may no longer have to be hidden away out of sight but is becoming more culturally tolerable - the bureaucracies now speak of the 'excellence' of their prisons, while new prisons provide valuable and secure employment, both of which factors seem likely to further escalate prison numbers. Second, we find growing public involvement in the processes of punishment (community notification laws, naming and shaming activities, vigilantism and so on). What happens when the growth of public hostilities towards criminals combines with the inability of the State to absorb these sentiments, notwithstanding the growing use of prison? What we find is the supplementation of modern penal sanctions by new forms of legal and extra legal punishments that privilege community involvement and interests over those of bureaucratic rationalism, leading to an uncertain and fragmented penal terrain. The products of this are uncertain, fragmented, and by no means unopposed. However, while, for Christie, there is the hope that at some point the basic good sense of ordinary people will prevail and counter the trends that

the forces of modernity have made possible, stepping out of the modernist framework in this way seems fraught with further dangers. For me there is no essentialized goodness to human values and public sentiment; grounds for optimism at present lie more in the opposition of many in the legal profession to these trends on the basis of fundamental human rights.

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## **Public Policy, Police Interest: An Evaluative Study of the Judicial Discretion to Exclude Improperly or Illegally Obtained Evidence**

**Bram Presser**

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Despite having significantly improved over the past two decades, the police investigative process is still lacking in terms of integrity and competence. Of particular concern are process corruption and procedural negligence, both of which adversely impact on the day to day conduct of criminal investigations. The continued prevalence of these forms of malfeasance can be attributed, at least in part, to the lack of effective accountability mechanisms that might, if in place, force police to re-evaluate their practices and develop accordingly.

There are currently only two accountability mechanisms - internal disciplinary measures and the judicial exclusion of evidence at trial - that have the capacity to scrutinise investigations on the micro-level. As internal measures are particularly ill-suited to deal with either form of investigative malfeasance identified above, it is left, under the current system, to the courts to fill the accountability vacuum.

Previous evaluations of the judicial discretion to exclude illegally or improperly obtained evidence have found it to be an impotent accountability mechanism. However, given recent legislative and judicial changes, namely the Evidence Act 1995 (Cth and NSW) and the case of *Swaffield v R; R v Pavic* (1997) 192 CLR 159, there is presently a need for re-evaluation. This study examines thirty-nine cases, some of which were decided before the changes, and some of which were decided after, in order to identify emerging judicial trends. It concludes that whilst the discretion remains largely impotent, the changes do give some cause for hope that it may yet turn out to be an effective accountability mechanism, albeit in limited circumstances.

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## **Criminal Quotation**

**Nina Puren**

Department of English, Monash University

**Peter Rush**

Faculty of Law, The University of Melbourne)

Quotations in my works are like robbers lying in ambush on the highway to waylay a passerby with weapons drawn and rob him of his conviction.' Walter Benjamin The interpretation of criminal sentencing has oscillated between a moral philosophy of

punishment and a sociology of institutional governance. This paper sets off in a different direction. It explores the inscription of literature within the writing of judgment. The specific context is the criminal sentencing of two heterosexual men for the killing of a gay man. In the scene of writing, this killing was predicated on the 'false cry' of a female rape complainant. Moreover, the event was framed as a tragedy of Shakespearian proportions by the juridical participants in the drama of judgment. What interests us in this legal scene is the manner in which literature exceeds the juridical story of law, crime and responsibility.

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## R

### **Policing Public Order and Public Space: New Roles and Powers**

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The Sydney Olympics brought with them a clear potential for disturbance and violent disruption. This threat spurred changes to the legislative framework governing the policing of public order and public spaces that went well beyond the environs of Homebush. Both New South Wales and Queensland have new laws that extend police powers, and also confer a degree of coercive power on non-police personnel. The Commonwealth has codified and extended its powers to use the armed services in civilian policing functions. Now that the Olympics have gone, many of these extended powers and roles remain, mostly premised on the need to protect the public and public order from terrorism and violent disorder. Yet Australian history has few examples of mass civil disorder, apart from those related to industrial and political protest. In the absence of any clear terrorist threat, the most likely targets of the new powers are the types of political protests seen in Melbourne at the S11 forum, industrial disputes, and societal groups whose use of public space is often unwelcome, such as indigenous and young people. In these circumstances, do extended policing powers really protect the public good, or will their main use be in advancing private commercial interests? This paper examines three aspects of extended public order powers. First, what is their potential impact on legitimate expressions of public protest? Second, what are the problems inherent in extending police powers to non-police personnel, whether they are security guards or soldiers? Third, are extended move-on powers simply another tool for the relocation of marginalised groups at the behest of private interests?

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## **Retention of Body Tissues at Autopsy - "Theft" from the Dead?**

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The practice of retaining human organs at autopsy has resulted in a spate of investigations regarding the conduct of pathologists, the role of hospital policy and the application of coronial law and human tissue regulations.

Much of the retention of tissue reported in the public media appears to have been legal, at least on superficial analysis. However, its legality has come as a major surprise to the community which in itself is a reflection of the ignorance that exists regarding the processes of death investigation and the autopsy. To add to the difficulties of investigation in this area is the lack of a definition of the terms "autopsy" and "tissue". This imprecision creates major problems for the notion of informed consent in relation to autopsy practice.

Human tissues collected at autopsy have the potential to contribute to both individual and community health and well-being. However, the collection and retention of such tissues can cause deep concern and possible harm to surviving family and friends. This paper examines the way the Victorian Institute of Forensic Medicine has attempted to balance the private rights of families with the public needs of the health and justice systems.

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## **Crime Mapping and the Risk of Spatial Labelling**

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The use of geographical information systems (GIS) to map areas of high volume crime is becoming established in Australia, both within academia and law enforcement, and the unwary might be tempted to believe that crime mapping is an established process. This is however an emerging field and a number of important technical issues are still to be resolved to the satisfaction of researchers and practitioners. These issues include the accuracy of geocoding (the process of creating a map location from an address) and an accepted methodology for the delineation of high volume areas. This paper demonstrates some of the problem areas, and then discusses what implications might arise if maps of crime that are generated from this emerging technology are used to drive crime prevention policy, or for public dissemination. The possibility of a spatial variation of labelling theory, based on potentially erroneous map design, is also raised.

## **Is ("Left") Criminology Right?: Criminology, Sovereignty and the New Imperial Order.**

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The paper argues that the liberal image of the sovereign's body is used in current discourses about the Australian and the international criminal, in order to fix the meaning of sovereign individuality, and to make sense of the punishment of those who do not identify with this (limited) sovereign subject. When students study mainstream (rather than feminist poststructuralist) criminology, criminal law or international law, this body image of the "ideal" sovereign subject of crime is proffered as the norm to be identified with. This mapping of the ancient sovereign's body onto the student of crime and/or criminology points to the profoundly conservative practices of non-poststructuralist-non-feminist studies in crime and criminology.

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## **Truth(s) in Sentencing: Community Safety or an Image of Community Safety?**

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This paper will explore the latest developments in dealing with the mentally (dis) ordered via a new facility in Victoria, The Thomas Embling Hospital together with legislation introduced in 1997 Dangerous Offenders Legislation: Garry David. In this section of the paper the author will investigate the issues around Garry David, The Violent Offender Bill and the subsequent High Court decision Changes to sentencing legislation during the 1990's i.e. Truth in Sentencing or Truth(s) in Sentencing and Least Restrictive practice

It will explore the history of indefinite sentencing from Percy, David to Duppa. Through these three case studies investigate the history of indefinite sentencing within Victoria via three major forms of indefinite sentencing. Governor Pleasure, Violent Offenders Legislation and Indefinite Sentencing. The last point of the paper is to link the communities continued demand for insurance such, as health and work with community protection via indefinite sentencing; the new social insurance

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## **'Fuck It!' The Ethics of Detection and the Aesthetics of the Self in The Big Lebowski.**

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The detective genre has traditionally, and not without justification, been regarded as a 'conservative' genre for its decidedly 'moral' submission to the authority of truth, reason, order and the law. Hardboiled fiction modified the traditional formula and added a sense of ambiguity to the authority of these ideas but also added the charge of 'misogyny' to the list of criticisms. Despite these limitations, or perhaps because of them, the detective genre has not been abandoned but rather endlessly re-written in diverse contexts by diverse authors, from Paretsky and Grafton to Eco and Lem. Utilising Foucault's conception of the care of the self and Deleuze's elaboration of the fold, this paper will address the Coen brothers cinematic rewriting of the Chandler tradition of hardboiled fiction. In the process of this re-writing, the Coens' extract a counter-ethic immanent to the hardboiled tradition which does not rely on the authorities that detective fiction has relied. This is achieved by re-conceptualising the detective, who no longer functions as a subject, but engages in a process of subjectivation which transforms the ethics of detection into an aesthetics of self.

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### **Righteous Bullets: When is Police Homicide Justifiable?**

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Incidents involving the use of deadly force by police have become something of a special case of homicide. They require few of the justifications which other ordinary citizens, and indeed those with similar responsibilities to police, must supply when their conduct (by omission or commission) causes the death of another person. This paper canvasses the problems inherent in such a situation and pinpoints some of its antecedents. It posits that this state of affairs is largely a consequence of the dichotomy within which police homicide is currently considered, that is as either criminal or fully justifiable. Within this environment, there is no middle ground upon which non-protagonistic discourse may take place and little opportunity for sound principles and practices in this area to develop. It is argued that standard setting has not been influenced enough by mature and open debate.

The criminal law is deficient in several ways for the regulation of police homicide and use of force more generally, and there have been moves toward the use of civil law, although arguably such moves only serve to complicate the problems outlined above. This paper builds on the need for a different dialectic. It makes the argument that a legal framework should exist within which police can concede that conduct was morally wrong or operationally risky without at the same time opening individual officers up to the full rigour of criminal or civil law. The application of the concept of 'excuse' to the reasons which bring about a fatality at police hands, particularly at coronial level, is offered as a potential way towards encouraging the kind of debate which is argued to be so vitally necessary in this area.

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## S

### **The Relationship Between Police and Private Security: Models and Future Directions**

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This will be a theory and policy paper designed to facilitate debate about the emerging and evolving relationship between the public and private policing sectors. The so-called pluralisation of policing is gathering momentum. New models are required that take into account the blurring of what have been conventionally considered parallel systems, with private security as very much the "lesser" or junior entity. The paper will introduce a number of Australian examples into the debate, and develops a set of descriptive models to account for, and explain, the main types of existing and emerging relationships. The paper will then present a prescriptive model to support the view that caution should temper any push towards a totally symbiotic cooperation between public and private policing. The best relationship for the future, the authors conclude, may be one that maintains a basic separation of powers, with some operational cooperation only where it is deemed essential and where oversight can be provided by executive-level standing committees.

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### **Talking About Crime and Sentences: The Views of People on Periodic Detention**

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This study presents the findings from the first comprehensive New Zealand survey to ask people sentenced to periodic detention their views on crime and sentencing, including their knowledge of crime and criminal justice statistics. The research assesses detainees' perceptions of sentencing practice and appropriateness of sentencing, and their knowledge of key facts, such as the level of violent crime, and the number of people offending while on bail. The research also explores offenders' perceptions of the relative severity of a range of sentences and the sentences they have experienced. A total of 387 people on periodic detention participated in the study achieving a response rate of 69%. This paper presents the findings of this research and outlines some of the implications for sentencing policy.

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## **"Your Health!": The Legal Implications of Alcohol Abuse Among Aboriginal Populations**

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In one of its most controversial decisions in recent years, the American Supreme Court rejected a plea by two Native Americans to receive compensation for being dismissed from their jobs as drug counsellors, as they had used the drug peyote in a religious tribal ceremony. As many critics of the judgement have pointed out (and as indeed was mentioned in the dissenting judgement), the problem of substance abuse for Native Americans is not, and never was, the use of the non-addictive peyote, but the devastation inflicted on many North American tribes by the introduction by European settlers of alcohol.

The damage caused was physical degeneration (including premature death) and communal debilitation (including acts of violence). This pattern of exposure to a new addictive and harmful substance and the ensuing effects, was reported in most of the places where there was extensive contact between European settlers and aboriginal groups. Over the years, historians and anthropologists have documented and described the damage caused, including references to the fact that in many instances, deliberate efforts were made to foist drug dependence upon a population that was susceptible to the attractions of alcohol, but incapable of controlling its impact. Indeed, debate has been engendered amongst those who claim that the consequences of drinking arise from social conditions, and those who argue that there is a genetic basis to dependence. Both Macro Llangollen in Australia, and Peter Cancel in the United States, have collated and presented the evidence of the damage caused to indigenous peoples by the newly imported drug.

Given the extensive proof of such harm, and in the light of successful legal attempts to gain compensation for the harm caused by tobacco-smoking (most recently the almost \$150 billion award against the five leading American tobacco companies, a sum which, if payment is enforced, will bankrupt all the companies), the question arises as to why similar legal suits have not been brought against alcohol companies.

In particular it seems that aboriginal groups would have a special interest in such litigation. The potential evidence is to be found in contemporary accounts, historical research, anthropological descriptions, personal testimonies and medical case studies. These are available in abundance, and provide the raw material for what could well be a potentially successful strategy of litigation, both criminal and civil, against liquor companies for the harm that their product has caused to countless aboriginal victims.

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## **Toward the Developmental and Situational Prevention of Sexual Crime**

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**Richard Wortley** PhD,

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The social problems of rape and child sexual abuse continue to present difficult challenges to psychologists and criminologists. As public condemnation has focused on the perpetrators of these crimes, so too have psychological resources been directed largely to clinical efforts in a bid to understand convicted sexual offenders and to prevent them from committing further sexual offences. Although the benefits of successful treatment of convicted sexual offenders are self-evident, and we believe should be pursued, even the most optimistic clinical psychologist would be unlikely to claim that the treatment of convicted offenders provides a complete solution. Even if treatment itself were completely successful, convicted offenders would be rapidly replaced by others yet to commit their first sexual offence.

Significant advances have been made in recent years toward the developmental and situational prevention of delinquency and general crime. In this paper, we argue that the principles of developmental and situational crime prevention could and should be applied to sexual crime. In developing this argument, we examine historical and contemporary conceptualisations of sexual crime, challenge implicit assumptions that sexual crime is a specialised form of criminal behaviour, and review causal explanations and empirical evidence for the role of developmental and situational factors in sexual crime. We conclude with recommendations aimed at developing more effective public policy with respect to sexual crime.

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## **Community Conferencing: Police Officers' Perspectives**

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Police are central to community conferencing in Queensland. Instead of sending the case to court, police officers have the discretion to refer a juvenile offender, who admits guilt, to community conferencing. An evaluation of the Queensland pilot program, conducted in 1998, indicated the success of the program, as participation levels and satisfaction with the process were high for both victims and offenders. However, it was noted in this evaluation that the low numbers of offenders were referred to the program compared with cautioning and court appearances. The aim of this research was to explore elements that influence police officers' attitudes towards the use of community conferencing. To achieve this aim, two research questions were examined a) What are the relationships among police officers' knowledge, experience and attitudes towards community conferencing? and b) Can police officers' policing style, and their understanding of conferencing frameworks, be related to their attitude, knowledge, and experience of community conferencing? Two hundred and three operational police officers from South East Queensland responded to a mail-out questionnaire examining their knowledge, experience, attitudes, policing style and understanding of community conferencing. Community conferencing is available to all police officers in SE Queensland and both officers who had and had not referred a young offender to conferencing were included in the sample. The results of analyses of these surveys indicated that officers' attitude towards community conferencing was related to their knowledge of but not their experience with conferencing. There was no relationship between officers' style of policing and their attitudes towards conferencing. However, both their attitude to and likelihood of referring to conferencing were related to procedural issues. The implications of these findings for the police role in community conferencing are discussed.

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## **Computer Crime: Crisis or Beat-Up?**

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The increased use of computers and communications technologies over the preceding decade has created considerable apprehension in the international community that they are being put to illegal use of various kinds. Fears of widescale electronic vandalism, copyright infringement, fraud, and other forms of electronic crime have been widely discussed in the public media and the academic community alike. It has also been argued that traditional legal responses to computer crime are both ineffective and inappropriate to deal with such an international phenomenon. But have these views distorted the true position? This paper evaluates the currently-available evidence to support the proposition that computer crime has reached crisis point; and the opposing evidence that demonstrates that the problems associated with computer crime have been greatly exaggerated and over-emphasised in public

discourse. Some reasons are advanced for the posited distortions in the representation of computer crime and some ideas offered as to how the problem may be discussed more objectively and moderately in the future.

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## **The Correctional Contract In Action - The Port Phillip Private Prison Experience**

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Amidst a wave of microeconomic reform the Kennett Government in Victoria embarked upon an ambitious project of correctional reform including the introduction of private providers. Port Phillip Private Prison was to be the showcase of this reform, however, within six months of this prison being opened there had been four suicides, one death by drug overdose, high levels of self harm, a riot, industrial disputation and countless operational difficulties. Following the deaths, the State Coroner held a joint inquest into the deaths at Port Phillip Prison. The writer, represented three families of the deceased in this Inquest. In his finding the Coroner identified a range of systemic failings and found, in respect of unsafe cell design, that Group 4 and the State of Victoria had contributed to the deaths of four men. However the Coroner's finding was devoid of any analysis of the broader contractual framework within which the Prison operated. This paper analyses the contractual framework in practice illustrated by the real life experience at Port Phillip Prison. Key weaknesses in the monitoring regime are identified. The paper explores whether it is possible, within a purchaser/provider split, for the non-delegable and moment-to-moment duty of care of the state to be discharged. Overall, the experience of Port Phillip Prison seriously calls into question the ability of the contractual framework to ensure that the State's non-delegable duty of care is discharged. The Port Phillip Prison experience has significant implications for the use of the contractual model in the corrections systems in Victoria, in other jurisdictions in Australia and internationally.

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## **The Operation of Shame, Guilt and Hostility in an Offender Population**

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The purpose of this study was to investigate the operation of shame, guilt and hostility in an offender population by ascertaining whether these constructs differed across offender

categories, and whether the previously identified positive relationship between shame and hostility was evident for this population. Participants in the study were 79 adult male offenders serving a custodial sentence. The Test of Self-Conscious Affect in Socially Deviant populations (TOSCA-SD: Hanson & Tangney, 1995) was used to measure shame and guilt proneness. Hostility level was assessed using the Buss Durkee Hostility Inventory (Buss & Durkee, 1957).

The results indicated no difference in hostility level for the offender categories of personal, property and sex offenders. In addition there were no differences between offender groups in shame proneness and guilt proneness. However there was a significant relationship between hostility and the scales of the TOSCA-SD but the direction of this relationship was not what was anticipated. These findings highlight the need for further work on the construct of shame. Furthermore, the findings are linked to Braithwaite's theory of reintergrative shaming (1989) both theoretically and in regard to implications for corrective practice.

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## **Restorative Justice and Recidivism Patterns among Young Property and Violent Offenders: Findings from RISE**

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The Reintegrative Shaming Experiments (RISE) have been comparing the effectiveness of restorative justice conferencing in Canberra with normal court processing of offenders who have admitted to violent offences, property offences and drink driving. We have now analysed the police criminal history data of these offenders before and after their entry into RISE to find out the impact of their assigned treatment on officially recorded subsequent offending (self-reported reoffending will be examined when all data are available). These findings will be reported in the paper.

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## **Evaluation of a Community-Based Drug Law Enforcement Model for Intersectoral Harm Reduction - Summary of Findings and Conclusions**

**Sutton, A., Loxley, W., Canty, C., James, S., Acres, J., Midford, R., Lenton, S. & Boots, K.**

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In 1998 the National Community Based Approaches to Drug Law Enforcement (NCBADLE) Board of Control funded an evaluation of a 16 month trial of community based drug law enforcement in four pilot locations. The programs were in Fairfield (New South Wales); Gippsland (Victoria); Geraldton (Western Australia) and Mirrabooka (Western Australia).

The purpose of the pilots was to help Australian police agencies ensure that their enforcement activities at the community level become more consistent with principles of drug harm reduction and intersectoral partnership and collaboration. There were seven specific objectives, and participant sites were required to adapt a British model of local Drug Action Teams (DATs) and Drug Reference Groups (DRGs).

This paper summarises processes and outcomes in the four sites. Approaches taken by police in the context of the DAT/DRG trials are assessed in light of a general assessment of harm reduction strategies that it is possible for the law enforcement sector to adopt. The paper also discusses possible unintended consequences of embracing the intersectoral partnership model. One is the 'smorgasbord effect': rather than focussing on major organisational reform, committees implement a series of discrete projects in order to ensure that 'everyone gets something'. Another is conflict-avoidance: participants avoid 'difficult' topics that may cause meetings to become 'bogged down' in debate between agency representatives.

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### **The Rationality Game: Relationships Between Research and Policy in Relation to Illicit Drugs**

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Like all the western democracies, Australia spends vast amounts each year trying to deal with problems associated with heroin, cocaine, cannabis and other illicit drugs. Most of these funds are dedicated to law enforcement and other attempts to reduce supplies. Increasingly, however, there have been suggestions that the balance should shift toward harm reduction. Initiatives proposed in this context include: the decriminalising of cannabis; an opiates trial; specialist "drug courts" and implementation of professionally run "safer injecting facilities" for heroin users. Participants in debates about illicit drugs often cite empirical data that seems to support positions they are taking. Most seem to agree that better and more extensive evaluation and other research will provide the basis for improved policies. The paper questions this assumption. Citing recent Victorian experience, it argues that policies in relation to illicit drugs are driven more by value positions and symbolic concerns than by "objective" understandings about the world. Responses to recent Australian work on the enforcement sector's role in reducing illicit drug-related harms suggests that studies tend to be accepted when they fit in with dominant political and organisational imperatives, but rejected when they do not. The paper argues that criminologists and other researchers should think more carefully about their roles in policy reform.

# T

## **Synthetic Estimates of Crime Victimization**

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The ABS is embarking on a project that will use data modelling techniques to develop experimental synthetic estimates of crime victimisation. Three groups of estimates may be developed, each exploring different datasets: Small area estimates, making use of Crime and Safety data, Population Census and possibly police small area estimates. More detailed estimates, making use of the Crime and Safety Survey and the General Social Survey . A time series of NSW estimates, making use of the 10-year series of Crime and Safety data available for that State only, as well as Census data and police data.

The paper will outline progress with the first phase of this project which involves: surveying client requirements; scoping the project; and developing a detailed project plan. There will also be some discussion of the data modelling techniques that could be used.

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## **How Effective was the NSW Safer Towns and Cities Housebreaking Reduction Project?**

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Research conducted in the United Kingdom has found that improving household security can

reduce repeat victimisation plus overall burglary levels. Using the English Homesafe Project as a model, a housebreaking reduction project was conducted throughout 1999 in two NSW Police Local Area Commands, one metropolitan and one rural. A number of interventions were implemented, including the conducting of security assessments at all residences broken into in 1999, follow-up with victim support packages, target hardening of repeat victims' residences, increasing the fingerprint team attendance rate, and mailing information about housebreaking reduction strategies to the community. Evaluation of the effectiveness of these interventions, and their acceptance by both the police and the victims was undertaken using a number of different measures. These included an examination of data on property crime, clear-up rates, and fingerprint attendance rates, along with interviews with break and enter victims and police participants. Two measures of repeat victimisation were used for the two Commands, from COPS data and from interviews with victims.

The number of break and enter incidents reduced in 1999 in both Commands. There were also small reductions in the number of repeat victimisations and an increase in clear-up rates. However, similar patterns were found in the neighbouring Commands. Both project sites increased the number of fingerprint scenes attended and prints lifted. Break and enter victims in the project sites reported receiving more interventions and were significantly more positive about the service they received from the police than were those in the comparison sites. Victims who received more interventions and were attended quickly by police were more satisfied. Police were also positive about interventions, especially the security assessments. There were clearly some benefits in implementing these housebreaking reduction strategies.

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### **Social Factors or Self: Which Exerts the Strongest Influence in the Development of Offending Behaviour? Evidence from the Queensland Sibling Study**

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The Sibling Study is a longitudinal study designed to identify key individual and environmental factors that influence the development of offending and other risk behaviours in adolescence. The study used a questionnaire which incorporated a range of explanatory and outcome measures derived from the literature on adolescent offending. The sample comprised 1062 participants, 682 of which were (predominantly mixed-sex) sibling pairs. Participants were recruited from three sources: a school cohort recruited from 16 secondary

schools in Southeast Queensland; a family services cohort, through the Queensland Department of Family Services which included children under supervised orders, children attending the children's court and children in detention; and a third, community cohort who were recruited through street interviews, community groups and personal contacts.

The goal of the present analysis was to determine which of the multiple explanatory factors were significant determinants of offending behaviour as represented by one of the survey's outcome measures, "crime status". This was a variable constructed from a combination of respondents' known prior criminal justice history (for those recruited through the Department of Family Services), respondents' self-reported offending and their self-reported contact with the criminal justice system. A classification developed by Jessor (1992) was used as a starting point to organise the explanatory variables into five broad domains: neighbourhood, social environment, perceived environment, personality and behaviour. The analysis identified that each of these domains exerts a significant influence upon offending behaviour.

The present paper outlines the development of the "crime status" measure, the classification of the explanatory variables, and the results of some preliminary regression analyses. The findings are discussed in terms of their implications for prevention.

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## **Sentencing Reform in South Africa - Major Restructuring on the Cards**

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The paper provides a brief background of current sentencing practices in South Africa, in order to put scholars in other jurisdictions in the picture when comparing their practical experience with the South African situation. This background includes mentioning that the South African criminal law is not codified, and that the standard current sentencing practice is to leave the sentencing court with a wide discretion, often only bound by the little framework that the law provides for, as well as vague notions such as that the sentence should be reasonable. The legislature has from time to time dabbled with minimum and compulsory sentences, and such a law is (temporarily) applicable at present. However, the South African Law Commission has, at the request of the Minister of Justice, embarked on a major reform of sentencing in the country. The final report of the Commission has found inconsistency in sentencing, insufficient regard for the seriousness of crime and insufficient use of intermediate, non-custodial sentences to be the main flaws of the current system. Rectification of these flaws requires much increased structuring of the sentence discretion. In its proposals for reform the Commission has come up with a number of tried and tested suggestions, but also a number of very novel ideas. At the foundation of the proposals, a sentencing council is to be set up, which is to provide sentencing guidelines in terms of numbers of years' or months' imprisonment for categories and sub-categories of offences and, where applicable, also for fines and community penalties. The council will develop, and amend where necessary, these guidelines on a continual basis. The paper highlights these and other novel suggestions, and makes some assessment of the potential success of the proposed

reforms.

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## **What do Young Women need? A Feminist Perspective of NSW Juvenile Justice Worker's Perceptions of Young Women in the System**

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The criminal behaviour of young women has long been understood within criminology in terms of societal gender stereotypes. What research has been conducted on attitudes held by Juvenile Justice workers have found that young women are seen as 'difficult' to work with. This paper addresses NSW Juvenile Justice Worker's perceptions of the needs of the young women they work with.

Notions of gender stereotypes held by the workers are addressed in relation to the perceived needs of the young women. A feminist analysis will attempt to determine the effect of such stereotypes on the perceptions of the workers as well as the strategies employed by the workers to meet the perceived needs of the young women they work with.

This paper also draws on the work of other studies which have elicited the views of young women within the Juvenile Justice System as to what their most pertinent needs are. The opinions of the workers will be analysed in relation to these expressed needs to examine the validity of the strategies employed by the workers.

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## **Process Issues in the Treatment of Adolescent Sexual Offenders**

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This paper will focus on the 'process' of therapeutic change with adolescents who commit sexual offences. It will describe, using case examples and experiential elements, the 'journey' that adolescents need to undertake in order to achieve profound and potentially lasting 'change'. It will describe the unique approaches necessary with this client group, including an analysis of the challenges to group, program and therapeutic processes that these young people provide.

## **A Theory of Child Sexual Perpetrators**

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Sexual aggression is a multidimensional issue without a clearly delineated cause. Divergent disciplines have proffered theories including Knopp's (1984) psychosis theory; Van der Kolk's (1986) physiological theory; Bandura and Samenow's (1976) and Burton, Nesmith and Badten's (1997) social learning theory and Friedrich's (1990) developmental theory and Yates's (1982) eroticised children theory. However, these various theories promulgated to explain children's sexually abusive behaviours share common points of criticism. Firstly, many of the theories that have been proposed as explanations for children's sexually abusive and aggressive behaviours have been derived and adapted from theories formulated to expound adult sexual perpetrators (Burton, Nesmith & Badten, 1997; Knopp, 1984). Secondly, the predication that underpins most of the proposed theories is that children who are sexually abusive are responding to the traumatic event of being sexual victimized themselves ((Burton, Nesmith & Badten, 1997; Friedrich & Lueke, 1988; Cavanagh & Johnson, 1988). Thirdly, there is neglect in the area of aggression and the associated link between sexual and aggressive components due to the various theories' predominant focus of the sexual element (Araji, 1997). Finally, the theories of sexually abusive behavioural development do not adequately accommodate for how children enduring abuse including physical abuse, neglect and psychological and emotional abuse also develop sexually abusive/aggressive behaviours (Araji, 1997). In acknowledgement of the seriousness of child sexual perpetrators and the shared criticisms of established theories, it is the intention of this paper to present of cognitive-analytical theoretical model that addresses the concerns highlighted.

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### **Reading Difference Differently**

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Recently, the Australian judiciary has responded to the need to open up the juridical subject to 'difference' (sexual, racial, ethnic and religious and so on), a claim made or based on an appeal to an 'empirical reality' of difference. A key issue to be explored in this paper concerns the relation between representation and 'reality' in narrative processes of representation, specifically during the legal process of narrativity. This paper draws on recent research findings relating to insults as a specific mode of address in the context of provocation cases to substantiate and exemplify the argument.

## U

### **Public Enforcement of Intellectual Property Rights**

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The division of labour between public and private in the enforcement of intellectual property rights has become increasingly blurred, though a public role is clearly entailed by the inclusion of criminal infringement provisions in Australian copyright and trade marks legislation. Part of the difficulty lies in the limited capacity of public law enforcement agencies to deal with all demands on their resources, along with a reluctance to intervene in what is often seen as private commercial disputation. Added to this are rapid changes in technology, which provide new opportunities both for the infringement of intellectual property rights and their protection. This paper assesses the role of public enforcement of intellectual property rights through the recent experience of the Australian Customs Service (ACS), the Australian Federal Police (AFP) and Director of Public Prosecutions (DPP).

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## V

### **How Representative is DUMA?**

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How representative is DUMA? DUMA is now a major aspect of the investigation of offenders' rates of drug abuse. One of the key questions, however, remains how representative is the DUMA lock up sample of all offenders. This paper addresses an even more specific question of representativeness: how representative are offenders in the DUMA sample of offenders appearing in lock ups. Analysing the data from Western Australia (the East Perth lock up) and comparing these to salient features of the DUMA data base this question is explored. The wider question of how the East Perth DUMA sample compares to the population of arrestees in Western Australia is also sketched out briefly.

## **Governmental Responses to Crime in Post-Apartheid South Africa: From Nation-building to State-building?**

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This paper takes a critical look at the central features of governmental responses to crime in the context of South Africa's political transition. Two distinct phases in the development of crime policies and operational practices are identified for the period 1994-2000.

During Phase 1 crime discourse and policies were shaped by the imperatives of nation building and the search for broad-based political legitimacy of the newpost-Apartheid government. The spirit of this period was encapsulated by the National Crime Prevention Strategy (1996) which located crime policy within a macro-developmental framework and professed the virtues of a 'partnership' approach to crime prevention. From 1998 onwards, however, a shift in gear and direction became evident as tough talk about the need for making 'war' on (organised) crime and 'urban terror' translated into a militarisation of governmental discourse and policing practices. As a consequence the scale became tipped in favour of a crime control (as opposed to crime prevention) mentality. It would appear that during Phase 2 the political terms of reference for governmental crime strategies were increasingly shaped by the imperatives of state-building.

This paper explores the central features of each of the above-mentioned phases, locates the changes against the socio-political context of the time and considers the broader implications of such shifts in crime policies and operational practices for the larger project of governance.

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## **Behind the Community Policing Façade: Governing Through Policing**

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From European perspective community policing could be seen as a façade. As widely adopted policy (mostly US origin) it has basically same philosophical background and principles in many European countries, with some variations in implementation. Based on an old Peel'ian idea of policing and an illusion of good old times of policing as well as nostalgic concept of community it has constructed a façade that looks same everywhere. The friendly and unquestionable good image of community policing easily prohibits us from looking behind that façade. Networking is one of the most interesting outcome of community policing that challenges the conventional wisdoms of the role of the police in society.

According to Johnston (1998) policing should be seen as the responsibility of local security networks in the future. According to my empirical process evaluations in Scandinavian countries local networking process is usually police-initiative and police-dominated. For the police policing networks are ways of organizing local cooperation and constructing partnerships in policymaking (security plans and strategies) as well as operational level, but also ways to ensure local legitimacy. Policing networks could be seen also as attempts to control "grey policing", or organize the ever broadening space and multiple forms of policing. Community policing has been one unifying force in European policing because of that popular façade (almost all of us have those same principles and lists of priorities in strategies and visions of our police organizations).

Behind it there has been a lot of networking concerning also public order policing between EU-member states but more and more between big European cities, sports organizations (football) and other NGOs, too. Common denominator is security. Security is a powerful political method in governing through policing: people as well as societies are security seeking entities. Community policing has in a way created a political chance and place for governing through policing.

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## W

### **Social Defence and the United Nations: Governing Post-war Criminological Discourse**

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This paper examines the technocratic priorities of criminological discourse following the second world war. In doing so, it charts the role and influence of the United Nations and the doctrine of social defence, and traces those shifts and events, which have forged a nexus between criminological endeavour and processes of governance. This paper aims to illustrate that social defence and international reconstruction provide a useful framework for understanding the links between power/knowledge and the pragmatic orientations of criminological scholarship.

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### **'Cultural Criminology and the Carnival of Crime' 'Author Meets Critics'**

**Mike Presdee** (Sunderland University, England)

Session Chair - Reece Walters (Victoria University of Wellington)

Critics: Professor Tony Jefferson (Keele University)

Associate Professor Alison Young (University of Melbourne)

Associate Professor Janet Chan (University of NSW)  
Dr John Muncie (Open University, England)

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## **Criminogenic Needs: A Conceptual Analysis**

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The rehabilitation of offenders in the criminal justice system has been the focus of considerable discussion and debate in recent years. Increasingly, psychologists and criminologists have argued that certain types of interventions may effectively reduce recidivism rates. More specifically, interventions that are structured and aim to equip offenders with the skills necessary to live a crime-free lifestyle are more likely to reduce rates of reoffending. Additionally, research suggests that matching treatment intensity to offender risk, and explicitly targeting criminogenic needs, will further improve treatment outcomes. Criminogenic needs are dynamic (i.e., changeable) factors such as antisocial beliefs, impulsiveness, or substance abuse problems that are associated with further offending. Despite the prominence of the concept of criminogenic needs in the rehabilitation and treatment literature, to date there has been no attempt to critically analyse this construct or to unpack its relationship with normative and psychological theories. In this paper I systematically evaluate the adequacy of the concept of criminogenic needs and document its relationship to broader theories of human needs, models of rehabilitation, and normative theories.

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## **Tensions Between Public and Private Interests in Sentencing: Accommodating Victim Reparation Orders and Victim Wishes**

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In this paper I wish to explore a number of issues that concern the relationship between the state, victims and offenders. Increased recognition of the need for victims of crime to receive adequate compensation has led, in a number of jurisdictions, to legislative measures to encourage the greater use of reparation orders. Most recently, the Sentencing Act 1997 (Tas) makes reparation orders compulsory for property damage or loss resulting from burglary and damage to property. How successful these orders have been in providing compensation for victims will be examined. Whether reparation orders can be successfully integrated into the criminal justice system will also be discussed. Victims' wishes in relation to sentence is another sentencing issue which raises issues about accommodating restorative and victim oriented concerns into a criminal justice system which traditionally places the public interest

above the interests of victims. How the courts have dealt with the wishes of victims in relation to sentence will be canvassed and the extent to which the wishes of a victim should dictate sentencing outcomes explored. Other stakeholders besides the immediate victim and the victim's family may also wish to have some input into the sentencing outcome. How the courts have reacted to the views of a community affected by a particular crime will also be examined.

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## **Clifford v. Brandon, S11, and Public Protest in Private Space**

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The mass corporatisation and privatisation pushes during the 1990s in Victoria have important consequences for the right to protest. The tendency for much contemporary public protest to be directed at the activities of private individuals or corporations, or to take place on private land, is exemplified by the recent S11 demonstrations at the Crown Casino, and protests against the Australian Formula One Grand Prix at Albert Park. The subsequent melding of public and private interests, often through contradictory sanctions of the state, has significant implications for the rights of protesters and the rights, obligations and safety of public law enforcers.

These problems are not new. In discussing the issue of public protest on private property, this paper reflects on the similarities of the above recent demonstrations and the 1809 British case of *Clifford v. Brandon* (170 ER 1183-1187). This case, involving protest against the introduction of higher gate charges and private boxes at Covent Garden Theatre in London, authoritatively discusses the implications of the public and private distinction prior to the rapid and extensive centralisation of the state during the remainder of the 19th Century. The paper submits that these issues are of growing relevance in light of recent trends involving S11 and Albert Park demonstrators, and are indicative of broader trends in corporate governance, the contracting out of government services - including activity relating to public order policing - and the growing state support for the protection of private property interests.

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## **A Case of Recidivist Offending and Atypical Addiction: Implications for Nosology**

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This paper describes issues surrounding a case of recidivist offending. Recidivist offenders challenge the criminal justice system by continually reoffending despite efforts to contain their behaviour with the range of community based and custodial dispositions. In these cases forensic psychology can be called upon to provide an understanding of their behaviour, which may not be readily understood using current classificatory systems. An illustrative case of a young woman, who was referred to a forensic mental health clinic for psychological

management of her offending behaviour, is presented. Her offences include telephone bomb hoaxes and death threats, mainly to authorities such as police. The management of this recidivist offender is complicated by her preoccupation with police attention and delight in being associated with all facets of the criminal justice system. While the Diagnostic and Statistical Manual - Fourth Edition (DSM-IV, 1994) provides some insight into possible underlying psychopathology, no axis 1 or 2 classification for such recidivist offending is defined. The cautionary statement in DSM-IV suggests that classifications reflect the "evolving knowledge" of the field. It is suggested that forensic psychology can offer a significant contribution to the field's understanding of recidivist offending using constructs such as atypical addiction.

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## **Evaluation of a Program for Inmates addressing Empathy**

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One of the major approaches to rehabilitation of inmates in goals throughout the English speaking world involves the concept of 'victim empathy'. A program to improve inmates empathic ability was evaluated in a pre and post test design as well as compared to a control group within the prison. The program was conducted at Junee Correctional Centre in NSW, Australia. Variables measured included alexithymia, empathy, distorted cognitions and aspects of the correctional environment. The program is outlined. The results of the evaluation indicate that inmates who participated in the program showed highly significant change in both self-report and interview data on all the variables. Implications of the findings are discussed, and in particular potential problems with the maintenance of the improvements both within the prison environment and upon release.

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## **Buying and Selling Heroin: User and Dealer Perspectives**

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The conventional rationale for street-level drug law enforcement is that it increases the risk, time and effort involved in buying and selling heroin, thereby reducing aggregate demand for the drug. Enforcement directed against heroin users, it has been argued, encourages them out

of the heroin market and into treatment. Enforcement against street-level dealers, on the other hand, is said to facilitate this process because it undermines the security of the buyer-seller relationship and increases the non-monetary costs associated with buying and selling heroin.

This picture of the drug law enforcement process is underpinned by the assumption that drug law enforcement can be used to increase the perceived risks associated with buying and selling heroin. This paper draws on data from the Drug Use Monitoring in Australia (DUMA) program and an earlier interview study to show (a) that the perceived risks associated with buying and selling heroin are only moderate and (b) that the perceived risks are only weakly related either to the intensity of heroin buying/selling activity or past contact with law enforcement/criminal justice agencies.

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## **The Detention of Asylum Seekers in the UK: Crossing the Boundary Between the Criminal and Administrative Spheres**

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The detention of asylum seekers at ports of entry in the United Kingdom is an act of administrative discretion. Legal practitioners and human rights groups have long argued that decisions to detain are arbitrary, disproportionate and largely unregulated. The wide discretion available to immigration officers is further evidenced by the routine preference given to the use of administrative powers in situations where the possibility for criminal prosecution exists. In contrast with most other law enforcement agencies, almost no independent research has been conducted into the way in which the immigration officers exercise their increasingly police-like powers, and the Immigration Service is widely perceived to be unaccountable and secretive. This paper reports empirical research based on interviews with immigration officers at selected ports, which was intended to shed light on how front line officials exercise their discretion to detain or grant temporary admission to asylum applicants. It cites evidence of 'legal drift', whereby Immigration Act detention has come to be used for purposes beyond those for which it was originally intended, including the prevention and investigation of crime. It also considers how selective detention has effectively criminalised a proportion of asylum seekers by treating them as if they were criminal, while denying them the legal safeguards which are in place within the criminal justice system. It will be argued that both these practices indicate a blurring of the boundaries between the administrative and criminal spheres and raise serious human rights concerns.

## **Empirical Research on Corporate Crime in Taiwan**

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Street crimes are primary concern by most criminologists in Taiwan. In recent years, however, crimes committed by corporations have increased greatly in this country. The harm created by corporate crime includes tremendous economic and physical costs. Ironically, corporate crime did not attract enough academic attention in this country. This research is the first systematic empirical study concerning corporate crime in Taiwan. This study employs the empirical approach to collect data about causal factors of corporate crime.

The research sample was selected from a corporation with criminal record and another corporation without criminal record (as a control group). The corporation with criminal record released toxic chemicals and caused hundreds of people, including employees and neighborhood residents, to develop cancer. Interviews were conducted to obtain the primary qualitative data. The main sample of interviews included 8 managers and 10 employees in each corporation, i.e. 16 managers and 20 employees. Some other related people were also included (members of some non-profit organizations). In addition to interviews, secondary data were collected from various official agencies, such as Taiwan Environment Protection Agency, Council of Labor Affairs, Ministry of Economic Affairs. Furthermore, this study also employed content analysis method to analyze the representation of both corporations in the main newspapers of Taiwan. Finally, the quantitative data were collected from a survey. The sample of survey was 300 employees randomly selected from each corporation. Thus totally 600 employees were randomly selected from both corporations.

According to qualitative and quantitative data analysis, this research indicated the causal factors of corporate crime as:

1. the failure of government regulation;
2. the lack of self-regulation in corporation;
3. the lack of public concern about corporate crime;
4. the mechanistic structure of corporation; and
5. the low self-control tendency of corporation managers.

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## **Crime, Criminology and Class Analysis**

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The aim of this paper is to discuss the place and importance of class analysis in understanding contemporary developments in criminology as a field of study. It argues for a reaffirmation of class as a central concept in explanations of particular types of criminality (related to differential abilities to mobilise resources in accordance with specific social interests). As

past of this, it discusses how certain forms of criminality (such as white-collar and corporate crime) are being re-defined in ways that diminish their importance as either discrete type of crimes, or as class-related. The framing of 'the crime problem' (and what to do about it) is a material and ideological process involving the state, particular class interests (especially that of the 'middle strata' in the class structure), and, importantly, the conditions under which criminologists undertake their intellectual labour. Not only are the broad trends in crime explainable via class analysis, but so is the structural role of criminology in sustaining certain definitions (and responses) to crime over others. This, too, is a class question.

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## **Protector and Perpetrator: A Dangerous Contradiction**

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This paper critically evaluates the present status of state criminality as an area of criminological concern. The paper begins by briefly analysing the recent conflict in Rwanda to demonstrate the potentials of state crime as well as the surrounding ethnic, cultural, political, economic and historical complexities. It then outlines its development from a criminological and human rights perspective. State criminality was born out of the 'radical' criminology of the 1960's. However, the concept faded away in the mid-seventies to early eighties due to a combination of political and conceptual biases from both inside and outside academic criminology. It was not until the late-eighties that state crime received renewed interest from criminologists, spurred on by the human rights movement and significant advances in global media that have increased our awareness of the atrocities that states inflict upon their citizens.

The search for a practical definition of state criminality is essential to its acceptance. This paper draws together the efforts of Cohen (1993), Friedrichs (1995) and Green (2000) in an attempt to construct a definition of state criminality that is coherent, sufficiently inclusive and responsive to future developments within international law. The paper then suggests that most state criminality can be understood in terms of conflicts that are inherent within the creation of the modern state. The paper proposes six solutions that collectively serve to create a common awareness that states cannot harm their citizens with impunity. Throughout the paper references are made to current state practices including Western Australia's and the Northern Territory's mandatory sentencing legislation.

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## **Courts of Summary Jurisdiction: Coping with Volume, Coping with Change**

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Courts of summary jurisdiction have historically been seen as of comparatively little consequence in the court system. They were staffed by persons who were often not legally qualified, they dealt with minor civil and criminal matters and were essentially largely outside the major court structures.

Whatever the truth of that historical picture, the present situation is far different. Judicial officers in the courts of summary jurisdiction must now with very few exceptions be legally qualified, and the cases being heard (both civil and criminal) are often of considerable significance. The criminal jurisdiction of the summary courts has in recent years been increased very considerably. The coronial jurisdiction is high profile and very important - for individual cases and wider policy issues (such as health and safety). The Children=s Court jurisdiction (in both criminal and `care and protection= matters) is large, difficult and demanding. Moreover, new areas of work are being given to the courts of summary jurisdiction. Perhaps the most significant of these is that of family violence intervention orders. Courts of summary jurisdiction not only deal with a very large proportion of the total volume of cases being processed through the various court systems, they are also dealing with a very high volume of cases.

Nevertheless, courts of summary jurisdiction still tend to be seen as different from, and inferior to, other courts. This perception has had its advantages. The courts of summary jurisdiction have been less bound by tradition and traditional ways, and have been more responsive to changing needs and new demands placed on them. They have also been innovative in a number of interesting and important ways.

This article explores some of these themes, and in particular notes that paradoxically the very failure to acknowledge the contribution and status of the courts of summary jurisdiction may well have been one of the major reasons for their efficiency and vitality.

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## **A New Challenge to the Correctional System: Dealing With Dying**

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With the tide of AIDS and cancer among inmates and the imposition of longer sentences due to changes in American legislation, the number of deaths that have occurred in American prisons has increased dramatically. To improve the conditions for dying inmates and to help them to die with dignity, the Prison Hospice Program was introduced. The objectives of this

paper are to describe the concept of the program, to examine its components, and to discuss the results. The issues that will be addressed include: the involvement of Hospice in the correctional system and its consequences; the inmates participation in the program and the effects of this participation on security; the requirements inmates have to meet to enter the Prison Hospice Program as well as the psychological impact that the program has on inmate hospice volunteers; the effect of the program on correction issues; the costs; the types and quality of care that dying inmates can obtain as program recipients, the security issues, and the applicability of the American Prison Hospice Program to prison systems in other countries.

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## **Nasty Little Madams: Changing Constructions of Adolescent Female Delinquency**

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This paper is concerned with making sense of changing attitudes towards 'bad girls' and, in particular, those girls and young women under the age of 18 years who commit offences and are dealt with by the criminal justice or welfare systems. Drawing on evidence from the UK, Australia and the US, it will suggest possible indicators of a shift in the paradigm that has dominated feminist critiques of juvenile justice, namely the 'sexualisation' theory of adolescent female lawbreaking. In recognition of the problems highlighted by feminist critiques of traditional approaches to adolescent female delinquency, three alternative discourses have (re)emerged in the late twentieth century: informality (in the specific form of restorative justice), just deserts, and a renewed appeal to the 'lost' innocence of childhood, as a result of victimisation (predominantly by men). These alternative approaches to dealing with bad girls which attempt to divert them from the formal criminal justice system have proved no more successful than traditional welfare intervention. Instead, we have seen a number of indicators of a paradigm shift in the treatment of bad girls: more girls who offend are being dealt with by the criminal justice rather than by welfare systems; more bad behaviour by girls is being redefined as criminal, particularly fighting; more immoral behaviour by girls is being constructed as 'near criminal' (for example, so-called 'early' pregnancy and lone parenthood). As a consequence of these changing attitudes, there has been a shift away from the 'welfarisation' of troublesome girls towards their criminalisation. The predominant criminal justice and welfare discourse is no longer that these are lost and bewildered souls, but 'nasty little madams'.

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# XYZ

## **Computational Models of Legal Discretion**

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The construction of intelligent legal decision support systems in discretionary domains will enhance consistent decision-making leading to increased confidence in the justice system and provide support for alternative dispute resolution. To build such intelligent decision support systems, we classify discretionary legal domains into four (not necessarily distinct) categories. Domains in which the number of outputs is limited are shown to involve the exercise of the strongest form of discretion. We illustrate these findings through four examples of discretionary legal domains, including the sentencing of criminals.

We also discuss how to evaluate discretionary systems and the benefits of building discretionary systems. We conclude by discussing the issue of mandatory sentencing. In an attempt to make legal systems complete, many countries are introducing mandatory sentencing rules. Proponents of mandatory sentencing claim they want certainty in decision making. A result of mandatory sentencing in Australia is that indigenous Australians are being imprisoned for trivial offences. Further, there are numerous incidents of 'death whilst in custody'. It important to note that by removing discretion from decision-makers, people can be jailed for trivial robberies whilst perpetrators of white collar fraud receive good behaviour bonds.

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## **Vehicle Hijackings in South Africa: An Analysis of Sentenced Hijackers as a Source of Crime Information**

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Over the past few years there has been a substantial increase hijacking of vehicles in South Africa. Currently it has reached levels that cause considerable anxiety and fear amongst members of the public. The efforts of the police have also had a limited effect on the hijackings and in fact initiatives to combat vehicle hijacking have not gone far enough in

addressing the legitimate fears of law-abiding citizens.

In a recent research project the author interviewed sentenced motor vehicle hijackers in order to establish their willingness to provide the authorities with crime information which can be used for crime intelligence and in the long run for intelligence-led police interventions. The research included the concept of official debriefing of sentenced prisoners on a routine basis after they have served a specified period of their sentences in exchange for certain benefits to the prisoner. The research revealed a number of interesting facts. For example the modus operandi of the hijackers, their motives, selection of victims, why certain victims are injured or killed and others not, weapons used etc. The research also revealed the strong influence of syndicates and the illegal market in hijacked vehicles. The analysis also unveiled the extent of corruption within the police, motor vehicle licensing offices at local government level and correctional service. One of the findings was that a number of inmates would prefer to provide crime information to neutral persons whom they consider to be credible rather than to the police or correctional services. This in it self is an interesting fact which points the way to support of the concept of possible privatisation of certain "police functions".

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## **Negotiating 'Women' and Her Resistance to the Ideal: Press Representations of the Australian Murderess Throughout 20th Century Australia**

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One of the most promising contributions of feminists to criminology is the identification of the need to move beyond traditional boundaries to explain women's criminality. However, the benefits of this become reduced when hegemonic discourses continue to construct women in mythologised categories and render these categories as common sense.

Media analyses have drawn attention to the limited and discredited ways women have been defined within the press. However, the focus has been largely on the way women are oppressed into set categories and the dichotomy of the 'ideal' woman verses the 'abnormal' women. This study explores the ways when woman steps out of her mould, she is continually redefined and portrayed in a means that keeps her from posing a threat to masculine hegemony.

This study examines press representations of women who have been accused of killing their children from three key periods within 20th century Australia. It addresses the ways the concept of motherhood is negotiated and reproduced as women step out of their passive role and transcend the ideal. In doing so, it highlights the way the press have introduced a dichotomy of innocence and evil in defining the notion of motherhood.