Australian Institute of Criminology

# INFORMATION BULLETIN

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*FOREWORD*

*During 1973 the Board of Management of the Institute resolved that in addition to our regular Newsletter and publication of conference and seminar materials we should endeavour to publish an information bulletin. It was considered that such a bulletin, which would promulgate in condensed form items of interest in the wide field of criminology and relevant administration, would be of some interest and assistance to a large number of persons.*

*The volume of the material which needs to be examined is very great and the capacity and opportunity of our present staff to undertake the task is limited by other responsibilities. Nevertheless this is our first effort. It does not pretend to be sophisticated nor necessarily of high selective merit. It is directed at this stage to practical workers rather than to those who are seeking to achieve academic enlightenment,, but we hope that it will give opportunity to those who must work in restricted fields of obtaining some knowledge of trends, methods and developments elsewhere—particularly in Australia.*

*If indeed it serves that simple purpose I believe that will be a true achievement, as I continue to regard the co-ordinative role of this Institute as one of great value. Your critical and constructive appraisal will be welcome. By such comments we will be able to more readily assess the future form of such a publication, its area of distribution and the function it fulfils.*

*Mr Justice J. H. Muirhead*
*Acting Director*

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# ARTICLES

## ABORIGINES

Biles, David — 'Aborigines and Prisons: A South Australian Study'

Australian and New Zealand Journal of Criminology, Vol. 6, No. 4, December 1973, Melbourne.

Aborigines comprise less than one percent of the population of South Australia (1.2 million), but comprise about a quarter of all admissions to prison. The proportion would be much higher if statistics for detention in police prisons and lock-ups were included. The abolition of public drunkness as an offence would reduce the number of Aboriginal prisoners as this is their most common offence. Greater use could also be made of probation for Aboriginal offenders. For those offenders sent to prison, treatment and training programmes are especially inadequate. In view of the numbers of Aboriginal prisoners, it is suggested that prison officer training should include a segment on Aboriginal culture. Efforts should also be made to recruit Aborigines for training as prison officers and if possible to employ Aboriginal probation or welfare officers. In these cases, they would fill normal vacancies and undertake duties associated with Aboriginal and non Aboriginal offenders. All sections of the criminal justice process have an especial responsibility to ensure that Aboriginal offenders or suspected offenders understand what is going on.

## ALCOHOLIC OFFENDERS

Corden, John and others — 'Teetotal Democracy'

New Society, Vol. 27, No. 591, 31 January 1974, London.

The Criminal Justice Act, 1972, empowers probation committees to provide residential care for alcoholic adult offenders.

The article discusses a scheme in operation for the past three years at Nottingham where a voluntary organisation has established a hostel for alcoholic offenders. The hostel caters for 11 residents and receives Government aid. The object is to provide a constructive alternative to imprisonment for habitual drunken offenders. The residents run their own self-governing community with assistance from professional staff. A weekly meeting is held which determines policy and also discusses personal problems of individual residents. The residents make the rules and enforce them which has made for much better relations with the staff. The average length of residence has grown since the first year of operation and is now greater than six months. The future success of the scheme may be endangered as rules and agreements have tended to become institutionalised,

vacancies are occurring less regularly and the institution may develop into a traditional hostel structure.

**CRIME**

Whiteley, J. Stuart — 'Coming to Terms with Deviance: Opportunities in the Criminal Justice Act'

The Howard Journal of Penology and Crime Prevention, Vol. 13, No. 4, 1973, London.

Parts of the Criminal Justice Act of 1972 dealing with certain offences and offenders impose sanctions or restraints in definite terms. In the other, the Act states that opportunities should be created for "social education" but directions are much less precise and even vague. Alternatives to imprisonment are put forward but without clear intentions can be interpreted as no more than alternatives to a custodial sentence on purely economic or practical grounds. Schemes for providing "social education" should more correctly be seen as providing a social re-learning experience. Efficient social education requires recognition of social needs. Deferment of sentencing unless linked with some positive learning opportunity will only serve to delay the eventual imprisonment of the offender. The most favourable opportunity for social learning exists in community service orders, if properly used, and if the openings they present are acted upon.

**CRIME PREVENTION**

Editorial - 'The Duty to Assist'

The Criminal Law Quarterly, Vol. 16, No. 1, November 1973, Agincourt, Ontario, Canada.

The article is critical of suggestions to introduce so called 'Good Samaritan' legislation which makes it an offence for a person to fail to come to the assistance of another who is being attacked, or to otherwise intervene if there is no risk to himself, to prevent the commission of a crime. A provision similar to this exists in the French Penal Code and in some other European countries. There do not appear to have been any convictions based solely upon these provisions and its application in Canada would be contrary to the basic principles of Canadian criminal law, and even more contrary to recent trends towards permissiveness. Subject to certain conditions, it is desirable that strangers intervene to prevent criminal offences. However the law should not impose criminal sanctions for not doing so but could encourage such action by giving an advantage to those who do or at least withholding any disadvantage.

## CRIME PREVENTION AND TREATMENT

Tollemache, Robert — 'Crisis Agencies and the Treatment of Offenders in the Netherlands'

The Howard Journal of Penology and Crime Prevention, Vol. 13, No. 4, 1973, London.

The Netherlands has advanced further than Britain in creating institutions which could form the basis of an alternative prevention and treatment system for offenders. In recent years agencies have been set up for young people in most cases to offer help with crisis situations. Crises dealt with are those which have or might have brought the young person into conflict with the law. The main difference with these agencies is that they seek to help in a practical way the individual's problem as perceived by him and without offering unsought advice and judgement. Other organisations include an advisory service for those on bail or held at police stations, including legal advice, emergency housing organisations for those in difficulties including a crisis accommodation centre where young people can stay for up to a maximum of 10 days,and rehabilitation and social work agencies. The oldest dates from 1823 but it relied until the 1950's almost exclusively on volunteers. Particular note is made of one society which specialises in mentally disturbed and otherwise difficult clients. Agencies as a general rule have some function in which they specialise. The Dutch criminal justice system is strongly oriented towards rehabilitative methods in both theory and practice, as distinct from preventative measures. Very few offenders are sentenced to imprisonment and those that are receive short terms only. The Netherlands prison population is the lowest in Western Europe 22/100,000 compared with 72 in the United Kingdom and 83 in West Germany.

## CRIMINAL PROCESSES

Klare, Hugh — 'Issues in the Treatment of Offenders'

The Howard Journal of Penology and Crime Prevention, Vol. 13, No. 4, 1973, London.

It is not possible to separate the way offenders are dealt with by society from the way in which society perceives crime. However there is no uniformity within society in its perception of crime. In very general terms there are two opposing basic attitudes; one that the area of free choice in life is large and the other that free choice is limited and man's conduct strongly influenced by factors outside his control. The first tend to come from those sections more resistent to change and the others from those sections more desirous of change. Such attitudes are reflected in the administration of penal systems, and the type of attitudes which emerge depend on the way in which the society develops. The article discusses some of these attitudes in relation to penal systems in the Netherlands and the Scandinavian countries which have been progressively liberalised. While there is a movement towards

greater participation and democracy there is always the possibility of reaction. Clashes of interests between old and new may polarise more people's attitudes which will in turn be reflected in the way offenders are treated.

**DRUNKENNESS**

Harrison, Paul — 'Young People and Drink'

New Society Vol. 26, No. 586, 27 December 1973, London.

Consumption of alcohol per head of population has increased substantially since 1945 particularly amongst younger people. The number of alcoholics in the twenties appears to have increased but this may be more a matter of younger alcoholics seeking treatment now that less stigma attaches to alcoholism. Under-age drinking is also on the increase. Particular note is made of the situation in the East End of London where many pubs rely heavily on under-age customers. It is suggested that drinking is on the increase because drugs are harder to obtain and more expensive, and other social outlets do not exist. Pubs and discotheques are the only places to go. Recent surveys see under-age drinking not as a delinquent activity or cause of delinquency but as a normal transition from childhood to adulthood. A permissive attitude seems to lead to an increase in drinking among young people but does not lead to an increase in problem drinking.

**JUVENILE CRIME**

McKissack, Ian J. — 'Property Offending and the School Leaving Age'

International Journal of Criminology and Penology, Vol 1, No. 4, November 1973, London.

Property crimes amongst young offenders reach a peak in the last year of compulsory school attendence. A strong correlation has been found between difficult behaviour at school and delinquency- However there is no rapid increase in such difficult behaviour in the 12 to 15 age group. There are greater opportunities for property offending in adolescence as a wider and less home centred sphere of activities present themselves. Comparisons are made between research in the Waikato district of New Zealand , findings in Scotland and recent research in the U.S.A.

However the peaking effect has become less noticeable with increasing numbers staying at school beyond the minimum age. Total offences, showed a peak at age 14 but prosecuted cases for ages 14, 15 and

16 were similar. After leaving school, ptoperty offences drop, in particular for minor, low expertise offences like shop-lifting and street thefts. Wants are more easily satisfied from wages,and in employment there is less free time available than when at school.

JUVENILE COURTS

Franklin, Larry 'New Directions for Juvenile Courts'

Crime and Delinquency, Vol. 19, No. 4, October 1973, Hackensack, N.J.

The article reviews Supreme Court rulings regarding due process for juveniles. The attitudes of juvenile court counsellors in a particular Pacific North-West metropolitan community towards due process and restrictions upon the powers of the juvenile court and correctional workers are examined. Views were generally positive with few differences between social workers and persons with other training and between supervisors and others. The article includes tables listing responses to a variety of questions including views about the scope of the juvenile court, the function of youth service bureaus, the role of lawyers in the juvenile court and the role of probation officers. A second table differentiates the responses of social workers from non social workers.

JUVENILE COURTS

Renn, Donna E. 'The Right to Treatment and the Juvenile'

Crime and Delinquency, Vol. 19, No. 4, October 1973, Hackensack, N.J.

Juvenile courts have not provided the type of successful rehabilitative care hoped for by the various juvenile court acts. Referring to the Illinois juvenile court system some 80 percent of those committed to a juvenile institution are placed in custodial institutions similar to adult prisons. Juveniles do not receive the procedural protections granted to adults. The U.S. Supreme Court has noted that children may receive neither the procedural protection accorded to adults nor the appropriate care which should be given to children. The law exempts certain persons from culpability to a greater or lesser degree, including juveniles who may be confined for the purpose of treatment though th$y may have done nothing illegal. Treatment is a quid pro quo for confinement and it is arguable that a person not receiving treatment would be entitled to release. The right to treatment was recognised by the courts in two cases in 1967 and 1968. The judgements declared that treatment facilities had to be provided as the purpose of juvenile law was care and custody, not punishment and the state has a constitutionally imposed duty to provide for a neglected minor who is a ward of the court. It is however arguable that the juvenile court has a dual role, oare and punishment, particularly in the case of

incorrigible serious offenders when penal custody may outweigh the purpose of treatment. Applying the right treatment to juveniles is a difficult problem and the right to treatment may be established only when treatment or the lack of it is clearly identifiable.

JUVENILE COURTS

Schultz, Lawrence J. 'The Cycle of Juvenile Court History'

Crime and Delinquency, Vol. 19, No. 4, October 1973, Hackensack, N.J

This article discusses the Illinois Juvenile Court Act of 1899, the forerunner of juvenile courts legislation in the United States. By 1925 all but two states had juvenile courts of some description. Some long held assumptions about the origins of the juvenile courts have been challenged recently by Anthony M. Piatt and Sanford J. Fox who argue that middle-class and conservative interests dominated the juvenile court movement. However both overstate the claims that reformers themselves made for the Act and their evidence does not prove the Act reflected an imposition of middle-class values upon immigrants, racial minorities and the poor. They also overlook[1] the importance of probation as the keystone of juvenile court reform and exaggerate and distort the meaning and role of informal procedures in the early juvenile courts.

JUVENILE COURTS

Suzman, Jackwell 'Juvenile Justice: Even Handed or Many Handed'

Crime and Delinquency, Vol. 19, No. 4, October 1973, Hackensack, N.J

The District of Columbia Court Reorganisation of 1970 amongst other things has abolished the independent juvenile court and created a Juvenile Branch in the Family Division of the Superior Court. Judges of the Superior Court may be assigned to any branch of the court, including the Juvenile Branch as needed. The article assesses the impact of the Court reorganisation on juvenile justice. It was found that experienced judges more than the inexperienced were in conflict with defence attorneys and probation officers and sentenced juvenile offenders more severely. Probation officers had greater success in having their recommendations accepted than did attorneys. It is clear that all persons involved in the juvenile justice system under the reorganisation need to know more about their own functions and their interaction with others. Policy issues regarding the role of participants, efficiency and justice must be assessed.

## JUVENILE INSTITUTIONS

Luger, Milton — 'Tomorrow's Training Schools'

Crime and Delinquency, Vol. 19, No. 4, October 1973, Hackensack, N.J.

The training school system in the United States is beset with problems including unclear expectations of society and demands upon staff, questionable work ethics placing seniority and fringe benefits before children's needs,racial tension, overspecialisation, inappropriate staffing patterns and a denial of basic children's rights. Changes proposed for juvenile training institutions include smaller establishments, decentralisation of decision making by allowing staff in cottages more responsibility, team planning by all staff with the youngsters on directions to take,an independent ombudsman to safeguard children's rights, greater involvement with the community and its activities rather than institutional activities and decentralisation of after care programs.

## JUVENILE DELINQUENCY

Unsigned — 'Adolescent Violence'

New Society, Vol. 26, No. 584, 13 December 1973, London.

A survey of a representative sample of 1,565 boys in the London area, aged 12 to 17 has revealed that the average boy in this age group commits 258 acts of violence in a six month period. The survey was part of a study of the effects of long term exposure to television violence upon adolescent boys. The instances of violent actions are categorised in six degrees ranging from 'only very slightly violent' which takes in over half the cases to 'extremely violent' (0.01 cases out of 258). Over half the boys had committed no acts of violence in the three most serious categories of violence while 80% of violent acts were committed by 12% of the boys. The more serious perpetrators of violence came disproportionately from less advantageous or deprived backgrounds. London boys in general commit a great deal of violence though really serious violence is restricted to a substantial minority of 12%. The survey also sought attitudes towards violence and authority and found a widespread tolerance of minor acts of violence.

**JUVENILE JUDICIAL PROCESSES**

Alers, Miriam Schwartz — 'Transfer of Jurisdiction from Juvenile to Criminal Court'

Crime and Delinquency, Vol. 19, No. 4, October 1973, Hackensack, N.

Transfer of jurisdiction from a juvenile court to a criminal court removes from the juvenile the rights and protection available to him as a juvenile. The transfer hearing should be treated as a criminal stage in a juvenile's case. Clear standards for providing counsel to a juvenile defendant during the transfer hearing have not been established whereas in criminal proceedings a defendant is entitled to counsel and indigent defendants must be provided with counsel. Transfer to a criminal court without a voluntary and intelligent waiver should be sufficient to invalidate such a transfer in the case of an unrepresented juvenile as a violation of procedural due process. Defects in juvenile court transfer hearings conflict with the protective purposes for which the juvenile court was created. Circumstances under which a juvenile court will waive its jurisdiction are unclear and the type of offences which necessitates transfer to a criminal court are seldom specified. In most states juvenile courts are required to specify the reasons for waiving their jurisdiction. The U.S. Court of Appeals for the District of Columbia has held that the investigation required before waiving should focus on serving the wfelfare of the child and the community. Arguments justifying absence of counsel at transfer hearings are that the hearings determine the court's jurisdiction and not the child's delinquency, it is a non adversary hearing and is not a critical stage of a case. A juvenile transferred to a criminal court however, is liable to the same procedures, culpability and penalties as an adult and cannot be thereafter detained in a juvenile institution if convicted but only in adult prisons. As this hearing has such important consequences denial of counsel is a violation of the juvenile's constitutional rights.

**JUVENILES**

Goldmeier, John — 'The Runaway: Person, Problem or Situation?'

Crime and Delinquency, Vol. 19, No. 4, October 1973, Hackensack, N.

This article is based on a study of two groups of adolescents from a relatively affluent suburban county - those who ran away one or more times and those who never did run away. The answers to a self administered confidential questionnaire suggests the runaway act is motivated by a lot of factors that cannot be reduced to purely psychopathological or situational explanations. Runaways indicated their actions were due to certain situational stresses that impaired their functioning. They were related mainly to family relationships, school adjustment and psychological support from adults in their

environment. Runaways found difficulty in getting along with adults and were more drawn to their peers and siblings for help.

## LABOUR COLONIES

Moseley, L.G. 'Finnish Labour Colonies'

The Howard Journal of Penology and Crime Prevention, Vol. 13, No. 4, 1973, London.

Closed prisons in Finland have many similarities to like institutions in Britain. The open sector is quite different and can be divided into three categories: work camps, prison colonies and labour colonies. The work camps are for those who have been discharged from a closed prison but have found no civilian employment and usually have no family ties. The prison colonies cater for long term and usually recidivist prisoners during the last six months of their sentences. The labour colonies are institutions for first offenders* or recidivists whose last sentences were more than five years previously. Sentences are usually short term, measured in months in most cases with a maximum of 2 years. A large number have been convicted for drunken driving. The atmosphere is free, prisoners wear civilian clothes; mail is uncensored, phone calls can be made and there is only one head count per day. Prisoners are paid for work done under various scales, including overtime and at union rates with appropriate deductions for tax, lodgings and a contribution to the Prisons Department for administrative costs. The aim is to treat offenders as normal people in a near normal situation. Rates of recidivisions between open and closed institutions are about identical.

## LEGAL AID

Brooke, Rosalind 'New Legal Aid'

New Society, Vol. 26, No. 586, 27 December 1973, London.

New legal aid came into operation in April 1973 but the impact has been limited. The old income limits and contributions have been raised slightly though not enough to make much difference. The intention has been to provide assistance from solicitors before matters reach a stage when only litigation can resolve the difficulties. There are some differences of opinion on whether it is being used for preparatory work before the granting of a full civil or criminal legal aid certificate. It is questionable whether new legal aid should be used for this pre-legal work. There is much to be done in the field of welfare rights. Only 6% of cases so far appear to have been for work in administrative tribunals. The Legal Action Group has stressed the need for assistance in tribunal work. It also considers reforms are needed to make the scheme a success, particularly in lifting the income and capital limits by a substantial amount. The limit of 25 pounds on the cost of work permitted could be raised as this was the figure originally suggested in 1969 and

allowance should now be made for inflation. Further it is suggested that the legal aid administration be responsible for collecting contributions to new legal aid as they do for old legal aid instead of the solicitors as at present.

## LEGAL AID

Merricks, Walter — 'New Law Centres'
New Society, Vol. 27, No. 591, 31 January 1974.

In recent years there has been a dramatic expansion of community neighbourhood law centres with full time solicitors providing a full legal service. The first such centre was established at North Kensington (London) in 1970 and now has three full time solicitors financed entirely by charitable funds and fees received under legal aid schemes.

The North Kensington Centre has run into difficulties and has not been successful in obtaining aid from the local authority which has criticised some of the Centre's activities and alleged involvement in political issues. The boundaries between diligence in persuing clients' interestsand political activity are not easy to define particularly in matters involving the authorities, for example in housing cases. The Law Society has reacted coolly to the centres which fehey see as a potential threat to the legal establishment. There have for instance been disputes about the amount of criminal work the centres should undertake. Another source of conflict is the Civil Legal Aid Scheme run by the Law Society for the Government and its scheme for running its own centres with government funds, both of which are much more limited in scope.

## PENALTIES

Board of Directors, National Council oni Crime and Delinquency — 'The Nondangerous Offender Should not be Imprisoned'
Policy Statement
Crime and Delinquency, Vol. 19, No. 4, October 1973, Hackensack N.J

Prisons are destructive to prisoners and those charged with holding them. They are a cdstly failure and have proved to be ineffectual, productive of crime, destructive of the keepers as well as the kept and probably incapable of being operated constitutionally. Imprisonment should only apply to those who if not imprisoned would be a serious danger to the public. For all non-dangerous offenders, who constitute the great majority of offenders the sentence of choice should be one or other of the wide variety of non-institutional dispositions. No new penal institutions should be built until community correction was being funded,

staffed and utilised as much as possible. Imprisonment would apply to dangerous offenders who arie defined in the Model Sentencing Act as: 1) the offender who has committed a serious crime against a person and shows a behaviour pattern of persistent assaultiveness based on serious mental disturbances and 2) the offender deeply involved in organised crime.

## POLICE

Russell, Ken 'The New Police Force'

New Society, Vol. 26, No. 584, 13 December 1973, London.

On 1 April 1974, the reorganisation of police forces in England and Wales takes effect. The boundaries of the 43 police forces are co-terminous with those of the new local authorities. Of the 47 existing police forces 13 will remain virtually unchanged under the reorganisation while 30 will be new creations. The present forces were established during the police reorganisation of 1966-69 which reduced the number of forces from 115 to 47. In Scotland a reorganisation planned for 1975 will reduce the number of police forces from 20 to 8.

The article expresses concern about the effects of the reorganisation on police morale. Particular reference is made to the Lancashire Police Force, the largest provincial force which is to be cut to about a third of its current strength. The reorganisation planned for Scotland is unpopular with the Scottish Police Federation which favours a national police force for Scotland in preference to an unpopular reorganisation.

## PRISONERS

Gunn, John 'Long Term Prisoners'

British Journal of Criminology, Vol. 13, No. 4, October 1973, London.

The article seeks to estimate a number of social and criminological facts about the long-term prison population. Interviews with 90 prisoners taken into the long term allocation unit between 1 December 1969 and 31 May 1970 were included in the study. Long term prison population includes those sentenced to five or more years imprisonment. All but five had previous convictions. Data is supplied on age, IQ, previous convictions and terms of imprisonment, social class, marital status and childhood background. The use of long-term imprisonment has increased markedly in recent years. Those included in this study were with few exceptions, recidivists but the level of violence associated with current offences was generally low. Over half were offenders without violence to person or property. Although the sentence of preventive

detention has technically disappeared, courts are still dealing with inadequate persistent recidivists in a similar way by use of extended sentences. The survey showed most long term prisoners in the London area were around 30 years of age, slightly above average intelligence, serving 5 to 10 years, have had 9 previous convictions including 1 to 5 years of previous imprisonment, have a similar social background in terms of father's occupation and physical characteristics of childhood as the general population, are less successful in occupational terms, including a high rate of unemployment at the time of the offence and less success in marital terms.

## PRISON OFFICER TRAINING

Cameron, Neil — 'Cadet Training and the Prison Service'

British Journal of Criminology, Vol. 13, No. 4, October 1973, London.

The prison officer of today is expected to be closely involved with the rehabilitation of prisoners. However present training programmes for prison officers are of brief duration and are heavily oriented to custodial and security functions. Opportunities should be made available for university trained officers but such a level of training would not be necessary for most staff, particularly at the basic levels.

In 1967 New Zealand introduced a cadet training scheme under which a small number attend the Justice Department Training School for two years which gives a practical course of training and a theoretical base on which to build their future careers. The course is also designed to broaden the scope of careers by equipping officers for borstal work and enable officers to move into related fields such as probation if the need arises. It is also seen as a method by which the prison service will become more accustomed to the idea of university training as something appropriate to all grades of staff. Another consideration is the need to improve the public image of the prison service. Of those who began training, about a third have resigned before graduation and some 10 percent of graduates have since resigned from the prison service. The intake comprises 17 to 20 year olds and a high drop out rate can be expected. The overall benefits of the scheme to the N.Z. Prison Service are still somewhat speculative. However the most important benefit is likely to be the effect on job satisfaction as officers should be better equipped to obtain satisfaction by playing a more positive role. It has been well received by the prison service.

**PRISONS**

Finlay, Paul C. — 'Shock of Imprisonment: Short-Term Incarceration as a Treatment'

International Journal of Criminology and Penology, Vol. 1, No. 4, November 1973, London.

Suspended sentence and probation are measures designed to mitigate the execution of a penalty, generally imprisonment. These measures have been considered particularly appropriate in dealing with the occasional or first offender and for young offenders. Much use has been made of the suspended sentence in Europe but often with little control or supervision unlike probation in the U.S.A. where supervision is an important aspect. However supervision is being increasingly provided in handling offenders who receive suspended sentences. Several European countries apply a mixed sentence, with a short term of imprisonment with the balance suspended or on probation. The practice is questionable but it is justified as a means of providing an opportunity to evaluate the needs of the offender in addition to providing the authorities with greater control over the individual and consequently greater protection for society. In the U.S.A. such a process has been defended in that it serves to shock or jolt the offender into a realisation of the realities of prison life. Opponents argue that it is inconsistent to mix prison with probation, that offenders may be "contaminated" by imprisonment which will lessen chances of rehabilitation and are more likley to harden attitudes, even if the period of incarceration is a short term one. There is limited information available on the process and no conclusive empirical evidence to either support or reject the practice.

**PRISONS**

Harrison, Paul — 'Prison Policy'

New Society, Vol. 26, No. 584, 13 December 1973, London.

The announcement that cuts are to be made in the prison building programme for south-east England,apart from reflecting a decline in the number of prisoners, may also mark a new trend in policy away from custodial treatment. Accommodation will be increased to cope with overcrowding but plans for two new closed prisons, two for young offenders and an open borstal have been dropped. A Home Office research study on the effects of different sentences is expected to be completed in 1975. However it is the magistrates and not the Home Office who decide what type of sentence to impose and in recent years they have been moving away from custodial treatment.

**PRISONS**

Morris, Norval — 'The Future of Imprisonment'

Australian and New Zealand Journal of Criminology, Vol. 6, No. 4, December 1973, Melbourne.

Imprisonment in the modern sense developed in the latter part of the 18th century as an alternative to the excesses and barbarism * of earlier punishments. Evidence strongly supports the view that there has been too much use of imprisonment in dealing with offenders. Imprisonment introduced the concept of rehabilitation by giving an offender time for reflection and regenerative self examination. The more serious the crime the more time was needed for regeneration. The penitent willingly suffers the pains of penance for the larger good in which he believes. The coercive cure approach has been changing with the introduction of educational and vocational training, counselling, psychological and psychiatric care and other theraputic means but the contradiction remains. To be effective, treatment programmes in prison must be freed from the pressure of coercion. Agreement on the part of prisoners to training programmes and courses of treatment is necessary to avoid the inherently coercive and corruptive influence on prison training programmes. The prisoner's good behaviour must be linked to the time he must serve. The process combined with a graduated release procedure is probably necessary to running an even moderately peaceful and disciplined prison.

**PRISONS**

O'Malley, P — 'Economics, Ideology and Criminal Policy: Sentending and Penal Reforms in New Zealand, 1954-1970'

International Journal of Criminology and Penology, Vol. 1, No. 4, November 1973, London.

Although there has been a substantial increase in the number of persons sentenced to imprisonment since 1956, increasing use is made of alternative means of dealing with offenders. The Department of Justice defines its policy as "... a positive approach of responsible experimentation" with imprisonment used only as a last resort and only offenders "who persist in serious crime must be held in custody for long periods in order to protect society". In 1956 2,769 males were sentenced to imprisonment compared to 4,602 in 1970. In 1956 about two thirds received sentences of six months or less, by 1970 the number had fallen to less than half. The Criminal Justice Amendment Act of 1967 contained a clause restraining courts "from imposing sentences of less than six months except where no other penalty is considered appropriate". The trend away from short sentences had been apparent before that date. Numbers placed on probation have increased from 1 £33 in 1954 to 5,036 in 1970 with a six fold increase in the number of probation officers during

that time. The 1967 Act also provided for the extension of periodic detention to adults. Economic considerations have dictated the adoption of certain sentencing policies which are consistent with reform oriented goals of correction. The enormous increase in the number of offenders required less expensive means of dealing with them. However changes in penal policy have conflicted with the economic directives underlying penal policy.

**PRISONS**

Sandford, D.A. 'Learning How to Behave: a Review of the Application of Reinforcement to Prison Management'

The Howard Journal of Penology and Crime Prevention, Vol. 13, No. 4, 1973, London.

Changes in penal pblicy have been related to changes in community attitudes towards the nature of crime and criminals. After briefly referring to nineteenth century attitudes to crime and criminals, reference is made to a number of experiments in the use of environmental stimuli as a means of re-directing deviant behaviour in a more socially desirable direction. Cases referred to included programmes involving 40 confirmed delinquents, delinquent soldiers (carried out by the Walter Reed Army Institute of Research), a points system to shape academic behaviour of a group of juvenile delinquents and a programme applied in a U.S. Federal Institute for younger prisoners. The article notes the use of a points system as an attempt to produce more desirable behaviour and rehabilitation amongst prisoners of Norfolk Island between 1840 and 1844. In some instances points systems have been adopted from a philosophical stand rather than empirical findings. Properly applied, if only for some of the time, they tend towards a gain in ease of control and to maximise the effects of more efficient contingencies of reinforcement.

**REMAND**

unsigned 'Administration of Pretrial Release and Detention: A Proposal for Unification'

Yale Law Journal, Vol. 83, No. 1, November 1973.

The article discusses some of the problems in handling people awaiting trial. Particular reference is made to problems associated with bail. Few jurisdictions have developed a systematic method for collecting and presenting information relevant to the setting of bail and the decision is usually made so quickly that the defendant has little opportunity to present such information. Reforms introduced include release on recognisances, conditional release and ten percent bail. With these schemes however, there has been little co-ordination and much fragmentation of responsibility. An approach to the problem is that of

the comprehensive pretrial agency. Agencies of this type have been set up in Philadelphia (1971) and Washington D.C. which have demonstrated the potential effectiveness of such agencies as more capable of assessing cases, allocating resources and setting priorities.

Conditions under which pretrial detainees are held in custody are unacceptable. The physical conditions of detention facilities are notoriously poor and detainees are confined in the same facility and essentially tinder the same conditions as convicted prisoners. Recent court decisions have condemned the practice of holding detainees in conditions which amount to 'punishment'. Pretrial detention could be placed under the control of the suggested agency which would give it responsibility for all unconvicted defendants.

## YOUTH SERVICE BUREAUS

Howlett, Frederick W. — 'Is the YSB All It's Cracked Up To Be?'

Crime and Delinquency, Vol. 19, No. 4, October 1973, Hackensack N.J.

The 1966 study of the President's Commission on Law Enforcement and Administration of Justice recognised the many problems facing the juvenile courts and suggested the creation of youth service bureaus. Throughout the history of children centred services, promising ideas have been altered in practice with disastrous results. Youth service bureaus have grown rapidly without proper consideration of either philosophical underpinnings or probable consequences. Intervention in the life of the child should relate to the child's rights as well as needs. The YSB concept of 'non-coercive intervention' must be questioned. The routine and often, inappropriate use of the youth service bureaus by any number of agencies fosters the illusion that something constructive is being done and tends to perpetuate the YSB by providing it with statistical justification for its continued existence. The President's commission envisaged the YSB as 'central co-ordinators of all community services for young people ... (which) would also provide services lacking in the community or neighbourhood, especially ones designed for less seriously delinquent youth'. The establishment of YSB's was rapid despite the vagueness of its functions.

It is suggested that the YSB may be a cop-out for the community, its values, and its children and that before rushing to treat or help a person outside the justice system the community should first consider the alternative of doing nothing. The community.must redefine its limits of acceptable behaviour and accept much of the deviance that may not be in accord with its values and concepts.

## BOOK REVIEWS

**CRIMINALS COMING OF AGE by A. E. Bottoms and F. H. McLintock**

Heinnemann, London, 1973

The authors focus attention on the necessity to assess the effectiveness of closed or secure borstals which usually deal with the older and more recalcitrant adolescent offender. A detailed study is made of some 300 offenders dealt with under an experimental regime which emphasised individualisation of training and is compared to offenders trained previously in the same institution under a traditional regime.

**SENTENCING AND CORRECTIONS, Criminal Law and Penal Methods Reform Committee of South Australia**

Government Printer, Adelaide, 1973

The Criminal Law and Penal Methods Reform Committee of South Australia, presided over by Justice Roma Mitchell was appointed in 1971 to examine, report and make recommendations, including changes if any which should be made in the substantive law, criminal investigations and procedures, court procedures and rules of evidence and penal methods. The First Report deals with the latter subject.

The Committee made 178 recommendations some of which propose fundamental alterations to existing practices and procedures.

**SOCIAL SECURITY IN AUSTRALIA, 1900-72, by T. H. Kewley.**

Sydney University Press, Sydney, 1973

The book provides a detailed account from the turn of the century of each of the several programmes that together comprise the present Australian social security system.

In this second revised edition additional chapters provide a detailed account of developments up until the end of 1972.

The author points out that 'increasingly during the period since 1964 Australian interest and activity in social security and related matters revived as it had done during World War II and the early post war years'.

**THE NEW CRIMINOLOGY by Ian Taylor and others.**

Routledge, London, 1973

The authors are concerned to bridge the gap between criminology and sociological theory. They deal systematically with the central theorists in criminology from the early classical period to the contemporary writers in the sociology of deviance. They work towards a critical synthesis of criminological and sociological thought. The proper study of criminology is made clear: it is the critical understanding of both the larger society and of the broadest social theory. What matters is not crime and deviance studies but the larger critical theory on which these must rest.

## PARLIAMENTARY QUESTIONS.

### ABORIGINAL LEGAL AID SERVICE

(Question No. 1338)

MR HUNT asked the Minister representing the Minister for Aboriginal Affairs, upon notice:

1) Does the answer to part (1) of my question No. 1000 indicate that the Aboriginal Legal Aid Service has no terms of reference.

2) If so, will the Minister announce and publish terms of reference for the Legal Aid Service so that the Parliament, the public and the members of the Le^al Aid Service understand its role.

3) Was the action taken by an officer or officers of the Legal Aid Service in the case of the abduction of Noela Brown in accordance with the intention of the Gbvernment when the Service was established.

4) what was the legal basis of Noela Brown living with Mr and Mrs Brown in Darwin before her abduction.

MR BRYANT - The Minister for Aboriginal Affairs has provided the following answer to the honourable member's question:

1) and 2) The answer to part (1) of Question 1000 indicated that the Aboriginal Legal Aid Services were established to provide legal advice and representation for Aboriginals. The detailed arrangements under which the individual Aboriginal Legal Aid Services in the States and the Northern Territory operate were discussed and agreed upon at a conference in Canberra on 9 April 1973. These are as follows:

1. Each Service will be responsible for the provision of the facility in its State of Territory but may make arrangements with Services in other places to avoid problems arising from geographical boundaries.

2. Each Service is to have flexibility in its development, to meet the needs of Aboriginals who stand in need of legal assistance. The facilities are to include, as funds permit, arrangements with legal practitioners in private practice for representing applicants in individual cases, with legal practitioners on a retainer basis where the usual arrange-ments for individual cases cannot readily be made, the direct employment of legal practitioners, field workers, social workers and administrative staff. In the latter tho?ee cases preference will be given to Aboriginals or to those persons who show an affinity with Aboriginals. Research assistance into the special legal problems of Aboriginals and the provision of publicity and relevant educational activities directed to Aboriginals and persons or groups who deal with Aboriginals is also envisaged.

3. 'Aboriginal' means a person who stands in need of legal assistance and who is a member or descendant of the Aboriginal race. It includes Torres Strait Islanders and, where it is in the interests of justice in the circumstances of a particular case, includes a person who lives in a domestic relationship with an Aboriginal.

(continuation)

4. Legal assistance to Aboriginals is to be available for:
   (a) representation in courts and tribunals throughout Australia where the Aboriginal has grounds for such representation;
   (b) advice on matters in which the Aboriginal has or is likely to have a direct interest, whether personally or as a member of a group;
   (c) assistance in non-contentious matters where there is likely to be of direct benefit to the Aboriginal.

5. Restrictions -
   (a) Legal assistance, other than to ascertain if the Aboriginal has reasonable prospects of success, shall not be available in respect of proceedings by way of appeal if in the view of the Service no good purpose would be served by prosecuting or taking part in the appeal;
   (b) actions to be taken on behalf of an Aboriginal community or a substantial Aboriginal group will be considered on an individual basis by the Australian Government following an approach by a Service.

6. The affairs of an Aboriginal in relation to the Service shall be kept confidential.

7. Each Service shall keep its accounts in a form or forms approved by the Minister for Aboriginal Affairs so as to show:
   (a) sums received from the Australian Government and from other sources for the operation of the Service;
   (b) the cost of legal expenses in operating the Service;
   (c) the other costs of administration of the Service;

8. Each Service shall have its books and records audited by a qualified auditor.

9. The financial year of each Service shall run from 1 January to 31 December.

10. An annual report of its operation shall be supplied by each Service as soon as possible after the end of the financial year to the National Co-Ordinating Committee for Aboriginal Legal Services, for transmission to the Minister for Aboriginal Affairs.

11. Fees payable to legal practitioners in private practice will be subject to a reduction of 20 per cent of normal solicitor and client costs. Reasonable disbursements will be paid in full.

12. In all matters an Aboriginal who is reasonably able to make some contribution towards the expense of his legal assistanoe may be required to do so.

(continuation)

13. Legal assistance may be cancelled where it appears that the Aboriginal is no longer in need of assistance or that further expense on his matter is no longer justified.

14. Applications for assistance shall be made in such form or manner as the Service may accept in the circumstances of the Aboriginal and his case.

15. Payment of claims for legal costs without prior application may be made to legal practitioners for amounts not exceeding $50.00 in a summary matter o£ $100.00 in a Superior Court matter where it appears that it was not practicable to make application before the event or where the expense of making such an application did not at the time appear to be justified.

16. Each Service may reimburse existing facilities for the provision of Legal Aid to Aborigines at the rate of the cost to that facility of assisting the Aboriginal in a particular matter, plus an amount equal to the estimated cost of administration by the facility of that matter not exceeding 5 per cent of the legal account.

17. Each Service may delegate to persons on terms its powers of approving applications for assistance or claims made without prior application and of requests for expenses of an unusual or unduly expensive nature in a matter.

(Parliamentary Debates, H of R pp. 4846-47 13 December 1973).

ABORIGINES.

MR COHEN - Has the attention of the Minister representing the Minister for Aboriginal Affairs been drawn to statements that have been made by the eminent criminologist, Gordon Hawkins, which point to a dangerous and pernicious mythology in Australia today that Aborigines are paid in excess of what is paid to Europeans or white people, that is, through the Social Security Department? Does the Minister agree that this mythology that is now common in folklore in Australia that Aboriginals are receiving up to $200 a week merely by going down to the social we If aire departments and putting out their hands is injurious to the race relations that we hope to improve in Australia.?

MR BRYANT - I have not had the particular statement brought to my notice but it is one of the sad facts of Australian life that people do magnify the benefits that are being paid to Aborigines beyond all belief. Thp facts are that they receive the same benefits as the rest of the people in Australia and this has come about only after a long struggle in which, of course, honourable members on the other side participated to see that they received benefits. There are still some parts of Australia where for various reasons Aborigines do not receive the full benefits available to the rest of the community and there are some advantages, such as the secondary school allowances, which are payable to Aboriginal children and

(continuation)

only to selected groups of non-Aboriginal children. But basically the Aboriginal people of Australia have a fair way to go yet before they receive the same services as do the rest of the community, particularly where they live in isolated places. As I have said before, I suppose it is our duty to produce for the average citizen some statistical base upon which people can do arithmetic relating to this matter but I hope that all honourable members will take part in refuting the view that the Aboriginal people of Australia are living on a handout system. They are not. They are receiving basically what they are entitled to receive as Australians and in many parts of Australia it is difficult to ensure that they receive that.

(P.D. H of R pp. 4185-86 4 December 1973)

## CORRELATION BETWEEN EROTIC MATERIAL AND ADVERSE BEHAVIOUR

(Question No. 744)

PR KLUGMAN asked the Minister representing the Attorney-General, upon notice:

1) Has the Minister's attention been drawn to a recommendation from the Anglican Synod in Melbourne that an expert committee of inquiry be set up to investigate the correlation, if any, between erotic material and adverse behaviour.

2) If so, will the Minister give effect to this recommendation.

MR ENDERBY - The Attorney-General has provided the following answer to the honourable member's question:

1) Yes.

2) Results of overseas inquiries into the correlation between erotic material and adverse behaviour have been available to, and have been studied by me and officers of my Department. I have suggested that this would be a suitable subject for investigation by the Australian Institute of Criminology.

(P.D. H of R. p. 3862 26 November, 1973)

## LEGAL AID SERVICE

(Question No. 1337)

MR HUNT asked the Minister representing the Minister for Aboriginal Affairs, upon notice:

Does the Legal Aid Service have any role in connection with Aboriginal tribal law; if so, in what manner.

MR BRYANT - The Minister for Aboriginal Affairs has provided the following answer to the honourable member's question:

No, but matters of Aboriginal customary law may be relevant in particular cases in which the Aboriginal Legal Services provide assistance.

(continuation)

(P.D. H of R. pp. 4775-76 13 December 1973)

LEGAL SERVICE BUREAUS

SENATOR DTTRACK - I refer the Attorney-General to advertisements appearing in the daily Press for legal officers to join legal service bureaus which are apparently intended by the Attorney-General to be set up to give advice and assistance to people in need and which are comrtonly known nowadays as storefront lawyer offices. Is this scheme provided for in the present Budget? What is the criterion of need? What form of assistance is to be given, in addition to advice? How does this policy fit in with the legal aid schemes which are already in existence in the various States and which are being funded by this Government under the present Budget to the extent of $2m?

SENATOR MURPHY - The legal service bureaus are being absorbed into an Australian legal aid office. It is intended that the Australian legal aid office give free legal advice on matters of Federal law to everyone in need and on matters of both Federal and State law to persons to whom the Australian Government has a special responsibility; for example, pensioners, ex-servicemen and newcomers to Australia. The scheme is additional to the assistance which is being given to the States, that is, to the legal aid services. They vary somewhat from State to Stata That assistance was announced early this year. It is not quite clear how the precise demarcation between the legal aid bodies of the States, whether they are government ones or private ones, should be defined, because the system differs from State to State. An expert committee has been set up of which Mr Turner, a member of the Council of the Law Society of New South Wales and Vice-President of the Law Council of Australia, is chair-man. Other distinguished members include Professor, now Justice Wootten, Mr Heffernan, the Secretary of the Victorian Legal Aid Committee, and a number of others. The committee is examining the areas of need for the provision of legal assistance and advice, in particular the areas of need not covered by existing schemes; the means by which legal assistance and advice should be provided and in what areas that should be provided by a salaried legal service; and the means by which the finance for these schemes should be provided. It might be helpful to the Senate if I were to make a comprehensive statement on this matter, and I will endeavour to do that tomorrow.

One thing is clear. This matter is of great public importance. There is a deficiency in the provision of legal aid. Endeavours have been made by the States and by private individuals - by the storefront opera-' tions which I firmly support - but there are still great areas of need. While some money needs to be put into the system, while urgent help should be given and while some endeavours should be made to rationalise what is happening - that ought to be done forthwith - we ought to evolve a rational scheme in which there will be co-operation between the legal profession and a legal aid office. That is what I am hoping to do. The honourable senator's advice and assistance would be welcome. Advice and assistance are being sought generally because the problem is a very difficult one. It has proved to be so in the United Kingdom, the United

(continuation)

States, and no less so in Australia.

(P.D. Senate pp. 2698-99 12 December 1973)

**MILITARY PUNISHMENTS**

SENATOR WHEELDON - I direct a question to the Minister Assisting the Minister for Defence. It refers to regulation 29 of the Australian Military (Places of Detention) Regulations which provides for a No. 2 scale punishment diet. By way of explanation, I point out that a No. 2 scale punishment diet, which is provided for prisoners who are being held for various disciplinary offences, consists of the following daily meals: For breakfast, 170 grams of bread, 0.6 litres of porridge, and 15 grams of margarine or butter, with water; for supper in the evening, the same diet is provided; and for the main repast of the day, dinner, 170 grams of bread,110 grams of meat, 225 grams of potatoes, and 55 grams of rice, and water. Does not the Minister regard this as cruel and inhuman treatment of Australian soldiers, and should the Government not do something to correct this most odious relic of barbaric times in the treatment of members of the military forces?

SENATOR BISHOP - Although this regulation has not been brought to my notice, I should be glad to refer Senator Wheeldon's comments to the Minister for Defence. I have had occasion previously to question similar regulations. Some regulations relating to detention and punishment are not applied by local commands, in their strictest sense due to their age. I concede that that is not a good excuse for keeping the regulations. A re-organisation of the Services is presently taking place. It is proposed to bring in a new uniform disciplinary code. So these matters are under review. But I will certainly bring the particular matter raised by Senator Wheeldon before the Minister and ask that, in regard to this regulation and perhaps one other of which I am aware that deals with detention, legislation should be introduced more speedily in a piecemeal manner than will be the case when other regulations are overhauled.

(P.D. Senate p. 2446 5 December 1973)

**PENALTY FOR MURDER**

SENATOR LILLICO - Does the Attorney-General agree that the wave of particularly bestial murders over the past few months is due partly to the relegation of the crime of murder over most of Australia to being just another gaoling offence? In short, the penalty in no way fits the crime committed. Does he not believe that in these circumstances the position will grow worse?

SENATOR MURPHY - No. I think that no one can draw that conclusion from the fact that this Parliament has abolished the death penalty for murder in its area. I know that it has been abolished in other areas. I think that the latest indication was given by the Premier of New South

(continuation)

Wales, namely, that there would be no capital punishment for murder, or perhaps at all, in that State. I do not think that the honourable senator's conclusions can be justified. He certainly ought not to describe murder as just another gaoling offence. Murder is a very serious crime. It has always been so regarded. As I indicated, the notion that the penalty for murder will always be some short period of imprisonment is not correct and can be demonstrated to be not correct.

(P.D. Senate p.1898 20 November 1973).

SCALES OF IMPRISONMENT

(Question No. 743)

PR KLUGMAN asked the Minister representing the Attorney-General, upon notice:

1) What scales of imprisonment are laid down to cover cases where default is made in paying fines or court costs in (a) New South Wales, (b) the Australian Capital Territory and (c) the Northern Territory.

2) Can he say why there are any differences in the scales.

MR ENPERBY - The Attorney-General has provided the following answer to the honourable member's question:

1) Scales are prescribed in section 82 of the Justices Act 1902-1973 (New South Wales), section 189 of the Court of Petty Sessions Ordinance 1930-1972 (Australian Capital Territory) and section 81 of the Justices Ordinahce 1928-1973 (Northern Territory).

Broadly speaking, the scales provide for imprisonment in default of payment at the rate of a day for every five dollars (New South Wales) and a day for every two dollars (Australian Capital Territory^ and Northern Territory). The New South Wales scale is mandatory, whereas the scales in the Australian Capital Territory and the Northern Territory prescribe maxima - i.e. the Court can order a lesser period of imprisonment than the one calculated in accordance with the scale.

2) Provisions for imprisonment in default of payment of fines or court costs are made, for New South Wales by Act of the New South Wales Parliament, for the Australian Capital Territory by Ordinance made by the Governor-General, and for the Northern Territory by Ordinance made by the Legislative Council of the Territory, on which elected members have a majority. It is not unusual in such circumstances for legislation not to be uniform.

The present scale was introduced in the Northern Territory in 1965, Australian Capital Territory in 1967 and New South Wales in 1971. Before 1971 the New South Wales provision was substantially similar to that in the Australian Capital Territory and the Northern Territory. I have asked my Departmental officers to let me know what scales are in force in the several States with a view to preparing an appropriate amendment for the laws of the Australian Capital Territory and the Northern Territory. I should add that imprisonment for non-payment of court costs is contrary to the platform of the Australian Labor Party and

(continuation)

action will be taken when amending the laws mentioned to remove imprisonment as a sanction for the payment of costs.

(P.D. H of R. p. 3862 26 November 1973)

## QUOTATIONS AND EXTRACTS

### OPENING CEREMONY AND FIRST RESIDENTIAL CONFERENCE - 16-19 October 1973

### CHILDRENS' COURTS

Families are often confused about the operation of the court which often has the atmosphere of a headmaster's office, and yet passes legal sentences. Opinion seems divided on whether Children's courts should be more like the panel for young offenders where the whole family can be involved or whether these courts should be placed under Crown Law where due process would be observed.

(Mr B. Hickey, Catholic Family Welfare Bureau, Perth)

### CRIME PROBLEM

The problem of crime and what to do about i t has become one of the central concerns of citizens and Governments. We in Australia have not yet experienced the brunt of mounting crime and urban violence to the same degree as the United States of America and other countries. This ought to be the signal for us to adopt a preventive approach rather than a curative one. Crime is an apt subject for the scientific approach. The scientific method should be used to observe, analyse, experiment, draw conclusions and verify. In regard to the causes and prevention of crime, the treatment and rehabilitation of offenders, prejudice should be replaced by understanding. Such understanding depends on vigorous initiatives and pursuit of the theoretical and applied aspects of the science of criminology. This will be of little use unless the understanding, that is the fruits of research, is spread throughout society, especially to those who deal in practice with the problems of crime.

(Senator the Honourable Lionel Murphy, Attorney-General)

### CRIME PROBLEM

For centuries, from the time of Aristotle, it has been customary to observe the relationship between poverty and crime. It is something of a paradox, therefore, that in these days of affluence we should be gathering together to commemorate the opening of a national Institute of Criminology. It is, perhaps, even more of a paradox that the necessity for such an institution should, in a real sense, be one of the by-products of our affluence, because the increasing problem of crime has been observed in many countries to be associated with economic development, urbanisation and periods of rapid social change. We are indeed, experiencing all these factors in Australia and they serve to underline the need to establish this institution.

(Mr Peter Loof, Deputy Chairman, Board of Management)

**CRIME RESEARCH**

A widely expressed problem in correctional research is its lack of relevance to the more practical aspects of running a correctional system or program. This problem probably has two main roots. Firstly, correctional researchers tend to be research specialists, and are often unaware of the practical, everyday aspects of prison management, and secondly, people involved in the running of a correctional program usually do not have the time or the detachment to take a critical look at the way their program is manning or read the research literature relating to their area of concern.

(Mr P. Prisgrove, Senior Research Psychologist, Department of Corrections, Western Australia)

**ORGANISED CRIME**

The North American and European experience has shown that organised crime has utilised, and continues to utilise, the corporate veil to facilitate many of its operations.

(Inspector R.E. Dixon, Commonwealth Police Force, Canberra)

**ORGANISED CRIME**

An organised crime figure is not necessarily a professional criminal. The former may be a lawyer, accountant, or investor seeking to place funds, the proceeds of organised crime activity. However, the professional criminal is one who makes his living from the commission of major crime and who has become expert in his chosen career. I would emphasise the word major for I do not regard a recidivist as, necessarily, a professional criminal. Prison staff will quickly identify the major professional criminals under their control who are regarded by their fellow inmates as the prison hierachy. This group I regard as the professional criminal coming within the organised crime context.

(Inspector R.E. Dixon)

**ORGANISED CRIME**

A fragmented and partisan approach to the organised crime problem that would be the result of any initiative by individual States acting in isolation must only lead to confusion. It would ultimately result in criminal cartels which sought to enter this country concentrating their efforts on less affluent, forward looking or alert States. The end result would be the same as there can be no restriction on the interstate movement of organised crime and its representatives once it is established within the national confines of the country.

(Inspector R.E. Dixon)

## ORGANISED CRIME

Organised crime flourishes in two kinds of host countries: in those where respect of the law is high, and in corrupt dictatorships. In the first kind of country organised crime can count on being able to use the law to its advantage; in the second type they can buy the co-operation of the Government.

(Inspector R.E. Dixon)

## STATISTICIANS

Too much of the Research Statistician's time is taken up with computer programming and chasing up work at the computing facilities. These tasks diminish the statistical contribution he can make to the analysis and reporting of research data. What is needed is a relatively less skilled person to help shepherd statistical data through the punching, editing and processing stages.

(Dr T. Vinson, Director NSW Bureau of Crime Statistics & Research)

## STATISTICS

Within a State, good statistics for that State are a first consideration. Comparability with other States, though interesting and useful at times, is of secondary importance. Nevertheless a drive for uniformity comes when States meet in Conference. From the National point of view, however, the need for uniformity is crucial. No statement can be made about Australia as a whole until sufficient uniformity among all States and Territories has been attained. Equally, to a Commonwealth Authority, inter-State comparability is likely to be of considerable importance. Hence the introduction of a Commonwealth body into the State meetings emphasises the advantage of uniformity. The Commonwealth Statistician has always had such a role but until the role of the Commonwealth Government as a direct user is stressed, as in fact it is now being stressed in a number of social fields, the Commonwealth Statistician has not been able to give the priority to these statistics which might help to accelerate the development of national uniformity.

(Mr L.G. Hopkins, Assistant Statistician, Demographic and Social Statistics Branch, Bureau of Census and Statistics).

SECOND RESIDENTIAL CONFERENCE - 11-14 FEBRUARY 1974

'MODERN DEVELOPMENTS IN SENTENCING'

CORRECTIVE INSTITUTIONS - PAPUA NEWGUINEA.

Due to the tropical climate, conditions in Corrective Institutions are less restrictive than in Australia. Thus generally detainees are kept in close confinement only at night and then in dormitory style accommodation. However, the enlightened policies followed in the Corrective Institutions are generally misunderstood by the people; in particular they resent the provision of more nourishing food for detainees. There is concern especially in rural areas as to the efficacy of the Corrective Institutions as a deterrent. Thus the Government has of recent years adopted a tightening up process and has, by amending regulations, abolished entirely remissions for good conduct, pay for work done, the issue of tobacco, and the special diet for European prisoners.

(Mr Justice Frost, Papua NewGuinea)

DRINKING DRIVERS

For a first offence imprisonment is never imposed, subject to this (salification that if the first offender is found to be alcohol dependent then a suspended sentence may properly be imposed and put into execution if the defendant fails to comply with all er any of the conditions imposed when the sentence is suspended.....

In (Tasmania) disqualification for a drink driving offence is always imposed. It is in my view the most salutary penalty that is available. Most importantly it puts the driver off the road for a period that the court determines. I am of the view that every case of drink driving is distinguishable and that sentencing authorities should abstain from 'tariff' sentencing so far as the period of disqualification is concerned.

(Mr R.F. Turner, S.M., Tasmania)

FINES

There has been no cost-benefit analysis of Australian criminal justice systems and statements about the economics of fining should be treated with caution. At minimum the high cost of imprisonment in default (including both the cost of prison and the offender's loss of earnings) must be set off against income generated by fines. And if monetary penalties imposed for minor regulatory offences, especially for breaches of municipal parking, building and health regulations are recognized as serving little more than a licencing and revenue raising device, it is pertinent to ask whether the machinery of criminal justice is being appropriately utilized when it serves to facilitate what is, in reality, a civil taxing function. Moreover, is it not ironic that fines amounting to over 80% of criminal dispositions in summary cases go to strengthen government coffers while the victim gets nothing? Indeed, the payment

of the fine to the State merely serves to reduce the defendant's resources and the possibility of compensation to the victim through tort law.

(Richard G. Fox, Law School, Monash University, Victoria).

**FINES - DEFAULTING**

There are, in fact, two serious objections to imprisonment in default. The first is that it is reminiscent of imprisonment for debt and indeed, it has been held that a fine is a debt recoverable from the estate of a deceased offender and is not abated by death. The ironic comment has been made that to imprison persons without the means to pay their fines is the equivalent of a debtor boarding at his creditor's house because he is unable to pay his debt. The second objection is that, imprisonment in default is so common in certain minor offences such as drunkenness and vagrancy, that the true sanction is incarceration, since there is absolutely no expectation that the monetary penalty will ever be paid.

(Richard G. Fox).

**JUVENILE COURTS**

A development of significance in Juvenile Court jurisdictions throughout the world is the establishment of facilities for the assessment of young offenders before final orders are made in Court. Assessment centres are staffed by a team of specialists including psychiatrists, psychologists and social workers. They have a responsibility to prepare pre-sentence reports (or, as we call them, assessment panel reports). Such reports are in addition to ordinary pre-sentence reports prepared by probation officers (or, as we call them, social background reports).

(Judge A.B.C. Wilson, South Australia)

**JUVENILE PROCEDURES**

One development which is likely to be implemented all over Australia and which appears to be likely to remain in one form or another is the new approach to the very young offenders (between 10 and 16 years of age) involving the protecting of them from the stigma of the labels "criminal", "offender", and "delinquent" by freeing them from prosecution for specific crimes and permitting of them only being alleged to be "in need of care and control". Another is the procedure (new in South Australia) for keeping very young children and many first offenders away from the courts altogether. Juvenile aid panel schemes, juvenile liaison schemes, and juvenile crime prevention schemes are, I think, likely to stay. Courts will (and should) only be called upon to deal with repetitive offenders and offenders who have committed very serious offences or who are highly disturbed.

(Judge A.B.C. Wilson)

**PETTY OFFENDERS**

**A considerable number of those presented [in magistrates courts] have not committed crimes in the narrow sense. They are the vagrants and the drunks. It may be a satisfaction to say that society chooses to have them dealt with by criminal process because it is an effective and cheap way to keep them out of public places and out of sight so far as may be. They are, to many, objectionable, but aside from this, in general, they harm only themselves. I doubt if any sentencer seriously believes that putting them in prison will do more than improve physical health. When a person has sunk so low in society's scale that a prison sentence actually improves his physical amenities it is hardly likely that such a sentence will frighten him into regular work in order to avoid another.**

**(Mr W.J. Lewer, S.M. New South Walfes).**

**PROBATION**

**From my limited knowledge of other jurisdictions, I think we probably make more use than most and place more reliance on the probation service. Ours was the first legislature to introduce it in 1886. Great impetus was gained in the 1950's from the imagination and energy of Dr John Robson, Secretary for Justice and the adventurous policies of the late J.R. Hanan with liberal borrowings from the British Probation Service.**

**(Mr Justice Speight, New Zealand).**

**PROBATION**

**Probation however has only limited application - over-use of this beneficial power in inappropriate cases will be self-defeating. Regrettably the low intelligence of many offenders requires more salutary treatment to try to ensure that though he may not acknowledge the error of his ways, he will at least think twice next time. But unfortunately the limitations of institutional life seem to dull rather than educate - so search for a half-way form short of imprisonment has turned up the various forms of periodic imprisonment.**

**(Mr Justice Speight).**

**SENTENCING**

**It has long been the policy of our law to leave to the court a discretion to fix a penalty up to a maximum appointed by the legislature. The exercise of the discretion has been regarded as a matter of prudence and not of law, although it is subject in more recent times to the right of appeal to a court of criminal appeal. The task of the sentencer has never been an easy one, but it has become more complex with the provision by the legislature of a number of alternatives to imprisonment.**

**(Justice Mitchell, South Australia}**

**SENTENCING - DRUG OFFENDERS**

Judges in the Superior Jurisdictions, like Magistrates in the Petty Sessions Jurisdiction, are well aware of the controversy surrounding the alleged evil of cannabis. In New South Wales, at least, the Magistrates appear to have been affected by the controversy. While they pay due respect to the law they apparently believe that the appropriate remedy for breach is generally not imprisonment but the sanction of a restrictive bond or perhaps a fine. The view of the Superior Courts has followed the view of the legislature because the trafficker apparently appears to stand in a different category from that of a person using the drug for his own personal satisfaction. The trafficker deals in the drug for gain. The viewpoint of the Judges in the Superior Courts is that he should be subjected to severe sentences. This is the general rule and, of course, there may be exceptions.

(Judge A.J. Goran, Q.C., New South Wales)

**SENTENCING - ENGLAND**

The Criminal Justice Act, 1967 effected three major changes relating to the treatment of offenders. It abolished preventive detention and corrective training and introduced a new method of dealing with persistent offenders, namely the extended sentence. The Act introduced suspended sentences and provided for the establishment of a Parole Board and local review committees. In the second and third measures, England and Wales were not breaking new ground. In many other jurisdictions, including some Australian States, both the suspended sentence and Parole Boards were already familiar. However, the particular form and use of the British suspended sentence and the constitution and activities of the Parole Board are of comparative interest to us.

(M.W. Daunton - Fear, Australian Institute of Criminology).

**SENTENCING - EXTENDED SENTENCES**

One of the major defects of the earlier system of preventive detention was that it tended to catch not so much the offender who was a serious threat to public safety but rather the petty recidivist. In an effort to meet this problem the current provision, which is contained in Section 37 of the Criminal Justice Act 1967, requires that the extended sentence may only be used against those convicted on indictment of offences punishable with imprisonment'of two years or more. In addition, there are requirements that the offender has a recent record of other offences or imprisonment and that he has served a minimum period of five years' custodial detention. If the criteria are satisfied and the court takes the view that it is expedient to protect the public from the offender for a substantial time, an extended term may be imposed. The extended term is up to five years if the maximum for the particular offence is less than five years or up to ten years if the maximum is otherwise between five and ten years. If an offender has been sentenced to an

extended term he will be subject to special release procedures which are designed to ensure that he will be supervised, either custodially or non-custodially, until the expiration of the full term imposed upon him.

(M.W. Daunton-Fear)

**SENTENCING - PAPUA NEWGUINEA**

Many Highland leaders strongly advocated to the Committee hanging as a mandatory punishment for wilful murder. But the Committee found this to be by no means a unanimous opinion, for a substantial minority favoured life imprisonment. Further, witnesses had their own reservations as to what type of intentional killing merited capital punishment. Thus the Highlanders rarely advocate hanging for a man who deliberately killed his wife for what they thought was good cause in cases which would constitute wilful murder under the Criminal Code.

(Mr Justice Frost).

**WEEKEND DETENTION**

Imprisonment is very costly to the taxpayer, both for prison costs and the maintenance of a prisoner's family.

Periodic detention appears to provide a more economic means whereby the offender can be seen to be punished, the law-abiding confirmed in their righteousness, the offender and others deterred, some unduly harsh or brutal aspects of incarceration avoided, and adverse effects upon the offender's family reduced.

(Mr K.S. Anderson, S.M., New South Wales).

## NEWS BRIEFS

**The New South Wales Minister for Justice, Mr Maddison, said consideration was being given to taking police off traffic control duties to concentrate on crime prevention. A feasibility study was to be undertaken shortly on the replacement of police by traffic wardens.**

*(Australian 19.12.73)*

**An office of the New South Wales Aboriginal Legal Service was opened at Brewarrina (N.S.W.) in December. Existing offices are at Redfern (headquarters), Moree, Nowra and Cowra. The Service now has 23 full-time members, of whom 16 are Aborignes—mostly field officers and secretaries. The seven solicitors are white.**

*(Sydney Morning Herald 27.12.73)*

**The Chief Commissioner of the Victoria Police, Mr Jackson, urged the re-introduction of flogging for violent assaults and the use of prison labour in major public works projects so that they should 'be made to bend their backs in labour'.**

*(Canberra Times 28.12.73)*

**Information released by the National Police Agency shows an increase in the number of cases of juvenile delinquency in 1973 after a declining trend in the two previous years. The number of delinquents in their low teens increased Sharply.**

*(Japan Times Weekly 5.1.74)*

**The Papua New Guinea Minister for External Affairs, Mr Maori Kiki, warned that capital punishment may have to be re-introduced to deter violence, He said the death penalty could be used as part of a general tightening up of internal security laws.**

*(Canberra Times 9.1.74)*

**A total of 106 persons were killed in road accidents in the first three days of this year, 46 fewer than the corresponding figure last year, the number of road deaths in 1973 was 14,574 which was 8.4% less than 1972. The National Police Agency attributed the fall to less traffic on the highways due to the oil crises.**

*(Japan Times Weekly 12.1.74)*

**The annual White Paper on Youth announced by the Prime Minister's Office contained, amongst other things, the following information: persons up to 24 years of age numbered 45.; 3 million which is 42.2% of the total population, a similar percentage to the U.S.A. and the U.S.S.R.**

- **The death rate amongst young people has fallen except in the 15-19 age group which is due to a high incidence of accidents**
- **The ratio of attendence at secondary schools and higher educational institutions has risen to 87.2% and 29.8% respectively**

- **Delinquency is on the rise in lower age groups.**

**The report sums up by saying that young people enjoy the improving material living standards but much like their elders are seen to suffer from competition in school and work, job boredom and the shackles of organisation.**

*(Japan Timee Weekly 12.1.74)*

**Professor D. J. Wheelan, a professor of Law at the Australian National University, has been appointed a member of the Law Reform Commission of the Australian Capital Territory.**

*(Canberra Times 17.1.74)*

**Thirteen police women of the Metropolitan Police Department's juvenile section recently started a telephone counselling service for minors and their parents. Police expect that the 'lifeline' would meet the needs of many minors in trouble and help prevent them from becoming delinquent.**

*(Japan Times Weekly 19.1.74)*

**Work has been held up on the construction of the new maximum security block at Long Bay Gaol, Sydney. Building unions suspended work on the project because they said the air-conditioned block designed to leave prisoners without daylight would be dehumanising.**

*(Australian 23.1.74)*

**Members of the New South Wales Police Force will be able to retire at age 55, instead of 60 as at present, under new legislation being prepared by the New South Wales Government.**

*(Sydney Morning Herald 23.1.74)*

**A growing number of high school students want to live an independent life oriented by their own pursuits when they grow up according to a poll published recently. The poll covered about 1,000 third year senior high school students in Tottori.Prefecture. A similar poll conducted 20 years ago showed only 2% wanted this type of future compared to 36% in the present survey.**

*(Japan Times Weekly 26.1.74)*

**The Minister for Immigration, Mr Grassby, announced that an amnesty has been offered to illegal migrants who have been in Australia for three years or more and that they can qualify for permanent residence and Australian citizenship.**

*(Age 26.1. 74)*

**The Acting Director of the Australian Institute of Criminology, Mr Justice J. H. Muirhead has been appointed a judge of the Supreme Court of the Northern Territory. He will take up his new appointment in May.**

*(Sydney Morning Herald 31.1.74)*

**Nearly half of Melbourne marijuana users under the age of 17 advance to other drugs within three years, according to a survey by the Mental Health Authority. The MHA claimed the survey had reduced to a myth the theory that marijuana smoking did not lead to the use of other drugs, including hard drugs.**

*(Age 1.2.74)*

**Prisoners' wives may be able to spend a weekend in gaol with their husbands at the new maximum security prison to be built at Canning Vale, Western Australia. Mr Colin Campbell, Director of the Department of Corrections, said there were provisions for the building of special facilities for conjugal visits within the perimeter of the institution.**

*(Canberra Times 2.2.74)*

**The Minister for Transport, Mr Morris, said that random breath testing of drivers would not be introduced into New South Wales. He regarded such a measure as 'too great a step to take without clear prospects of results'.**

*(Canberra Times 6.2. 74)*

**The Premier of New South Wales, Sir Robert Askin, announced that a Royal Commission would be appointed to enquire into 'the destruction of Bathurst Gaol by fire and violence' and 'the circumstances of the riot and its underlying causes'.**

*(Sydney Morning Herald 6.2.74)*

**The Western Australian Legislative Assembly has passed legislation to legalise homosexual acts in private by consenting adults.**

*(Canberra Times 6.2.74)*

**The Commissioner of Corrective Services in New South Wales, Mr W. McGeechan said he considered the riot at Bathurst Gaol was a calculated criminal act and could be the forerunner of other violent outbreaks in New South Wales prisons.**

*(Canberra Times 8.2.74)*

**Persistent delinquents will be studied in a Queensland survey on young offenders to be carried out by Mr A. Eakin, a research officer of the Children's Services Department and Mr E. L. Reilly, lecturer in Child Welfare at the University of Queensland. They have received a grant of $7,600 from the Criminology Research Council towards the cost of the project.**

*(Courier Mail 12.2.74)*

**The Attorney-General, Senator Murphy, said the law of evidence compelling a witness to disclose his confidential source of information may be modified when legislation is prepared for establishing procedures for Federal and Territory courts and courts exercising Federal Jurisdiction.**

*(West Australian 12.2.74)*

**Prisoners at Goulburn Gaol have been granted most of their requests for improved conditions which include: uniform 'buy-ups* throughout New South Wales prisons; shaving dream, toilet soap, shampoo and hair oil to be available for purchase by prisoners; weekend showers; permission to grow longer hair, beards and moustaches; a radio in the yard to pick up Sydney stations and six outward letters a week—an increase of two, although the prisoners had asked for eight.**

*(Canberra Times 15.2.74)*