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Citizens and
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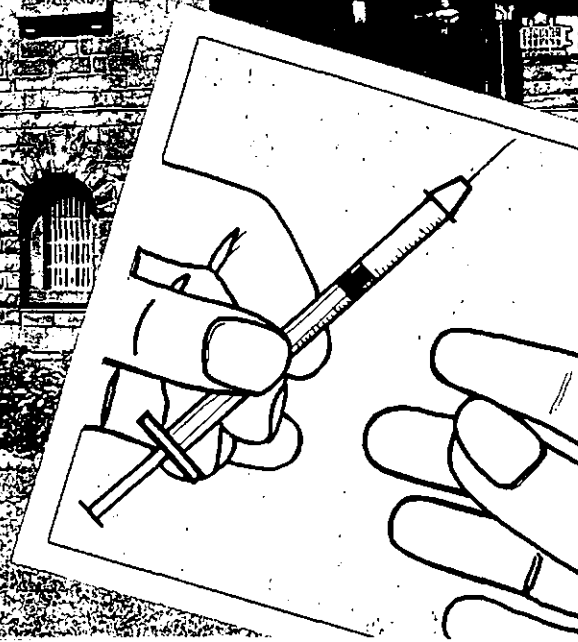
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Citizens and Corruption

This article is a shortened version of a paper prepared for *Corruption and Reform: An International Journal*. The author wishes to thank John Braithwaite, John Gardiner,

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The concept of participation and the importance of citizen assistance in an era of fiscal restraint

The task which confronts governments genuinely concerned about corruption is not simply how their own corruption control efforts can be made more efficient and effective, but how they can enlist the support of the general public to combat corruption.

The concept considered here is that of citizen participation. To complement the various anti-corruption initiatives which governments around the world have mobilised, members of the general public may themselves contribute to the fight against corruption by producing anti-corruption services. In their purest form, these services are what is termed 'off-budget'—that is, they entail no cost to the public treasury. Other variations may entail the provision of services on a commission basis, for a percentage of funds recovered. There is a point, however, at which citizen involvement occurs on a fee for service, retainer, or salaried basis, or which is otherwise contingent upon some kind of public expenditure, and therefore lies beyond the boundary of citizen participation.

Examples drawn from this latter category will nevertheless be used to illustrate the potential risks which participation may entail such as absence of appropriate safeguards and accountability mechanisms.

The utility and the legitimacy of citizen participation can be illustrated with a number of examples from political systems around the world.

But first, it might be useful to review some contemporary examples of citizen participation which exist in other domains of law enforcement. Each entails a significant increase in the pool of law enforcers, at little or no public expense. The first, and perhaps the most familiar, is the ubiquitous Neighbourhood Watch, a common feature in many North American communities. Simply stated, Neighbourhood Watch entails residents organising to be alert for and to report suspicious activity in their neighbourhoods. When it is operating successfully, the eyes and ears of Neighbourhood Watch participants provide surveillance services which would cost thousands of dollars if delivered by police or private security agents. These and other community crime prevention activities are reviewed by Skogan (1988).

Another example of citizen participation can be drawn from occupational health and safety regulation in the Australian state of Victoria. There, the institution of elected worker safety representatives complements the government inspectorate (Braithwaite, Grabosky & Fisse 1986). Safety representatives may demand access to inspect any part of the workplace or to inspect company records relating to health and safety. They are empowered to issue provisional improvement notices when they discover a workplace hazard. These notices have the force of law, pending abatement of the hazard in question or authoritative determination by a government inspector. Breach of such a notice renders one liable to prosecution. Safety representatives now number in the thousands in Victoria.

Regulatory vigilance in the Victorian workplace is thus enhanced far beyond the degree which could otherwise be provided by a government inspector.

Other examples of citizen involvement in the Australian regulatory process include the use of volunteers to monitor beach erosion and to submit regular reports to the Queensland Beach Protection Authority; the use of voluntary wardens to watch over historic shipwrecks in South Australia, and the use by the New South Wales Department of Consumer Affairs of a network of volunteers from the consumer movement to discover hazardous products on the market (Grabosky & Braithwaite 1986). In August 1989, the Australian Customs Service announced that it would seek the assistance of workers in the airline industry, and service personnel at Sydney airport, in identifying illegal drug imports.

Australia is by no means unique in its provision for citizen involvement in the regulatory process. Indeed, worker

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safety representatives are a feature of many European occupational health and safety regimes.

In the United States, regulations under the Surface Mining Control and Regulation Act 1977 allow citizens to request an inspection by federal regulatory authorities. The citizen must submit a signed written statement which would give regulatory authorities reason to believe that a violation exists. The citizen may accompany the inspector in the course of the inspection, and is entitled to receive a copy of the inspector's report. In the event that no inspection is conducted, the citizen is entitled to a written explanation for the decision in question (Shover, Clelland & Lynxwiler 1986, p.168). Most federal environmental legislation in the United States contain provisions permitting private parties to sue polluters for non-compliance, regardless of whether or not the plaintiffs have suffered injury (Greve 1989).

Citizen participation as a means of overcoming the culture of apathy within which corruption flourishes

There are very good reasons, beyond those of fiscal constraint in the public sector, to enlist the resources of the general public in the cause of corruption control.

It is almost tautologous to suggest that where corruption is accepted as a way of life, public officials, honest or otherwise, and members of the general public, become resigned to the practice. In such a culture of public apathy, there are few disincentives to participating in corrupt transactions.

The reform movement in United States municipal politics, which dates back a century, sought to mobilise citizen indignation against corrupt political machines. The tradition of the 'muckraking' essayist and the emergence of concerned citizen groups established an important trend in American political culture (Noonan 1984, Ch. 17; Gardiner & Olson 1974). In recent years, Etzioni (1984, p.281) has called for the energising of the populace, to demand a new standard of public civility.

Citizen vigilance as a deterrent to illicit transactions

In a society where the citizenry has been mobilised against corruption, the risk of detection and disrepute looms larger. Perhaps even more important, in such an active society, a prevailing anti-corruption ethos may facilitate the development of moral inhibitions in otherwise corruptible individuals.

A citizenry mobilised against corruption may not be sufficient to deter all corrupt practices, and indeed, may drive the more determined partners in corruption to more artful concealment of their practices. But it should serve to inhibit a good deal of opportunistic or peripheral corrupt activity. The importance of this should not be minimised, for limited enforcement resources can then be concentrated on priority targets. This will have a wider beneficial effect as well, for the progression of a career in corruption often begins with small scale graft.

Citizen's Lobbying Organisations

Perhaps the best example from a western democratic polity of a citizen's organisation to oversee public sector ethical standards is Common Cause. Common Cause is a non-partisan non-profit citizens' organisation which monitors and lobbies United States federal and state governments with a view to improving the integrity of their operations. It is supported by dues and contributions from 275,000 members throughout the United States.

Founded in 1970, Common Cause bases its operations on democratic principles. A 60-member national governing board is elected by members. To decide priorities and policies, the board conducts an annual issues poll of the entire membership, supplemented by occasional in-depth surveys of random samples of members and conferences of active members. In its two decades of existence, the organisation has contributed to significant reforms in the areas of election financing, public disclosure of lobbying activity and public officials' conflicts of interest, and other related reforms in public administration.

Its general oversight of the public sector, and vocal identification of unethical conduct on the part of public officials, have had considerable effect. Common Cause repeatedly called attention to questionable ethical conduct on the part of a former Attorney General of the United States (Common Cause 1984; Baldwin 1988); its efforts contributed to considerable delay in the confirmation of his initial appointment, and to his eventual resignation from office. In the life of the most recent US Congress, Common Cause called for investigations into the activities of eight Members of Congress. One investigation led to the resignation of the Speaker of the U.S. House of Representatives (Congressional Quarterly 1989).

A body modelled after Common Cause, and bearing the same name, has been established in India. Among its concerns is corruption in government telephone companies and diversion of tax

overcharges to political campaign funds (Crosette 1989).

Prestigious organisations such as Common Cause can add considerable legitimacy to debate on corruption. Whereas allegations of corrupt practices emanating from political adversaries are too easily dismissed as 'partisan' attacks, the statements of a respected non-partisan body can carry considerable credibility and moral force. In the international human rights arena, such a role is played by Amnesty International.

Public Interest Litigation

The use of the law by private individuals to combat corruption can be impeded by financial and procedural barriers. But some impressive achievements have nevertheless been recorded. In India, there has emerged what is termed an epistolary jurisdiction, through which citizens' groups may petition the courts on behalf of disadvantaged individuals who may have suffered as the result of maladministration or the abuse of power.

To cite one brief example of this 'social action litigation', Professors Upendra Baxi and Lotika Sarkar clipped a letter to the editor of which described horrendous abuses of female prisoners in a particular institution, and forwarded it to a justice of the Supreme Court of India. The accompanying letter asserted that fundamental rights were being jeopardised, and that duty required the two professors to bring this to the attention of the court. They suggested that their letter be deemed a writ petition on behalf of the abused prisoners. The petition was indeed entertained by the court, which ordered improvements in living conditions of prisoners, as well as complete medical examinations.

This expansion of the law of standing by the Supreme Court of India allowed public spirited individuals to seek redress on behalf of those who may lack awareness of their legal rights, who may feel politically powerless, and who may be too poor to afford legal assistance (Sturges & Chubb 1988, pp.46-53).

Moral and monetary incentives for citizen assistance

Governments may explicitly invite citizens to come forward with information relating to corrupt practices. To this end, media advertisements are not uncommon. Indeed, governments often benefit from information relating to fraudulent practices which citizens volunteer. An estimated 30 per cent of prosecutions for social security fraud in Australia result from anonymous advice given to the Department of Social Security by friends, neighbours, and

workmates of the accused (Kirkwood 1986, p.190). In Singapore, the business community has been specifically invited to report requests from members of the Customs and Excise Department for illicit payments (Klitgaard 1988, p.129).

Legal obligations

In some individuals, the sense of civic obligation is sufficient to enlist one's cooperation in corruption control efforts. But this is not always the case. In many democratic societies, the perceived effort entailed in so simple an act as casting a ballot in general elections may be such as to outweigh the perceived benefits of so doing. In matters relating to corruption, the risk of retaliation and victimisation may be substantial disincentives for becoming involved.

In some instances, citizens are obliged by law to disclose corrupt practices to government authorities. A number of jurisdictions, including Australia, require financial institutions to report significant cash transactions to a specified agency. The purpose of such provisions is to impede the 'laundering' of ill-gotten gains.

The efforts entailed in reporting corrupt practices may be considerable. Involvement in subsequent investigation and litigation may be more so. The question is, when should governments offer monetary incentives for citizen participation in corruption control, and what form might these incentives take?

Administrative Rewards

Rewards and bounties are old institutions indeed. While the two terms are sometimes used interchangeably, the term reward is more properly applied to a premium or compensation paid by private persons or by the government for a special or extraordinary service, whereas bounties are offered by governments to all persons engaging in particular industries or performing specified services for the public benefit.

Over the course of history, bounties have been paid to citizens for enlistment in military service, destruction of enemy vessels or noxious animals, production of sugar and salt, promotion of certain industries, engaging in certain types of fishing, planting trees and hedges, and the sinking of artesian wells.

The use of rewards for information leading to the identification and arrest of an alleged offender is a time-honoured practice in some societies. Offered on an ad hoc basis in cases of serious crimes of violence, they also exist on an ongoing basis for assistance in other areas of law enforcement. In some cases, they may entail payment in the form of a commission for services rendered. An Alabama statute provides that individuals who confer information

leading to the prosecution of drug offenders may receive a percentage of the value of any property condemned in the event the prosecution succeeds (Act Ab 81-6788 Ala. Acts 1109). Rewards are commonly, albeit discreetly, offered by private sector organisations, particularly banks and insurance companies.

Cash rewards can in principle be offered to citizens who assist in the identification of corrupt practices and in the recovery of illicitly gained public monies.

The justification for offering monetary incentives to citizens who assist in the control of corruption rests in the recognition that these citizens are providing a valuable public service - one which could entail considerable expenditure if performed by public employees. Moreover, the retaliatory power of the corrupt public official may be formidable, its very existence serving as a deterrent to citizen involvement. A reward can help neutralise the disincentive posed by this threat.

There exist, moreover, numerous disincentives to citizen cooperation which the availability of financial incentives may help offset. The time and effort which co-operation in a corruption investigation may entail can be a burden in its own right for many persons.

Shareholders derivative suits

In the event that the resources of a public company are used for corrupt purposes, a course of action may be available to its shareholders. This may be based on a jurisdiction's securities laws, such as those in the United States which require corporate disclosure of illicit payments. Shareholders have a right to know if the funds which they have entrusted to a company's management are being managed properly. They have a further right to know if the performance of their company may be dependent on illegal activity, which, if terminated, may have an adverse effect on performance. Shareholders suits may be brought in order to recover funds illegally or wastefully spent; shareholders are entitled to restitution for losses suffered as a result of investment in an offending corporation. They may also seek ancillary relief mechanisms to deter or control future illicit payments.

For example, two shareholders of Phillips Petroleum Company sued the company and certain directors alleging breach of fiduciary duty and violations of the Federal Election Campaign Act (USA). The case was settled before trial, and included an agreement providing for a majority of independent, outside members on the company's board of directors, and for scrutiny by an independent public accountant of

corporate and directors records (Gelbar v. Keeler civil No. 75-611-EAC (C.D. Colo. Feb 24, 1975).

Other shareholders actions

Shareholders, whether individual or institutional, may capitalise on their formal links with a corporation, and also use the occasion of annual meetings as an opportunity to raise issues of corrupt practices. In the late 1970s the United Church of Christ wrote to a number of U.S. based trans-national corporations, in which the church held stock, requesting a statement of company policy on payments to public officials overseas. Subsequently, the church filed stockholder resolutions with a number of corporations requesting the disclosure of information relating to questionable payments made over the previous decade. Additional resolutions requested the establishment of a corporate anti-bribery policy and implementation plan (Adams & Rosenthal 1976, pp.12-13).

Even though concerned shareholders may not be sufficiently numerous for a proxy resolution to prevail, the ability to confront corporate officials in a public forum and in the presence of the news media can be a powerful deterrent to corporate misconduct.

Citizen suits against bribetakers

A number of jurisdictions allow citizen suits against public officials who take bribes. In the United States, New Jersey upholds the right of citizens to take action against the wrongful conduct of public officials without having to show any personal interest or injury (Levine 1981, p.363). Any resident of Iowa 18 years of age or older may enforce the state statute which forbids the acceptance by officials of gifts with a value greater than \$25 (Iowa Code Ann. s. 68B.9). The law of Alaska permits any qualified Alaskan voter to sue for enforcement of the statute which forbids the use of public office 'for the primary purpose of obtaining financial gain' (Alaska Statutes s. 39.50.100 (1980)).

Of course, where a citizen has sustained direct financial loss as a result of corrupt practices, a cause of action may lie against the public official. One can, for example, envisage a case involving the corrupt rejection of a licence application, where the plaintiff's loss of profit arises from the corrupt granting of a licence to a competitor. The harm inflicted on the plaintiff need not be intentional; it suffices that the injury be an inevitable consequence of the misfeasance in question (Aronson & Whitmore 1982, p.131).

Informers

Among the more unpalatable forms of citizen participation is the use of informers. A citizen may be recruited by law enforcement agents to infiltrate a criminal enterprise. Alternatively, he or she may be recruited by virtue of already being in place as a member of that enterprise. A citizen may also offer his or her services to law enforcement agents for either of these strategic purposes. Although the use of informers usually entails some form of remuneration, there are some circumstances when it may be 'off-budget'.

Persons who serve as informers tend not to be ordinary citizens; indeed, for obvious reasons they tend to be drawn from the seamier side of social life. This type of citizen assistance in criminal investigations is rarely if ever grounded in altruism. Citizens who offer their services, whether unilaterally or by invitation of law enforcement authorities, usually have a personal agenda. They may seek personal enrichment, to wreak vengeance on enemies, or they may seek to avoid criminal charges. They may be in dire financial straits, drug dependent, otherwise exceptionally manipulable by investigatory authorities. The use of informers is one example of the risks involved in citizen participation in crime fighting.

The risk that citizens assisting law enforcement, like law enforcement officers themselves, may engage in illegal conduct, is pervasive. Indeed, this may be inspired or directed by officers for purposes of maintaining a 'cover' credibility with the target of an investigation.

The 1990 prosecution of Washington D.C. Mayor Marion Barry, who had been lured to a hotel room and provided with cocaine by an ex-girlfriend, then in the service of the FBI, was a very controversial exercise of state power.

Safeguards against potentially adverse concomitants of citizen action

What must be avoided is the incentive to manufacture crime in order to reap the rewards of assistance. Although malice and greed as motives for citizen participation cannot be legislated away, one can design certain safeguards against citizen abuse of corruption control machinery.

One of the most common criticisms of any proposal to involve private citizens in law enforcement is the potential for adverse effect on individual values and on the climate of interpersonal trust. If anything, these criticisms are even more apposite to matters of corruption control,

which targets behaviour almost invariably intended to be private.

When monetary incentives are offered for citizen participation in corruption control activities, problems may be compounded. A nation of informers is bad enough, one would hardly wish to create a nation of bounty hunters and soldiers of fortune.

An overzealous citizenry could conceivably create corrupt practices through entrapment, interfere with conventional law enforcement activity through officious intermeddling, or disrupt the formal process by means of spurious or vexatious complaints.

There is arguably a middle ground between a culture of omerta, where citizens are inhibited from disclosing illegality, and the informing society, the statist model of social control, where every citizen is an agent of the state.

Conditions conducive to citizen participation

Despite its attractiveness in principle, citizen participation cannot be expected to flourish everywhere. Certain conditions are conducive to effective citizen participation. One of these entails the simplification of laws and regulations, and the maximum feasible provision of information to clients of various government agencies. Clients who are unaware of their rights or of the rules by which a government body operates are especially vulnerable to official corruption (Klitgaard 1988, p.86).

Notwithstanding the fact that some societies not renowned for their openness have structures in place to facilitate citizen anti-corruption activity, there can be little doubt that the liberal democratic state is most conducive to participatory corruption control. Only in these places is the tradition of participatory democracy strong, and the open and robust discussion of public issues encouraged. In the absence of an organised political opposition, a free press, and independent interest groups, corruption flourishes so much more easily. Public business must be conducted publicly. Public scrutiny is essential so that citizens of a democracy are able to judge public servants and their work fairly.

In the words of a recent report on corruption in one Australian jurisdiction:

The ultimate check on public maladministration is public opinion, which can only be truly effective if there are structures and systems designed to ensure that it is properly informed. (Fitzgerald 1989, p.126)

This requires a free and aggressive press, unconstrained by laws of defamation which protect only the powerful, and often the corrupt.

Governments are also in a position to facilitate citizen involvement. The United States Government, for example, actually published a handbook on establishing a citizen's watchdog group (Manikas & Protes 1979). According to Adams (1977, p.90), the Government of the Soviet Union published nine booklets in a series entitled 'Library of the People's Inspector' to provide practical guidance to citizen inspectors in their surveillance of corrupt practices.

Directions for the future

Gary Marx (1987) has cited examples of private detectives undertaking investigations in cases where public police may lack the resources or the will. He refers also to the emergence of new quasi-public or quasi-private organisations which may entail the establishment of a 'front' for a government agency. Marx notes that such an organisation was involved in screening government employees working in sensitive areas. As the Iran-Contra affair demonstrated, the lack of accountability surrounding such ventures would suggest that they are not part of the solution to corruption, but rather part of the problem.

In addition to refinements of existing opportunities for legitimate public involvement, and the development of safeguards against their abuse, what is the potential for further avenues of citizen participation in corruption control?

The risk of capture or corruption of regulatory agencies has prompted Ayres and Braithwaite (1989) to propose a tripartite model of regulation. They advocate that public interest groups be given explicit power to participate in regulatory activity, and be given standing to enforce agency regulations when capture or corruption impedes normal agency enforcement activity. To fulfil this responsibility, public interest groups would enjoy full access to information available to the regulatory agency, and would be party to interactions between the agency and the regulated company. The public visibility of the regulatory process, and the threat of outside intervention in the event of regulatory breakdown, can be a powerful deterrent to corrupt practices.

The great strength of citizen involvement in corruption control lies less in equipping the general public with the machinery of enforcement than it does in fostering a climate of opinion which condemns the exploitation of public office for private gain as intolerable. A community thus mobilised against corruption will inhibit venality. These inhibitions will be reinforced by

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HIV/AIDS AND PRISONS

The first Australian conference on HIV/AIDS and Prisons was organised in Melbourne in November 1990 by the Australian Institute of Criminology and the National Centre for Epidemiology and Population Health. It was co-sponsored by the Commonwealth Department of Community Services and Health and the National Centre for HIV Social Research.

In his opening remarks, the Acting Director of the Institute, Dr Paul Wilson, said that the conference drew together corrections and health administrators and workers, medical researchers, epidemiologists, educators, lawyers, and representatives from prison officer and prisoner groups. He welcomed a number of overseas guests, in particular, Dr Ted Hammett from the United States firm of Abt Associates, Ms Kate Dolan from the Centre for Research on Drugs and Health Behaviour in London, and Mr Leigh Tomlinson from the Terrence Higgins Trust in London.

Paul Wilson



Glossary

AIDS — Acquired Immune Deficiency Syndrome: AIDS is the most serious manifestation of infection with the Human Immunodeficiency Virus (HIV). It refers to a condition in which the body's disease-fighting mechanism (the immune system) is so damaged that the person is prone to a number of uncommon life-threatening illnesses.

HIV — Human Immunodeficiency Virus: a virus which attacks and kills a particular group of white blood cells (T4+ lymphocytes) which are part of the body's immune system.

HIV seropositive/HIV seropositivity: exposure to HIV resulting in the production of antibodies to the virus. The presence of those antibodies can be detected by blood tests.

pneumocystis carinii pneumonia: a life-threatening form of pneumonia

Communique

The conference heard papers on many aspects of the problem of HIV/AIDS and Prisons both in Australia and overseas, and paid careful attention to a number of controversial questions which have not been resolved previously in Australia. The following statement was endorsed by those attending the final session of the meeting after a series of workshops had considered its practical implications, and was widely distributed to politicians, journalists and the community-at-large because the conference believed it vitally concerns every Australian.

1. Influence of HIV/AIDS in Prison on those in the wider community.

What happens now in the Australian prison system could materially influence whether the HIV epidemic will extend to the wider community in the future, or will be contained. The future direction of the epidemic depends greatly on the extent to which the virus becomes established in those who inject drugs in the wider community. At this stage, intravenous drug users in Australia have relatively low rates of infection, a situation which could quickly change as it has done in many

other countries. A high proportion of regular intravenous drug users pass through the prison system and back into the general community. With their incarceration, they carry into the prison environment their dangerous risk behaviours which become even more dangerous inside prison. In prison, under current circumstances they heighten the danger to those already incarcerated.

2. Recognising the realities of prison life.

Conditions in Australian prisons are conducive to the spread of HIV. Shared needles and failure adequately to clean injecting apparatus are the norm in Australian prisons and injecting of drugs of various kinds is common. Anal intercourse is less common than intravenous drug use, but when it occurs it is nearly always unprotected and sometimes accompanied by violence and lack of consent. Overcrowding of prisons is a growing problem which favours these activities. While these problems should be addressed regardless of HIV, its presence in the prison population makes action particularly urgent. The Australian community ignores this urgency at its

community ignores this urgency at its own peril.

Prison officers and administrators are placed in an impossible situation when prisons are overcrowded, when resources are inadequate, and they are expected to stamp out illegal sexual and drug using behaviour. The fact is that they are unable to do so, and this difficulty they share with every prison system in the Western world.

Under these circumstances, there must be a recognition of the need to minimise harm. A lesser of two evils approach recognises that illegal activities are going on in prisons and that prisoners ought to have both the knowledge and the capacity to protect themselves against HIV infection. There is, both for society and for individual health and prison workers, a serious practical dilemma in making the means available to prisoners to do this without appearing to sanction what is very often illegal behaviour. And yet, if the public health problem is to be seriously addressed, those engaging in these behaviours in prison should have access to condoms and to bleach for cleaning injecting apparatus.

3. Sexuality in the prison setting.

Attitudes towards sex in prison vary widely in the community, and among prison staff. Further education of prison staff in the area of HIV transmission risks and attitudes towards people with HIV infection should occur.

It is recognised that sex does occur in Australian custodial institutions and that it may not always be consensual. But the nature and extent of these activities is not well understood, and further research is needed. Some sexual activities are safe or safer than others with respect to HIV transmission, and prisoner education should include specific information on the relative safety of different sexual practices, with a view to discouraging high risk activities when, and if sex does occur. It is recognised that single cell accommodation may reduce sexual activity in prison and we believe that single cell accommodation should be available for all prisoners.

Appropriate use of condoms and other barrier methods, will substantially reduce HIV infection. Before advocating widespread condom availability in Australian prisons, we believe that a trial program should be instituted in one or more jurisdictions, including an evaluation of used condom disposal. They should be made available as part of health services aimed at reducing disease transmission in prisons.

Incarceration in prison does not necessarily involve cessation of the right

to interpersonal social contact, but such contact (eg conjugal visits) will depend on the nature and level of security of the institution.

The management of transsexual inmates requires special consideration, and policies should be developed in consultation with appropriate community groups.

4. Drug Use in Prison.

Intravenous drug use occurs in Australian prisons and as a consequence, those who share needles are at risk of transmitting HIV/AIDS. We believe that tangible means should be available to reduce exposure to risk without condoning or facilitating these activities. The measures should include peer and professional education programs, and measures to ensure that the risks of intravenous drug use are fully understood.

A range of education and therapeutic options should be made available to all prisoners who wish to reduce the adverse consequences of their drug use. In efforts to reduce unsafe injecting practices, methadone programs should be made more widely available and be consistent with the principles incorporated within the national methadone guidelines.

It is clear that urinary drug screening within prisons is used by both health and correctional services. Urinary drug screening, undertaken as part of a therapeutic endeavour, should remain confidential. Where mandatory screening is undertaken in an effort to identify the size of the drug problem, screening should be confined to injectable drugs.

Bleach should be available throughout the prison system as a general disinfectant for those who engage in intravenous drug use, and all prisoners should have access to information which tells them how best to use it to disinfect injecting apparatus.

Needle exchange programs have proved to be an effective means of protection against transmission in community programs but have obvious dangers in the prison setting. Isolated overseas reports of successful needle exchange programs in the prison lead us to suggest that a careful time limited evaluation of a pilot strict needle exchange program should be undertaken somewhere in Australia in order to maximise the range of strategies available to contain the epidemic.

Judicial authorities should consider the use of non custodial sentences for individuals who come before the courts with drug related crime. Such an option may be in the best interest of both the community and the individual concerned.

5. Education.

Appropriately targetted education strategies for all staff and all inmates is the key initiative in preventing the spread of HIV infection through the prison system and out into the community. The development of these strategies must start with an understanding of the language, literacy, knowledge, attitudes and values of the target group.

Education should provide an understanding of how the virus works and how it is transmitted, and should provide practical understanding on how infection can be prevented. All Australians should have this information, and prison staff and inmates are no exception.

All education should be conducted in clear and unambivalent language, assisted by graphics, and adapted to meet the requirements of the target group. All educational strategies must be evaluated to ensure that they are effective.

6. Detection and Management of HIV infected prisoners.

Testing for HIV infection has two purposes; first the monitoring of the status of the epidemic both in the prison population and, because the prison population is a special subset of the general population, in the community at large. Linked testing is not necessary for the first purpose. Its second purpose is as part of a therapeutic regime. It is particularly important that where testing is done for the second purpose, that it is done voluntarily.

The conference believes that where HIV testing is being done, whether as a mandatory requirement or on a voluntary basis, quality counselling both before and after testing must be provided. Pretest counselling should target all inmates and should encourage all to become actively involved in the testing program. If the test is negative, counselling should focus on positive reinforcement and encouragement for the individual to become involved in an infectious disease education program.

If a test is positive, individual counselling should be orientated toward the ongoing management of the disease and support for the individual and his/her family. Specific facilities providing specialised medical services, lifestyle education and peer support should be made available and voluntarily accessible to all inmates. The principles of normalisation for people infected with HIV should be applied.

The normal processes of prisoner classification should apply regardless of HIV status. HIV infected prisoners

should have access to the same range of services and programs as uninfected prisoners subject to the same limitations as apply outside prison.

7. After Prison.

Even under ordinary circumstances, an offender who has spent time in prison will encounter bias, discrimination and prejudice as he/she attempts to reestablish him/herself within the community. If the same offender happens to be HIV positive, the odds stacked against them may at times appear to be insurmountable. Correctional authorities should be proactive in supporting the establishment of self help groups for HIV/AIDS infected persons and particular help will be needed by those who reside in rural and remote communities. The needs of families and partners of prisoners who are HIV positive are particularly acute, and special counselling and education should be provided about safe practices.

State Correctional authorities should accept responsibility for developing strategies which ensure continuity between HIV/AIDS counselling and support received both within and out of prison. HIV/AIDS testing should be available to prisoners four months prior to their anticipated release and again one month prior to release.

'Split-kits' should be provided to prisoners upon release which contain bleach, condoms and information on how to use and obtain these products.

8. Occupational Health and Safety.

The risks to prison workers from routine contact with prisoners with HIV is no greater than the risk posed by HIV in the community in general. The principal risks to be considered for prison workers are exposure to blood during violence, and from prisoner inflicted injury and to accidental needle stick injuries acquired during cell searches. Prisoners with access to HIV may use HIV to intimidate other prisoners and prison workers.

There will be some areas in which the legitimate interests of prisoners will constrain the extent to which the threat of HIV can be removed from prison workers. It is accepted that prisoners have a legitimate interest in rehabilitation in humane surroundings. Strategies which reduce the transmission of HIV between prisoners will reduce the risk to prison workers.

Prison workers have a right to expect that all reasonable measures will be taken to provide safe working conditions, but it is recognised that the threat of infection in this environment can be reduced but cannot be totally removed.

The aim of prison worker education should include elimination of

misinformed fear and should also include specific education on adverse exposure to HIV with particular reference to usefulness of drug treatment. AZT or such other drug as may be the treatment of choice, should be immediately available and on the prison premises.

All prisons should provide adequate equipment for dealing with exposures to blood and bodily fluids. Universal infection control procedures should be mandatory in all corrective services institutions.

The advent of HIV infection adds urgency to the need to isolate prisoners who are violent or sexual predators, regardless of their HIV status. Isolation should be reviewed regularly. The use of HIV blood as a weapon should be subject to severe penalties.

Provisions for compensation of prison officers who become infected in the course of their duties should be investigated to reduce delays and to ensure their adequacy. The practicability of providing first party personal accident insurance covering HIV infection to all prison workers should be investigated.

9. Collection of Epidemiological Information.

The conference believes that although a great deal of testing is being done in prisons, the information that it provides is not being adequately used, either to measure the level of HIV infection present, or to evaluate the impact of preventive and control activities. These deficiencies can, and should be remedied.

We believe that Australian prison jurisdictions should agree to a common protocol for collection of basic information on HIV infection in prison, and develop mechanisms for funding and systematic review of procedures. Jurisdictions

should share data on HIV in prison on a regular basis among themselves and with other appropriate bodies, and should make use of this information in the evaluation of HIV prevention measures as they are implemented.

10. Legal Obligations of Prison Authorities.

The obligations of prison authorities to provide prisoners with access to reasonable medical care and treatment necessary for the promotion and preservation of health should be set out in legislation.

In developing supporting policies, the following issues need to be included:

- ☐ provision of extensive and continuing education about HIV transmission to prisoners and prison officers
- ☐ prisoner access to condoms combined with appropriate condom disposal systems
- ☐ provision of access to appropriate sterilizing material and information about sterilizing injecting equipment
- ☐ access to a range of drug treatment programs including methadone
- ☐ provision of access to medical treatment at the same standard as that available to those outside prisons
- ☐ information on HIV status should be recorded separately from other prisoner details. Prison authorities should be responsible for devising systems to keep this information secure.

Prison authorities should not be immune from liability for breaches of common law or statutory duties.

Mr Justice Kirby and Julia Vernon, AIC Conference Manager, at the conference dinner.



HIV/AIDS and Prisons

The Honourable Justice Michael Kirby CMG*

A Legitimate Concern

My special concern to address the issues of the human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) in prisons derives from three sources.

First, as a judge I have the responsibility of sending people to prison. As an appellate judge this responsibility arises on the confirmation of convictions which are challenged and on resentencing of a convicted offender, whether on an appeal which that offender has brought or on an appeal against leniency of sentence brought by the Crown. The obligation to send a fellow human being to prison, at a time when HIV/AIDS may lie in wait there, haunts any person of moral sensibility.

The law may say that conditions in prison are the responsibility of the Executive Government (see, for example, *R v. Perez-Vargas* 1987, NSWLR 559, 565). The law may exonerate a judge of moral blame. He or she may see the judicial function as purely mechanical: an instrument of the law. Yet the law presents judges with choices. The privilege of choice carries with it the necessity to evaluate the consequences of the choice made. Where that choice involves sending a person to prison, the risk that the person will there acquire HIV ought not to be banished from the mind by ignorance, indifference or resignation. It is a new factor in the equation when this mode of punishment is considered. It is yet another reason why imprisonment is a punishment truly of last resort. There is also legal authority which suggests that

Justice Kirby spoke at the HIV/AIDS and Prisons Conference dinner. His address was an adapted and updated version of the South Australian Justice Administration Foundation 1990 Annual Oration, 'AIDS Strategies and Australian Prisons'.

the fact that a prisoner has already been exposed to HIV may be a reason for reducing the time spent in prison and increasing the time served on parole or early release (*R v. Michael Smith* 1987 27 A Crim R 315). So the advent of AIDS in prison necessarily concerns me as a judge.

My second concern arises from my membership of the Global Commission on AIDS at the World Health Organization (WHO). That body, established in Geneva, comprises twenty-five Commissioners from different regions and with different expertise. It is established to advise the Director General of WHO (Dr H Nakajima) on worldwide strategies to combat the

spread of the AIDS epidemic. Among the Commissioners are the two scientists credited with the isolation of the HIV virus which is the cause of AIDS: Dr Luc Montanier of France and Dr Robert Gallo of the United States. Membership of the Global Commission has given me a privileged insight into the battle against a global epidemic of truly frightening potential. In that battle, legal measures have but a small role to play.

A fellow Commissioner in the Global Commission is Dr June Osborn, Dean of the School of Public Health in the University of Michigan. Professor Osborn is also the Chairman of the United States Commission on AIDS. One of the high priorities which has been adopted by that Commission in its attack on HIV/AIDS in the United States concerns the spread of the virus in United States prisons. That Commission has just received submissions on the subject from health and correctional personnel from around the country. Partly because of the 'war on drugs' in the United States, and the extensive use of incarceration as a weapon against individual users of drugs, the United States prison population has increased rapidly over the past decade. The buildings and facilities have not kept pace; on a per capita basis the budgets for personnel have actually decreased. The result has been a very serious state of health in United States prisons. Where, a decade ago, the usual reason for a sick call in prison was influenza, now it is pneumocystis pneumonia in its early stages or oral thrush with its ominous implications. In the New York State Prison, the Commission has received an estimate that ten per cent of prisoners

Mr Justice Kirby



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are critically ill from HIV/AIDS related illness. The potential for public health contributions through the use of the rapidly changing prison population has been unrealised. For many people in disadvantaged social or racial groups in the United States, the corrections system may actually be the main or sole opportunity for purveying education about HIV/AIDS to the populations amongst those most at risk. It is the realisation of that potential which may cause significant changes to be made in the United States, via the correctional system. By a strange irony, typical of the United States where there is no general publicly funded health care system, the United States courts have ruled that medical care is a right for incarcerated people by reason of the 8th Amendment. That is the constitutional provision which proscribes cruel or unusual punishment. The result is that prisoners must be treated for HIV/AIDS infection where it is identified, even though, once they leave prison, no such right exists. One of the prisoners recently testified to the United States Commission that recidivism amongst HIV positive prisoners runs as high as 90 or 95 per cent because the deprivations and neglect of homelessness and poverty can then be replaced by security and treatment within the prison walls (personal communication, Dr June Osborn, 20 August 1990).

The Global Commission on AIDS is one unit in the Global Program on AIDS of WHO. Within that program a large number of consultations and meetings constantly take place to spread medical information, share public health intelligence and to devise international strategies and global standards. One such consultation, held in November 1987, concerned the prevention and control of AIDS in prisons (WHO). I conceive it to be part of my function in Australia, as a member of the WHO Global Commission, to call the important statement which followed that consultation to the notice of those responsible for correctional policy as well as to the attention of citizens generally.

The mention of the citizenry expresses the third capacity in which I have concern about HIV/AIDS in prisons. I too am a citizen of this comparatively free and prosperous country. Fair Australia will only be advanced if its citizen's remain alert to the human rights of disadvantaged and even unpopular groups in the community. Winston Churchill's dictum remains true: the civilisation of a country can be judged by the way it treats its prisoners.

Recent Developments in Prisons

Our civilisation has been tested in recent weeks. A young prison officer in New

South Wales alleged that he was jabbed in the buttock with a needle at the Long Bay Gaol in July 1990 by a prisoner said to have been infected with HIV. This incident followed another one in which it was claimed that the prisoner, who had a history of drug offences, had concealed a needle in the padded toe of his sandshoe. The needle on that occasion was reported as clean, but not sterilised. It had no apparent sign of blood. There should be an 'absolute zero risk of infection' (Mr Michael Yabsley, NSW Minister for Corrective Services, quoted in *The Age* 7 July 1990). The Minister, at the time of the second attack said that prison officers trying to stop contraband getting into prisons were literally faced with 'finding a needle in a haystack ... Syringes and needles have now, in the most literal sense, become a new lethal weapon. Syringes and needles have to be purged from the system'.

Unfortunately, eight weeks later an antibody test performed on the prison officer jabbed in the buttock produced a positive reading. Following the shock of this news the New South Wales Minister, Mr Michael Yabsley, implemented a major campaign to remove prisoners' personal property from prison cells. It was his view that such property made it almost impossible to detect the contraband, including needles shared among prisoners and occasionally used against prison officers. The result of the removal of personal effects has been riots and even an investigation by Amnesty International. Yet the attack on the prison officer has led to calls for the segregation of prisoners with HIV/AIDS (The Australian 8 September 1990) and editorials demanding that 'gaol officers need AIDS protection' (Melbourne Herald 7 September 1990; Sunday Telegraph 2 September 1990). Whilst the government has stood firm against calls for segregation, it is reported to be considering enacting specific offences and providing increased penalties for the use of syringes as threatening weapons (Sunday Telegraph 2 September 1990). The suffering of the prison officer and the consequent reaction within New South Wales prisons has put the subject of HIV/AIDS in prisons on the television, radio and in the newspapers of Australia. It is therefore a concern for every citizen.

Epidemics are not new. The history of humanity has been a history of epidemics. In this paper I propose to address my topic from the starting point of the nature of the HIV virus and the knowledge we have about its modes of transmission. Good strategies, whether in prison or elsewhere, will depend upon good scientific knowledge. I will then address the international data about HIV/AIDS in prisons, for it is often suggested that prisons represent a potential incubator of the virus. Next I will examine the responses of Australian

correctional authorities. Finally, I will address a number of strategies that can be taken before coming to the truly hard questions of screening of prisoners and making available to them condoms and bleach in the attempt to limit the spread of the virus in their midst.

The Virus and Modes of Transmission

A useful rule for the development of any law or policy—but imperative in the control of an epidemic such as AIDS—is the necessity to have a clear understanding of the features of the target. Good ethics, effective policies and just laws are more likely to emerge from a clear understanding of the features of the epidemic, its modes of transmission and its characteristics in the community than from preconceptions based upon fear, hysteria, religious conviction or other grounds. If we are truly serious about mobilising whatever fragile and imperfect assistance we can give to impede the spread of HIV and AIDS, it is self-evident that people with relevant responsibilities should be aware—at least in general terms—of the nature of the epidemic and of the virus which causes its spread. To ensure that we keep our sense of proportion, it is also useful to know something about the present size and projected enlargement of the problem. We should be aware of the available therapies and the prospects for a vaccine and cure. Knowledge of the latter reinforces a proper sense of urgency about developing effective policies and laws which protect society, and the individuals who make it up, from the spread of this life threatening virus.

AIDS is a viral infection which suppresses the body's immune system (see Mutton & Gust 1983). In the worst cases it goes on to destroy that system, leaving the patient vulnerable to opportunistic infections which would otherwise be resisted. The HIV virus invades and kills the body's white blood cells (called T lymphocytes or T-cells). As this occurs, diseases which rarely affect a person with an immune system which is intact can prove seriously debilitating (and later fatal) to those infected with HIV. AIDS, caused by HIV, is thus the precondition of a serious and usually, eventually, a fatal illness. The end stage illness will typically involve one of a number of infections or malignancies, many of them otherwise quite rare.

The HIV virus has been isolated in most body fluids, including saliva, tears and urine. However, only blood and semen have, so far, been implicated by epidemiological evidence in the transmission of the virus from one human to another. Mosquito bites, sneezing, casual contact, social interaction and



John Darwes of the South Australian Department of Corrective Services with Judi Fortuin of the Australian AIDS in Prisons Information Clearing House at the Conference

shared toilet seats can be ruled out as modes of transmission. Fortunately for humanity, the HIV virus is not easily acquired. It is important to make this point to repel the worst fears, sometimes held by people who should know better. Irrational fears about earlier epidemics have taken their toll in the past. At the turn of the 20th century, it was seriously thought in public health circles that syphilis (a condition then bearing many parallels to contemporary AIDS) was transmitted by the shared use of pencils, pens, towels and bedding. Naval regulations were promulgated during the First World War requiring the removal of doorknobs from United States battleships because of the belief that they caused the spread of syphilis amongst the sailors (Brandt 1988, p.367). We now know that the causes were something rather less impersonal than a doorknob.

AIDS represents the third, or end, stage of the progress of infection with HIV. Like syphilis, AIDS has a typically long period of latency, although this varies according to the subject's age, environmental factors, etc. The long first period of HIV infection may last indefinitely. However, typically, in the adult it lasts about 8 years. The second stage (ARC) sees the development of

'AIDS related complex'—with the onset of certain physical signs and symptoms. These usually accompany a significant drop in the T-cell count. It is the third stage which is AIDS—a condition diagnosed by reference to a number of now internationally accepted criteria.

Although progress from one stage to the next, and from AIDS to death, can be interrupted or slowed in some cases by therapeutic drugs, the available therapies are imperfect. They are also expensive. The most effective of them (AZT) costs (depending on dosage) about \$4,000 per person per year. Obviously in poorer countries—such as some of those represented in the meeting in Seoul—drugs such as AZT are simply not available, whether to prisoners or to other citizens. But even in comparatively wealthy countries, such as the United States and Australia, controversies have also arisen concerning the availability of AZT therapy. Some views have been expressed that even people in the first stage of symptom-free HIV infection would benefit from AZT therapy. The cost of providing such therapy would be enormous, particularly in the United States where it is estimated that more than a million persons are infected with the virus. Three thousand new cases are reported each month in that country. In

Australia, complaints have also been made about the availability of AZT. However, at least we have a national health system and standard criteria by which therapeutic decisions on this and other drugs can be made with a measure of equity.

The dimension of the problem we are facing with AIDS is clearly presented by the fact that the number of reported cases of AIDS represents only a portion of those persons with the condition. There are still various pressures to ascribe illnesses and eventual death to the opportunistic infection rather than to AIDS. In this way the dimension of the problem continues to be underestimated. And cases of AIDS represent only the tip of the iceberg of persons infected with the HIV virus. Various estimates have been given for the numbers in Australia. Those estimates have recently been revised downwards. But it seems likely that at least 30,000 Australians have been infected. Most of them are young, symptom-free, apparently healthy, at the peak of their economic and social utility. As such, these people provide no risk to other citizens with whom they come in contact. It is not people or groups who present a problem for the spread of HIV. It is particular behaviour.

At first, a significant mode of transmission of HIV in Australia was through contaminated blood products (especially blood transfusions). This source of the epidemic has been stemmed in Australia but not, appallingly enough, in many developing countries of Africa and Latin America. The remaining modes of transmission are well known. They are sexual intercourse, sharing of contaminated intravenous drug equipment and perinatal transmission. The last is now a major source of transmission of the virus in the United States and in parts of Africa. The first two represent the source of the challenge of AIDS in the context of prisons.

Prisons: An Incubator?

There are no reliable figures for the prevalence or incidence of HIV infection in Australian prisons (Strang 1990, p.42). However, a recent article on the subject has suggested that the prison environment, at least in Australia, is, by its very nature, a potential reservoir for the spread of HIV/AIDS because of the established incidence in prisons of high-risk activities which cannot, responsibly, be ignored (Strang 1990, p.42).

The position in prisons overseas is better documented or estimated. In a recent paper published in the *Medical Journal of Australia*, Dr Jael Wolk and others referred to the spread of AIDS to the community by reason of infection acquired in prison:

Needle sharing and unsafe sexual practices are both generally considered to be prevalent within prisons, although the extent to which they occur is unknown. In the United States the number of AIDS cases in prisons increased by 157 per cent between January 1986 (766 cases) and October 1987 (1964 cases) and the majority of cases were [intravenous drug users]. Studies of HIV sero prevalence in Argentine and Brazilian prisons in 1988 showed that 17 per cent and 18.3 per cent respectively of inmates were infected and the majority of the infected prisoners [are intravenous drug users]. HIV sero prevalence ranged from 11 per cent to 48 per cent in European prisons in 1987-88. There is also evidence that HIV infection is occurring in prisons: 2 of 137 inmates incarcerated for 9 years in Merryland, USA, tested HIV positive as did 6 inmates incarcerated for between 4.6 and 7 years in New York (Wolk et al. 1990, p. 453).

Further statistical data on the presentation of HIV in prisons is collected in a paper on the topic by Hans Heilpern and Sandra Egger (1990, p.21). Most of the data collected by them refers to Europe and North America.

So far as Europe was concerned, the highest figure reported was from Spain where screening among high risk prisoners revealed that 25.7 per cent were sero positive. Other high figures were reported from France: 13 per cent (testing of 500 consecutive entries); Italy 16.8 per cent (screening of 30,392 prisoners in 1986); Switzerland 11 per cent; and the Netherlands 11 per cent (screening of a sample of prisoners in Amsterdam). The low figure returned by the United Kingdom (0.1 per cent) was regarded as reflecting a low level of screening rather than a genuine low level of prevalence in that country.

On the basis of these and other studies, an estimate was put forward that the overall prevalence of sero positivity in European prisons was in excess of 10 per cent (Heilpern & Egger 1990, p.23). Amongst IV drug users in prisons the level of sero positivity was much higher. In one study of IV drug user prisoners in Fresnes in France, it was found that 61 per cent were sero positive. More recent research in France paints a still grimmer picture of the French prisons surveyed. Twelve per cent of prisoners admitted in 1987 admitted to drug dependence; an estimated 50 per cent of IV drug user prisoners were deemed HIV positive. The overall HIV sero positive rate in French prisons was estimated to be 6 per cent—a rate 20 to 30 times higher than in the general population. Overcrowding was such as to exacerbate these difficulties. And perhaps the most telling statistic was the rapid increase in the rate of HIV sero prevalence. In one Spanish prison, for example, it almost doubled in one year from 24 per cent in

1986 to 46 per cent in 1987. Similar patterns emerge from studies in the United States. Two national prison project surveys in 1985 and 1987 showed a 293 per cent increase in the number of cases of inmates with AIDS (420 to 1650). In both cases the death rate within a year was approximately 50 per cent. At October 1987, there had been a cumulative total of 1964 AIDS cases amongst prison inmates in the United States. Five per cent of the inmates with AIDS were women. The correctional administrators attributed approximately 66 per cent of the male cases to pre-prison homosexual activity. However, other opinions expressed the view that IV drug use is a much more important transmission category in correctional AIDS cases than in the population at large.

WHO Principles

Against the background of accumulating data on the incidence of HIV in prisoners in many countries—and the perceived importance of the issue to the future course of the AIDS pandemic—the World Health Organisation convened its meeting on the subject in November 1987 in Geneva. Thirty-seven specialists from twenty-six countries participated. They included experts in public health, prison and medical administration, prisoner care, occupational health and safety, epidemiology and health policy. At the end of the consultation a statement, reached by consensus, was approved (WHO 1987). This is a common procedure adopted by WHO to provide guidance to member countries from the international pool of talent and expertise available in dealing with major world health problems, including AIDS.

The WHO experts stressed the need to perceive control and prevention of HIV infection in the context of the larger obligation significantly to improve overall hygiene and health facilities in prisons. They recognised that in many countries there 'may be' substantial numbers of prison inmates who have a history of high-risk behaviours such as intravenous drug use, prostitution and 'situational homosexual behaviour' in the prison environment. These considerations imposed upon prison authorities a 'special responsibility' to inform prisoners of the risk of HIV infection. Many of the persons making up the prison population were thought to be 'unlikely to have received such education in the general community'. If there is ignorance about AIDS and its transmission in the general community, it may fairly be assumed to be a still larger problem in prisons. There, socially deprived persons with lower than average education tend to predominate. The experts urged that policies of prison administrations to deal

with HIV/AIDS should be developed 'in close cooperation with health authorities'. They stressed the need for independent advice in the interests of prisoners by prison medical services. They urged the adoption of prison policies along the lines of guidelines which took into account a number of considerations. These included:

- ☐ The responsibility of prison administrations to minimise HIV transmission in prisons; and
- ☐ Prisoners' rights of access to educational programs, voluntary testing, confidentiality of results, availability of counselling, medical services equivalent to those available to AIDS patients in the community at large and information on treatment programs.

The WHO report suggested that prisoners with AIDS should be considered for compassionate early release 'to die in dignity and freedom'. The need to prevent discriminatory practices relating to HIV infection or AIDS 'such as involuntary testing, segregation or isolation, except when required for the prisoner's own well being' was clearly stated. The necessity to provide prison staff with up to date information and education was also stressed. The experts went on:

Homosexual acts, intravenous drug abuse and violence may exist in prisons in some countries to varying degrees. Prison authorities have the responsibility to ensure the safety of prisoners and staff and to ensure that the risk of HIV spread within prison is minimised. In this regard prison authorities are urged to implement appropriate staff and inmate education and drug user rehabilitation programs. Careful consideration should be given to making condoms available in the interest of disease prevention. It should also be recognised that within some lower-security correctional facilities, the practicability of making sterile needles available is worthy of further study (WHO 1987).

Perhaps most boldly the experts urged that governments:

May also wish to review their penal admission policies particularly where drug abusers are concerned in the light of the AIDS epidemic and its impact on prisons (WHO 1987).

Australia's Reaction

Against the background of these internationally stated guidelines, it is relevant to examine the response by governments and prison administrators in Australia where prisons are generally a state responsibility. Recent developments in New South Wales illustrate the fact that it is difficult to be sure of the most up to date information

on this score. Certainly, compulsory testing of all prisoners, including unsentenced prisoners, entering the correctional system is undertaken in Queensland, South Australia, Tasmania and the Northern Territory. Compliance with the obligation is obtained through the use of what are described as 'correctional sanctions'. In South Australia and Tasmania, a repeat test is undertaken after three months of imprisonment. The purpose of this test is to overcome the possible inaccuracy of the initial test based upon the established numbers of false positives and false negatives (due to imperfections of the test) or the possibility that the prisoner was in the 'window period' at admission, when first tested. As is now widely known, the test commonly in use to establish the presence or absence of HIV infection responds to the antibodies produced following exposure to the HIV virus. These antibodies take a time to present in sufficient degree to produce a positive test result. Estimates of the 'window period' vary. However, three months would appear to be safe for the purpose of catching cases missed in this way. In Queensland, retesting is conducted at twelve-monthly intervals. It may also be repeated on prisoners assessed as possibly engaging in 'high-risk behaviour' (Heilpern & Egger 1990, p.30).

In the other states, at least until recently, voluntary testing programs were offered and indeed encouraged. In Victoria, all prisoners are offered the opportunity to be tested upon admission. Reluctant prisoners are counselled and encouraged to volunteer. A very high compliance rate (98 per cent) is reported (Heilpern & Egger 1990). In Western Australia, a voluntary testing program was offered, but few prisoners were reported as seeking to be tested.

Until mid-1990, the policy of New South Wales prisons was to provide for voluntary tests only. At least until 1989 the number of prisoners volunteering for the test was quite low (estimated at 5 per cent). This was because of the consequences of a seropositive result. Prisoners found to be HIV positive were segregated. They lost the opportunity to participate in many prison activities, such as industry, education, work release. In these circumstances it was little wonder that the volunteers were few. Their number reportedly increased upon the abandonment of segregation. As well, prison authorities provided much information to prisoners about HIV/AIDS. In-house prisoner newsletters also contained much beneficial discussion of the subject and of the special risks presented by prison life.

The results of the testing systems outlined above are not (as has been said) entirely satisfactory. By the beginning of 1989, the cumulative number of HIV

positive prisoners in Australia revealed by such testing procedures was 99. As the total Australian prison population at any given time is of the order of 11,000 and as total annual admissions amount to about 33,000 prisoners, it can be seen that the present testing procedures reveal quite a low incidence of HIV in Australia's prisons. But these figures obviously mask a larger problem. Sources of the problem, and of the unreliability of the available statistics are:

- ☐ The numbers of false negatives/positives in jurisdictions where tests are not repeated;
- ☐ Prisoners in the 'window period' where tests are not repeated;
- ☐ Self-selection and exclusion in jurisdictions where tests are voluntary; and
- ☐ Exclusion of long-term prisoners in systems reliant upon more recently introduced testing on admission.

There seems little objective reason why Australia's prisons should be immune, at least in the long run, from the kinds and levels of infections revealed in Western Europe and North America. The same phenomena exist to give rise to the same problems, namely: high levels of drug using persons who are imprisoned for drug related offences, or gain access to injected drugs in prisons; and high levels of young male prisoners, deprived of heterosexual outlet, thrown together often in crowded conditions which may give rise to 'situational homosexual conduct' at levels significantly higher than would exist in civilian life.

It is in these circumstances that HIV is specially relevant to prisons. For these features of prison life mirror, unfortunately, the major known modes of transmission of the HIV virus.

The precise levels of access to injected drugs in prisons in Australia is unknown. Professor John Dwyer estimated in 1988 that in Long Bay prison in Sydney, about 60 per cent of inmates used intravenous drugs once or twice a week (Norberry & Chappell 1989; see also Strang 1990, p.42). If this is even partly right, it represents a very high exposure rate to the risk of infection from unsterile injecting equipment. The figure may seem very high to a casual observer of the problem. In any case, figures in Sydney, the major port of entry into Australia of illegal injected drugs, may make figures in New South Wales prisons unrepresentative of prisons in Australia generally. But that drugs do enter the prison system is indisputable. It is proved by the occasional cases of criminal charges brought against prison officers and prisoners. It is established by reliable anecdotal evidence. It reflects, in part, the fact that a very high proportion (said to be more than 70 per

cent) of all persons sent to prison in Australia have some civilian contact with illegal drugs. Because of mandatory or otherwise high prison sentences for drug related offences, it is inevitable that, at any time, many prisoners in Australian prisons will have had exposure to illegal injected drugs before admission. It is also true that many non-drug offences, particularly of larceny and robbery, can be traced to crimes committed, allegedly, to provide funds to feed an illegal drug habit. Likewise male and female prostitution are in some cases associated with that need. It is enough to say that the preconditions for the high increase in HIV through drug injection exist in the very nature of the client population of Australian prisons. Lack of effective alternative programs, lack of motivation to escape drug use, lack of resources to ensure adequate surveillance, the limits, in any case on complete surveillance and the advantages which can sometimes result from addicted prisoners who have access to their drugs all conspire to provide the environment in which even honest and vigilant prison officers may fail to eradicate drug use in prisons. To some extent it is, as Minister Yabsley has said, literally like looking for a needle in a haystack.

Overseas studies report that 20 to 30 per cent of prisoners engaged in sexual activity at least one time whilst in prison (Nakki & Kane 1984; see also Strang 1990, p.42). A 1989 study of a sample of prisoners in the South Australian prison system reported that about 42 per cent of prisoners engaged in risk behaviour at least once whilst incarcerated. Thirty-seven per cent were estimated to use drugs intravenously. Twelve per cent were reported as having engaged in unprotected anal intercourse (Douglas et al. 1989). There are numerous constraints upon accurate investigation of this phenomenon, including the cultural norms typically prevailing in men's prisons. Some cases of non-consensual sexual intercourse come to notice when charges are laid. It is reasonable to infer that these represent but the tip of the iceberg. Quite apart from violent activity of this kind, consensual homosexual acts undoubtedly do exist. The debate is thus about the level of prevalence.

What Can be Done?

What then can be done to protect prisoners from infection with HIV whilst in prison? About some matters there need be little debate. Few observers would dispute the need to:

- ☐ provide information, education and training to prisoners and to prison officers, administrators and all those responsible for prisons about the

special risks of HIV/AIDS in the prison context;

- ☐ provide facilities for antibody testing on a voluntary basis whenever a prisoner reasonably wishes to undergo the test;
- ☐ provide for strict confidentiality in the results of the test and for counselling both before and after testing is conducted. Discovery of seropositivity, particularly in a prison environment with a lack of support that may be available outside, adds to the need for understanding and assistance to prisoners found to be HIV positive. Prolonged periods of idleness, and the absence of the distractions available to a person pursuing an ordinary life in the community, mean that the impact of knowledge of seropositivity will be even greater in the case of a prisoner than otherwise;
- ☐ pay attention to tattooing by unsterile tattooing equipment which is another special concern in the Australian prison culture. It provides a reason for the provision of bleach or other cleaning materials so long as in house tattooing occurs;
- ☐ make available facilities for treatment, including AZT, therapy and therapeutic counselling from prison medical staff to seropositive prisoners. Such staff should be provided with information about HIV/AIDS with the latest medical and non-medical supports available to persons infected; and
- ☐ collate appropriate data for the purpose of tracing the problem and constantly reviewing policies in relation to it. Epidemiological data on the incidence of HIV among prisoners, provided on a purely statistical footing, should be pooled and distributed to correctional authorities throughout the country. Personal identifiers should be removed from such data. Fortunately, certain studies including on the South Australian prisons, reveal relatively high levels of accurate knowledge about HIV and its modes of transmission within prisons (Gaughwin et al. 1990, p.61). The bad news, however, is that, despite this information, prisoners and prison officers believe that there has not been a resultant substantial reduction in risk behaviour, particularly in respect of intravenous drug use (Gaughwin et al. 1990, p.63). Clearly prison journals should be used and prisoners themselves consulted on ways in which information can be effectively disseminated in the prison environment to ensure necessary behaviour modification.

Testing, Condoms and Bleach?

Mandatory screening: This leaves three issues of controversy upon which there is no unanimity. The first is whether compulsory testing of prisoners should be supported. Its introduction in New South Wales was accompanied by considerable debate including, apparently, within the Government. There is a tendency with AIDS to resort to mandatory screening. The Government is then seen to be acting. It is usually directed at powerless, voiceless groups (such as prisoners, overseas migrant applicants and members of disciplined services). It has the colour of a medical response to a medical problem. We remember the widespread useful testing for tuberculosis. It is relatively cheap. It has some epidemiological utility. It may also provide prisoners with some proof in the event that they later wish to bring an action for negligent care against the government or prison authorities.

The arguments in favour of mandatory testing of all prisoners for purely statistical data are strong. But, as introduced in Australia, identifiers have not been removed. Confidentiality has not been observed. In some prisons, the prisoners are segregated and lose valuable rights. In others, their confidences have been betrayed, as when one prison officer told a family member that his father would take a time to get to the interview room because he was 'in the AIDS wing'. Testing leads to no cure. Unless accompanied by strict confidentiality (which it is difficult anyway to maintain in a prison environment) it leads to discrimination, hatred and even retaliation out of fear. Unless a strict policy of separate prisons and segregation is adopted the testing leads, effectively, nowhere. As well, it is subject, unless constantly repeated, to the defects of false positives and negatives and to the window period. It may lead to false confidence about HIV status. It does not have the advantage which 'encouraged' voluntary testing presents as a first step in personal responsibility and behaviour modification which are essential for the containment of the HIV epidemic—especially in the artificial environment of prisons.

Whilst, therefore, I understand the political forces which lie behind compulsory testing of prisoners, I do not believe that it can be justified as an effective strategy against the spread of HIV in prisons, at least as presently undertaken. It is, I regret to say, politically attractive in part because it is cheap and has little consequence but involves doing something. I consider that the WHO guidelines which exclude such involuntary screening show greater wisdom.

Condoms: The provision of condoms in prisons has been opposed by prison officers' associations. In New South Wales, they even threatened to go on strike if any condoms were distributed in prisons (*Sydney Morning Herald* 14 June 1990, p.3). As a result of this threat it was agreed that the proposal would be 'kept on ice' for the time being. The *Sydney Morning Herald* reported that it was understood that 'Ministers feared that any unexpected confrontation with prison officers would seriously jeopardise legislation aimed at introducing compulsory AIDS testing for all New South Wales prisoners'.

A number of arguments are raised against the provision of condoms in prisons. Some of them are based upon the assertion that homosexual activity does not exist. This is a factual issue. It appears to defy such anecdotal and research information as is available. In some cases it is opposed on the basis that the provision of condoms would condone sexual activity, to the decline of prison discipline. However, in many of the responses to the AIDS epidemic, authorities have had to face cold reality. In the name of the higher good of preventing the spread of a deadly condition, which should certainly not be acquired whilst a person is the responsibility of a state in a prison, steps have been taken which, even recently, would have been considered unthinkable. The most obvious of these involves the needle exchange scheme.

It is said that prison officers should not be demeaned by handing out condoms. I entirely agree. Such a procedure would, in any case, greatly discourage their use. Condoms should be readily available from medical services. At the least they should be available from vending machines or prison stores. Prisoners cannot walk into a pharmacy and purchase them, as ordinary citizens may. They should not, by reason of their imprisonment, be exposed to the risk of a deadly condition which can be avoided (or the risk greatly reduced) by the use of condoms.

Then it is said that condoms will break and are not suitable to anal intercourse. New and safer condoms have been developed. Furthermore, it is not only for anal intercourse that condoms should be used. Condoms reduce the risk of sexually transmitted diseases spreading by other means of sexual intercourse. No-one suggests that condoms are a complete answer to sexual transmission of HIV/AIDS. But they clearly reduce the risk very substantially. They would not be likely to be used in violent sexual acts, such as rape in prison. But for reducing the transmission of HIV in prisons at least by consensual sexual activity, condoms should in my opinion be made available free of charge. Whilst it is true that there

is some risk that they may be used for secreting drugs or other objects, it is necessary in HIV prevention to balance risks. One thing is sure about HIV: once acquired there is no cure. In most, if not all, cases, it leads to death. I therefore find myself in agreement with the leader of the *Sydney Morning Herald* of 14 June 1990 (p.3).

[T]here are more private ways of distributing condoms. In other countries condoms are simply sold across the counter in prison canteens or from vending machines. For six years, NSW Prison Officers have maintained that they will not accept the state-sanctioned introduction of condoms. This obstruction is a major political problem ... there is ... a fear that condoms would be used to conceal contraband in body cavities. This is indeed a risk. But it is less serious than the dangers of the spread of AIDS in NSW prisons and its implications for society outside the prisons.

IV drug use: The most controversial issue is whether sterile syringes should be made available to prisoners or, at the least, bleach and other cleaning material to reduce the risk of spreading HIV through unsterile needles infected with contaminated blood. That risk is greater in the prison context because of the likelihood that, if illicit drugs are available, they will be administered with equipment which must be repeatedly used and shared amongst many users. To the subcultural forces which promote sharing of unsterile needles in civilian society, is typically added the imperative of unavailable alternatives in the prison context. It is not as if the prisoner can participate in the needle exchange scheme which has been introduced. He or she, if addicted, will usually have access only to imperfect equipment: just the kind likely to provide the perfect vehicle for the spread of contaminated blood.

I can understand the attitude of politicians and prison officers who resist the notion of providing sterile needles or even cleaning materials in a prison context. To many this would seem the final abandonment of the 'war against drugs' and in a disciplined context. It would appear, in an environment designed to uphold the law, to condone illegal drug use: a contradiction in terms. Many of these arguments were presented by analogy, when the proposal for needle exchange was made. In a rare and bold move with bipartisan support, governments in Australia, New Zealand and elsewhere have concluded that the risks of HIV/AIDS, and the usually fatal result of the infection, require radical and even unpalatable steps to be taken.

It is my belief that in due course even more radical steps will be needed as the AIDS epidemic penetrates western societies by the vectors of drug infected heterosexual males and females.

Already we are beginning to see serious calls to address the problems of drug addiction by the techniques of public health rather than the imperfect mechanisms of law and order (see, for example Australian Parliament 1989; Wodak 1990; Kaplan 1988). But this will remain a long-term strategy—one of great significance for the prison system. In the short term, in prisons, as in society, contradictions must be tolerated precisely because HIV once acquired has such devastating, horrible consequences. Offenders are imprisoned as punishment and not for punishment. They certainly do not go to prison to be exposed to the risk of acquiring a fatal condition there. Unless governments and prison administrators can absolutely guarantee a totally drug-free environment, it is their plain duty to face up to the risks of the spread of HIV infection by the use of unsterile injecting equipment in prisons. If it is too much to adopt a similar exchange system (unused for used needles) at the very least cleaning bleach should be provided for use by prisoners. Such provision must be backed up by education about the great dangers of IV drug use today. It must be supported by the expansion of methadone and drug rehabilitation programs both within prison and afterwards (see Strang 1990; Victorian Ombudsman reported in *The Age* 20 July 1990, p. 16). Again, I agree with the *Sydney Morning Herald* leader of 14 June 1990:

Dr Alex Wodak, Director of the St Vincent's Hospital Drug and Alcohol Service said this week [that] prisoners [should be supplied with] condoms and provided with bleach for cleaning needles. It is advice to which [the Minister] should listen.

Conclusions

The subject of this essay has illustrated the challenge to our correctional policies and institutions posed by an epidemic which was completely unknown and unexpected fifteen years ago. However, it is now upon us. As overseas experience shows, it has special significance for the Australian prison system. We must ready ourselves, as a civilised community, to ensure that prisoners are not unnecessarily exposed to acquiring a fatal condition whilst in prison. If we do not take proper steps, we will stand condemned as irresponsible and morally negligent in the safekeeping of prisoners.

The World Health Organization has provided sensible guidelines. As I have said before, it is unfortunate that Australian politicians and prison administrators have not adhered to them. Not enough has been done to spread

and repeat the educational messages to the constantly changing prison population. Political gestures, such as mandatory testing, have been taken with little practical utility in addressing the real problems of HIV infection in prison. Prisoners found to be infected are not isolated. The only advantage of this testing is that it will provide evidence upon which prisoners will be able to rely in actions against governments in negligence in other respects to HIV acquired in prison. I rather doubt that this was the policy which lay behind the strategies of mandatory testing of prisoners. As is usually the case, those strategies are based either on ignorance or prejudice or real indifference to the true problems of containing the AIDS epidemic.

In the potential incubator of prisons those true problems derive from the established modes of transmission of the HIV virus. These are by IV drug use and unprotected sexual intercourse. Advice, education and counselling (including to the point that the highest protection exists in avoiding entirely risky activities) must be given. But for those who cannot, or will not, take such advice, practical steps must also be taken. These include the availability of condoms and of cleaning bleach to prisoners.

Death, as they used to say in the old road safety advertisements, is 'so permanent'. If overseas experience is any guide, many prisoners will become infected with AIDS in prison. They will mirror the sexual orientation of the general population. They could then become vectors for spreading a deadly virus through our population. We owe it to the prisoners—but if this is unconvincing, we owe it to our community—to protect prisoners from infection whilst in prison. This requires radical steps before it is too late. We have taken them with the needle exchange scheme in civilian society. Such steps may seem unpalatable. The infection of any prison officer by the isolated act of a prisoner is most unpalatable. It is criminal conduct and morally outrageous. The infection of a person who is in the custody of society, because that person does not have access to ready means of self-protection and because society has preferred to turn the other way, is just as unpalatable. As a community we must take all proper steps to protect prison officers and prisoners alike. By protecting them we protect society. I therefore hope that we will go back to the WHO guidelines on prisons. And, that we will see fewer empty gestures—and more real concern to protect prison officers, prisoners, and ourselves. Only in that way will we halt the needless spread of this most terrible virus which imposes a great economic burden on society, strikes down the young, uses pleasure as its agent of

spread and inflicts a long, cruel one-way journey to death which causes great suffering to those infected and to those who, helplessly, see them die.

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Citizens and Corruption

Continued from page 5

the stigmatisation which will be brought to bear in the event that a corrupt official is exposed.

In conclusion, although citizen participation is a necessary condition for efficient and effective corruption control, it is not by itself sufficient.

The measures discussed above are just part of the arsenal of corruption countermeasures. A variety of administrative and managerial considerations, such as the recruitment, training and supervision of public servants, the structure of organisational disincentives to corrupt practices, and organisational incentives to report such activity, cannot be overlooked. Nor can the mechanisms by which corrupt practices are investigated, prosecuted and punished by state authorities.

To be sure, involvement of the ordinary citizen in corruption control carries with it some risk of abuse. An excess of public participation can lead to the deprivation of human rights. It would nevertheless be foolish to discard citizen participation outright, simply because some extreme variations are unacceptable or pose a downside risk. There is, then, what might be termed an optimal level of participatory corruption control. Safeguards can be designed and incorporated in those institutions which exist for citizen involvement. And in the current fiscal climate, just as conventional law enforcement is strengthened by community policing, an optimal level of citizen participation is one area of corruption control which governments can ill afford to neglect.

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HIV/AIDS and Prisons

**The Honourable
Michael Yabsley***

Compulsory Testing and Integration

We all share the common concern in regard to the invasion of the frightening disease which is in world-wide proportions and touches all of us as we go about our daily occupations. I know that the scientific community is dedicating its united effort in trying to locate a cure for this stealthy killer.

We acknowledge the enormity of the problem. We are saddened by the evidence of the undesirable outcomes and frustrated by our united inability to control a plague which is universally demanding.

My particular concern is for the prison population and the State of New South Wales. I am conscious of the difficulties which a term of imprisonment imposes on individuals and of the discomfort which is generally shared by the prison population. My administration is concerned with bringing about humane conditions within a closed environment, and at the same time fulfilling the requirements of the courts. I have a number of detractors in New South Wales, and indeed they may even spread further afield. It is not surprising that such a situation should prevail, for when real change is introduced, a number of people become threatened, alarmed and are imbued with feelings of insecurity and uncertainty.

Real change is taking place within the New South Wales prison system. Under numerous previous administrations there seemed to prevail an attitude of complacency, and the continuation of policies which dated back to the previous

century. There was a general acceptance that certain criminal elements within the gaol system were the key operators. Their activities were condoned, as on the surface, it appeared that the gaols were quiet and that control was effectively being maintained.

You will be aware that some disturbances have occurred within the New South Wales penal system in recent weeks. Let me briefly allude to the necessary policy which restricts prisoners' private property. When the present administration came to Government, we found a prison system essentially dominated by the physically strong, by those who took on the role of predator and imposed a reign of terror against the weak. It was a system of fear and violence. It was a far cry from the basic requirement of having a humane and rehabilitative prison which would cater for the needs of those many inmates requiring to learn a disciplined way of life and acquiring some skills which would enable them to re-enter the community with a feeling of confidence.

We discovered that a few prisoners were collecting large quantities of property, usually at the expense of other prisoners in the system. Property became a vehicle for exchange, and in addition, it was used to secrete contraband items including drugs, syringes and needles. The restrictions we have imposed have provided a more equitable control of the prison system and have facilitated the searching of cells with the subsequent reduction of the incidence of contraband.

Let me make it clear that a reign of deprivation has not been imposed on the prisoners. The standard prison issue of clothing remains in place as it was previously. The approved cell property

has been divided into three classification, maximum, medium and minimum security prisoners.

You may wonder at the connection between the restriction of prisoners' private property and the attack we must all mount against AIDS. I have explained to you the fact that excessive property has indeed been used for the secreting of needles, and the use of needles in prison is a major concern when considering the spread of AIDS. While the Geoff Pearce incident needs to be kept in perspective, part of that perspective must be an acknowledgment of what can happen.

Let me turn now more directly to the subject of AIDS in prisons. You will be aware that the New South Wales correctional system is the largest in Australia. We have experienced an increase in the gaol population and at any one time there are in excess of 5,700 people undergoing imprisonment with a yearly turn over in excess of 15,000. Over a period of several years this amounts to a large number of people who have had contact with the prison system, although recidivist rates would indicate that a number would be returning to prison on a second or third occasion.

We have a total of 28 institutions which cater for the maximum, medium and minimum security prisoners and include remandees and periodic detainees. It is difficult to estimate the number of prisoners who have a drug-related background - some predictions suggest that as many as 80% of prisoners have this particular problem. A recent Departmental study on sexual and HIV drug use behaviour of prisoners¹ suggested that prisoners requiring to use needles in gaol, experience some difficulty because of a

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shortage in this area, and as a result, found it necessary to share needles.

My Government, of course, will not facilitate illicit intravenous drug use or, in fact, any type of illegal drug use amongst the prison population. *We are not going to provide a needle exchange system or provide any mechanism for the provision of needles for illegal purposes.* There are those who would argue that this is inhumane, that we are depriving the drug user of a means to which he is well accustomed and that we are increasing the likelihood of AIDS infection by denying this facility. I totally reject that proposition. Our aim is to prevent drug use and this can certainly not be achieved by enabling the drug user to continue with the practice while in custody.

A similar situation prevails in regard to sexual practices within the prison. We are well aware that homosexual activities do greatly increase the probability of contracting the AIDS virus. We have carefully thought about the issuing of condoms and have rejected the practice out of hand. Let me refer to the United States where only seven States allow the distribution of condoms, and these are mostly in areas where conjugal visiting rights apply. The American Federal System which accommodates 60,000 prisoners does not allow condoms in the prisons. Both the United Kingdom and France decided against the distribution of condoms. No Australian State distributes condoms to its prisoners. Significantly the Dutch system allows condoms for conjugal visits only. Let me explore with you some of the reasons why the distribution of condoms has been rejected.

The issuing of condoms in prisons promotes the possibility of violence and victimisation being directed towards those who request or receive condoms. An increase in the incidence of sexual assault on prisoners is likely if condoms are made accessible. It might appear safer to the potential offender to violate his victim if he is afforded apparent protection by a condom. Condoms have been widely used for the carriage of illegal drugs into the prison, a further reason why they have been banned. Condoms can be used as a weapon by prisoners, either against fellow prisoners or prisons staff. They can be filled with water, sand or any substance and used as missiles.

A strong emphasis has been placed on education and training throughout the prison system. This is seen as the most effective means of preventing the spread of AIDS. I have appointed four AIDS Co-ordinators who have established in each institution AIDS information sessions, AIDS Action Committees and peer education Programs for staff and prisoners. The general aim is to have the staff and prisoners within each institution manage the AIDS problem. The regular

information sessions are designed to keep AIDS awareness at a high level. The AIDS Action Committees are very important in each institution. They adopt a pragmatic approach to the serious problem and are responsible for the development of songs, videos, information stalls, brochures and fun runs.

The Peer Education Program has been very successful in distributing vital information. It has gained entry into the prisoner culture system and with its acceptance in this area has proved invaluable as a preventative source.

Legislation was recently passed providing compulsory testing for AIDS within the prison system. This process commenced on 5 November this year. Initially it will be directed to all new prisoners entering the system and on prisoners, several months prior to their release. Within a short period of time all prisoners will be tested. As you will be aware, there has been some debate about this particular issue, but the major concern revolves around the integration or segregation of HIV positive inmates.

In a paper delivered by Professor John Dwyer he said;

The pivotal problem for most Departments of Corrective Services revolves around the question of segregation. If a policy is created whereby all individuals known to be infected with the HIV virus are to be isolated from the rest of the prison system, and confined with other prisoners similarly infected, then serious problems follow. Segregation is not justified on medical grounds.²

Segregation of course imposes additional restrictions on prisoners, it has a tendency to create a leper colony in an environment which could be described as less than happy. It is not our intention to see inhumane activities operate within the system generally, and we have a particular sensitivity towards those unfortunate prisoners who contract this deadly virus.

A strong argument against segregation is the inevitable risk of creating a false sense of security from the virus amongst those in the mainstream of the prison system.

One of the most forceful ways of discouraging high risk behaviour is the fear of contracting the virus. I am firmly of the opinion that segregation would be at odds with this theme, and would be instrumental in creating a false sense of security amongst most prisoners.

Let me briefly address the criticism I often hear that AIDS, like so many other issues relevant to corrections is being used for political purposes, or that the real health considerations take a poor second place to political considerations. Put more bluntly, the criticism is made that Governments seek to appeal to some base prejudice in order to justify

predetermined political considerations.

If that were true, segregation rather than integration would have been set in stone as the way to accommodate HIV positive prisoners.

The task of selling the reasons for integration has not been an easy one. There has been deafening silence from groups such as the Council of Civil Liberties on this issue. I suspect despite the merits of the issue they opted to avoid the risk of being seen to support the individual. The Council of Civil Liberties would do well to support the case on its merits rather than satisfy their own more partisan tendencies.

The compulsory testing/integration strategy represents what the government believes to be the best possible strategy to deal with a problem that has no comprehensive solution. In the absence of that solution, politicians, if they are being totally honest, will tell you that the decision has shades of what is least wrong, rather than what is most right.

Our high degree of sensitivity is very much the forefront of the introduction of HIV testing. It is also associated with the management of HIV positive prisoners. The Commonwealth AIDS Research Grants Committee (CRAG) report on AIDS in prisons recommended the introduction of compulsory screening with counselling. We have now in place the necessary processes to conduct the screening as I have previously outlined and with the identification of any HIV positive prisoner we will be providing counselling by highly skilled professionals. The Commonwealth AIDS Grants Committee felt that 'the prevention of HIV transmission within prisons could be most efficiently achieved by identifying those individuals who are positive for either HIV antigen or antibody and by concentrating resources on them'.

Prisons are often referred to as incubators for the AIDS virus and many in the community identify these institutions as places emanating danger. Certainly there is a tendency to have a congregation of HIV infected inmates but rather than be an incubator the prison is a funnel as many offenders tend to come from the high risk areas in the community. Intravenous drug users are obviously at risk and you will all be aware that the prison contains a large number of prisoners from this category.

Clearly it is important to establish the extent of the AIDS problem within the prison system. Not only do we have that obligation but we act in compliance with the Federal Government's white paper on AIDS which recommends the compulsory testing of prisoners so that the spread of the AIDS virus from the prisons to the general community can be limited.

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Professor David Bayley*

The International View

In Brisbane, from 23 to 25 October 1990, the conference 'Police and the Community in the 1990s' was organised by the Australian Institute of Criminology and the Criminal Justice Commission of Queensland. Two major papers from the conference have been adapted and shortened for publication in *Criminology Australia*.

Community policing has become the major movement of change and strategic reformation in policing in the 1980s. The question is whether it is going to become real or whether it will remain largely a rhetorical game. But at the present time, in most police forces that I know, it is the only game in town. Everybody is talking about it, every police force will tell you that it is doing it, there are books about it, and there are conferences such as this one, all about community policing.

I intend to do three things. First I will review what is being done in some of the notable experiments in community policing in several places so that you may see something, at least, of what is going on. Secondly I am going to make some comments about the movement itself. I will end with what I think are the lessons that police forces are learning about community policing, the lessons that have to be learned if community policing is going to be made real.

Canada

In Edmonton, Canada, which is one of the major cities on the western provinces, they have analysed the calls for service in that city and come up with what they consider to be the 'hot spots' of crime and disorder, where there are most calls for service and where most patrol activity seems to be concentrated. There are 21 of those 'hot spots' that they have delineated and in each of those they have designated a police officer to be in charge of that particular bit of territory and to be the primary agent of policing in that area. At the same time I

should say that that police officer is supported by mobile patrols in the traditional way.

That officer is responsible for setting up a police office and for recruiting volunteers from the community to help in becoming better acquainted with the community, diagnosing the problems of the community and then coming up with some action plans to meet what the residents consider to be the problems that need attention.

The community police officers in those 21 areas also do primarily foot patrol. They are given a vehicle but that is really just for transportation from the police station to wherever they work.

These 21 beats were set up in 1987 and have been very popular. I will now say something which I will probably say 100 times: the Edmonton experience has not been evaluated. You all want to know does it work. We do not know and that is kind of a general lesson. All of these programs that I am going to describe, with only one or two exceptions, have not been evaluated.

In Montreal, Canada's second largest city next to Toronto, they have designated certain areas which once again have particular disorder and crime problems and where there is a large and usually congested residential population, lots of pedestrian activity as well as small retail shopping activity to be 'elos', from a French word meaning islands or atoms.

The officers in Montreal and in general duties work on a 35-day roster, 21 days of which are served on the street. In this 21-day shift period the 'Elotea', as these officers are called, are supposed to spend eight hours in their elos. During those eight hours they walk the streets, talk to the citizens and try to build up knowledge of the community.

By the end of the 1990 northern summer, there were 297 police officers who were designated for these kinds of duties, 297 areas that had been demarcated as elos.

Halifax, which is in Nova Scotia, in 1986 undertook community policing and it became team policing. They

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decentralised the CIB and teams of CIB personnel and general duties officers work together to diagnose the problems of the area. They then determine what sort of mixture of proactive and reactive policing is required by each of the three patrol zones in Halifax.

In Ontario, the Ontario Provincial Police is very much like an Australian state police, having about 4,000 officers covering a large territory in North America. They have established a community police officer program involving at the moment about 100 officers and each of these officers work primarily in rural areas.

One hundred areas (40.47 h) have been designated as community policing areas in the Province of Ontario. These 100 areas encompass 700 local government jurisdictions of one sort or another. Each of these officers is required to set up an office and also to establish a Citizens' Advisory Committee. This committee will assist the officer in carrying out programs to solve the problems that are diagnosed in each of these areas. They do very little foot patrolling in the Ontario Provincial Police experiment, largely because it is carried out in rural areas.

There are 100 of these community policing officers now and the number is expected to double by the end of 1991.

The United States

Detroit, Michigan, is probably the oldest community policing program in the United States. It began in 1976 and it involved the creation of 93 mini-stations that now pretty well cover Central Detroit. In Detroit, a city of just under one million people, these 93 mini-stations are dedicated to community crime

prevention and the officers in these stations do not answer calls for service. What they do is to work with the community in various self-help community crime prevention efforts, notably Neighbourhood Watch. They also use volunteers from the community to help in the work of implementing or promoting community crime prevention.

In New York City, they have a program called C-POP, Community Police Officer Program. In a patrol force of 1600, 900 of these officers are now involved in the C-POP program and what this means is that in each of the approximately 93 precincts, there are about 100 C-POP officers. Each of these officers has been given a turf, a bit of territory that they are responsible for policing with an overlay of rapid response patrol vehicles. They can do more or less what they want. Their injunction is to get to know the community and in discussions with the community find out the ways in which police resources ought to be allocated in order to meet its requirements.

There have been two developments in Houston, Texas: the establishment of nine store-front police stations and a program called Dark Directed Area Response Team. This is somewhat like the Halifax program in Nova Scotia in Canada. Patrol teams have been set up involving detectives working with general duties officers to diagnose the areas of concern in the community and then to be primarily responsible for both reactive and proactive policing.

Fourthly, in the United States, Santa Ana, California, is a city in Orange County south of Los Angeles and it is about 40 per cent Hispanic at the moment. The community police program involves the creation of four community police stations staffed by, in addition to police officers, civilian community service officers. These people wear uniforms that are almost identical to sworn officers with a special patch. They are not armed and do not carry truncheons, and handle a lot of the social service work which is connected with policing. The officers in these community police stations work primarily on their feet and do a great deal of problem solving.

Japan

The Japanese system is composed of koban which are mini police stations scattered all over Japan. There are 6,500 of these police posts in the urban areas of Japan. There are 10,000 in the rural areas of Japan. I calculate that there is a neighbourhood police station of this sort within six or seven blocks of every urban resident in Japan. It is still the case that about 50 per cent of all the calls for police service in Japan come to the police in person rather than over the telephone. People actually go down the

street and come into a police station and ask for help.

The personnel in these koban and chuzaiso do several things. They do all their patrolling on foot. Their koban is, as I have already indicated, a place that is readily accessible for anything that the community's people have in mind. The police officers in these koban also make twice-yearly visits to every home and business in their particular area and ask what problems exist. They work with the community to promote crime prevention involving the standard programs.

The Japanese are not happy with this wall to wall community policing system. They believe that their extensive community police system lacks two things. One, they had never developed schemes of liaison with the community. All kobans are to create for the first time formal community advisory boards to provide feedback. Secondly, they are working now on the solution of community problems where before the emphasis was on law enforcement.

Singapore

Singapore is the most dramatic instance of a major police force deciding in a very short period of time that it wanted to change the fundamental paradigm for the delivery of police services.

Until 1983 Singapore was policed very much like Brixton and Liverpool and the major cities in Great Britain. It was reactive. It was based on motor vehicles. There was a strict division between the CID and general duties officers. It was the British model par excellence. Between the years 1983 and 1989, Singapore changed its model to that of Japan, and if you go to Singapore now you will find strict copies of the Japanese koban all over Singapore.

There has been a de-emphasis of random motorised patrolling in favour of kobans, of which there are almost 100 koban now on the island of Singapore.

These are some illustrations of what is going on in a lot of different places under the rubric of community policing. Now, let me make some observations about this.

First, it should be quite apparent that community policing is not a single program, it is all sorts of things.

I have seen community policing range from being simple rhetoric: public relations that is enunciated by commissioners because it sounds wonderful and it will look as if a police force is being progressive when in fact it is not doing a damn thing. I have also seen community policing rhetoric being applied to quite traditional police programs.

On the other hand I have seen community policing applied to really creative, new developments in policing. There are some real community policing

programs where officers are taking great risks and are working against a climate of entrenched opinion in their police department that makes it very difficult to accomplish their aims.

I want you to notice some of the elements of variation in the community policing experiments I have discussed. One element that varies is the personnel. Here the question is whether community policing is to be carried out by new specialists or by people who are doing traditional police work who will be asked to reorient the way in which they carry out their responsibilities so as to respond to the philosophy or ethos of community policing.

There are variations in the organisation of community policing. In some places it is a new command often based in headquarters, a new unit of specialisation within the police. Sometimes it is, however, a function which is integrated into the existing command structure. This is rarer than the first and it is very difficult to do but some police forces have succeeded.

Thirdly, there are some major variations in the functions of so-called community police. Do they handle calls for police service? Some places they do, many places they do not. Almost all community police officers are responsible for community crime prevention in some way. Again, some do foot patrolling, many do not.

Lastly, do they solve problems or not? Are they given scope in their charge to diagnose the needs of the community and come up with modes of policing that are appropriate for that community? Or are they simply responsible for delivering traditional police services in a more responsive and community oriented way?

The basing of community policing varies a good deal as well. It may be based in headquarters, police stations or smaller dispersed offices that the community police officers themselves create.

With respect to community consultation, on the one hand there is ad hoc community liaison where a community police officer just goes out into the community and tries to find responsive people who are on the side of the police. On the other hand, there are some very explicit schemes for the construction of community consultation, where the police department has established policy for who is going to be on these advisory boards, who is to be represented, how often they are to meet, what their function is in planning and so forth.

And lastly, there is the funding. Some community police programs have required additional funding and others have been funded out of existing budgets.

Evaluation

Community policing is not institutionalised in any of the English-speaking countries that I know. I think it is in Japan. One of the reasons community policing could disappear overnight in our countries is that we do not know whether it is working.

On the other hand, we do not know whether most policing is working either. There is hardly any practical evaluation of whether different programs for the management and delivery of police service are really accomplishing ends. What I suggest is that we need in policing a mindset that encourages systematic attempts at evaluation of new programs. Your police forces, like the police forces of Canada, represent marvellous opportunities to do this because you have forces in Australia with a lot of people in them and they cover huge jurisdictions. Why not try different programs in different places to see if they work? You cannot do that in the United States because we have minuscule police departments. The average police department in the United States has 12 people in it. If you do an experiment in one place and it works, everybody says it was because it was that particular police department.

Australia has these huge police departments where the organisational climate, training, incentives, pay and all of that is the same across an entire area so all the organisational variables are constant. It is possible to try out different things in different places. But the mindset in policing is not favourable to this. Police managers at the top level do not ask for feedback from their field operations about whether their programs are working or not.

Lessons from existing community policing efforts

Lesson 1.

You have to decide programmatically what you want community policing to do. You have to transform it from being a philosophy into a program. People are saying, 'Community policing is a philosophy it is not a program.' I understand what you are saying, but if it does not become more than a philosophy - if it does not change the behaviour of police officers who are doing the work - then it is only rhetoric.

So the first lesson is, figure out programmatically which of these elements of community policing you want then develop your implementation plan.

Lesson 2.

Community policing must be managed. It cannot be just talked about and directed. It is necessary for managers to figure out how they are going to bring it

about. That is: what is required in terms of supervision, of incentives, of training in order to make community policing real. Police managers have to realise what it is in the institutions that they are responsible for that must change in order to achieve these particular sets of objectives. Management of community policing is a lot of hands-on activity and it is time-consuming.

Lesson 3.

Community policing must be staffed. There are two ways that I have seen that human resources are given to community policing. One is through the establishment of a centralised crime prevention or community policing unit. The other way is to tell existing officers to do what they have done all the way along but give them some extra time in their own shift to do community policing kinds of things.

Lesson 4.

Commanders must learn to use existing resources to meet their purposes. It is not a case of doing more with less, they have to learn to do more with the same. This will mean changing a lot of the traditional allocations of manpower.

Lesson 5.

Community policing works best when the people who are allocated to it are given responsibility for a particular territory of their own and are told they are responsible for that community within those boundaries. They then get a sense of ownership and of pride.

The second thing that comes out of that is that if you give people a piece of territory and tell them to be responsible for it, they have to be allowed to roster themselves to some extent. There are frightful rigidities in the managing of police and often I see frustrated community police officers who have been sent out to get to know the community, to find problems and solve them, and the shift hours do not coincide with the hours when they are needed.

Lesson 6.

Community policing is a new means, not a new end in policing. This has to be said because one of the sad things about community policing is that it is being set up in a way that denigrates much of the traditional work of policing, and much of which is exceedingly valuable. Crimes have to be solved. Emergency needs have to be responded to and we cannot just forget those particular tasks. What we have to do is to bring on board people who have been doing traditional police work for a long period of time and show them community policing is not a threat to what they have been trying to accomplish, it is a new means, however, for making sure that it is accomplished better.

Lesson 7.

New criteria for evaluating the performance of police officers must be developed if they are assigned to community policing work.

Lesson 8.

Middle rank managers have to learn to facilitate community policing and not simply supervise it. Middle rank managers in policing do supervision primarily. They do not do facilitation. They are not there to encourage new things to get done. In many ways I think they are out there to discourage new things from getting done. A new orientation for middle rank managers in policing is necessary if community policing is to be accomplished. The task of supervision of the middle becomes different.

Lesson 9.

Senior commanders have to rediscover what community policing is really all about. Community police officers have to be brought back into headquarters and the senior brass have to sit down with them and to listen to them.

Lesson 10.

Community police personnel have to be brought together at regular intervals to share trade-craft and for psychological support.

Conclusion

There are some marvellous experiments in community policing from which we can all learn. Community policing represents the wave of the future for three reasons. The first is everybody in policing knows that what has traditionally been done is not working.

Secondly, the only way that new resources are going to be made available for policing in our communities is through the mobilisation of the human resources of the community.

And lastly, community policing is the only strategy which begins to meet the major fear that is in the mind of policing in all the English-speaking countries. Talk to police officers off the record and what they fear most is collective violence by disadvantaged groups in urban communities, often stratified by race and ethnicity. That is what they are worried about in the United States, in Canada, in Australia and in Britain. Community policing is the only strategy which allows you to reach into those communities and to do something ameliorative, helpful, and to build bridges to those communities before the only response these people have to conditions of modern life is violence. The other strategies of community policing do not do that. Community policing does.

Compulsory Testing and Integration *Continued from page 18*

You will be aware of the window period which refers to the time between infection with the AIDS virus and the appearance of antibodies in the blood, and it will therefore be necessary for prisoners to submit to a blood test at any time during his or her period of imprisonment.

Let me say something more about the segregation of HIV positive prisoners. I have told you that integration is the policy which we firmly adopt. In saying this I would also advise you that prisoners in the mainstream of the system are, and always have been segregated for reasons which include the good order and discipline of the gaol. Obviously if a prisoner exhibits disruptive behaviour, assaults another prisoner or prison officer, he or she will be subject to segregation irrespective of whether he or she has AIDS or not. Some have argued that optional segregation rather than integration best describes the course we have chosen in New South Wales. I think in a practical sense they mean the same.

In operating a compulsory testing program we are very conscious of the need for confidentiality. The information and results of tests will be extremely limited and will not be available to the general prison officer, nor of course will the general prison population be informed.

Clearly no system has yet come up with a perfect management strategy for this deadly disease. We must decide on the best methods available to contain it while we encourage our scientists to seek a cure and an effectual prevention for what has been such a devastating experience throughout the world. We remain ever vigilant in our search to provide the very best service that will ensure the containment of the virus, and I am absolutely certain that the structures we have put in place will greatly assist in preventing the spread of this deadly disease throughout our society.

1 Potter, F, Connelly, L. (1989) "AIDS and the Drug Use and Sexual Behaviour of Prisoners; Are They at Risk?" Research and Statistics Division of the New South Wales Department of Corrective Services.

2 Professor John M Dwyer, Ph.D. M.B., B.S., F.R.A.C.P. University of New South Wales School of Medicine. The Prince Henry and Prince of Wales Hospitals. A paper delivered at the Australian Bicentennial International Congress on Corrective Services.

Community Policing

A shortened version of the paper
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Australian Institute of Criminology
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Commission, Brisbane,
23-25 October 1990.

Implementation and the TRG

As Australian police forces move towards a more pronounced commitment to community policing, it is worth critically examining some of the impediments which prevent the realisation of such a project. The issues raised in this paper derive from research conducted in association with the Human Rights and Equal Opportunity Commission's National Inquiry into Racist Violence¹. The focus of the paper is the relationship between policing profiles in Aboriginal communities and the notion of community policing, however the implications impact on the problems of implementing community policing strategies more generally.

Defining the Community

It has been raised often enough previously that there are definitional problems associated with the concept of the 'community' (for instance, Stenning 1984). Such problems are not purely of academic interest because the way in which particular geographical or social groups are designated as forming so-called communities has a direct impact on the implementation of policy. Several years ago Bryson & Mowbray (1981) wrote an article entitled 'Community: The Spray-on Solution'. The title itself is suggestive of the way notions of the 'community' are uncritically posed as solutions to various problems. More importantly community itself is based on a notion of social harmony, a view of the world which is seen as conflict free². Under the rubric of the community, contradictory social relations of class, race and gender disappear. The exercise of power and exploitation are deemed

non-existent if the definition imposed posits a single 'community'.

Thus the application of the term 'community' has a powerful political effect of deeming conflict between groups as extraordinary and therefore illegitimate. These issues have a particularly important role in relation to Aboriginal people and community policing. It is said by respectable whites in areas where there are significant Aboriginal groupings that 'we're all part of the one community'. Such a statement is usually used for the purpose of criticising Aboriginal dissent, as if the expression of dissent is undermining an assumed consensus. Those who talk of 'the community' are often those, who by virtue of their social and economic power, have the resources to enforce particular notions of moral or social behaviour. It is in their interest to define themselves as the 'community' or its representatives. For those who do not conform, their behaviour is defined as being against or outside community standards.

Over-policing and Community Policing

It is worth remembering that in NSW rural areas much of the 'law and order' push which defined Aboriginal people as law-breakers occurred under the name of individuals who would define themselves as community leaders (Cunneen 1989). One expression of the practical impact of such a political campaign is the allocation of police resources. The issue of an apparent disproportionate number of police stationed in Aboriginal areas has been raised on previous occasions (Anti-Discrimination Board 1982; Cunneen & Robb 1987). One might seriously question then the relationship between community policing, the political calls for more law and order, and the over-policing of Aboriginal Australians.

Table 1 shows the number of police in several NSW towns with large Aboriginal populations.

TABLE 1
NSW Police
Authorised Strength

Town	May 1986	March 1990	Approx Town Pop'n	1990 Ratio Police /Pop'n
Bourke	26	30	3,400	1:113
Brewarrina	7	11	1,600	1:145
Walgett	17	26	2,500	1:96
Wilcannia	6	11	800	1:73
NSW	10,743	12,427	5,701,500	1:459

Sources: NSW Police Department, ABS, Local Councils.

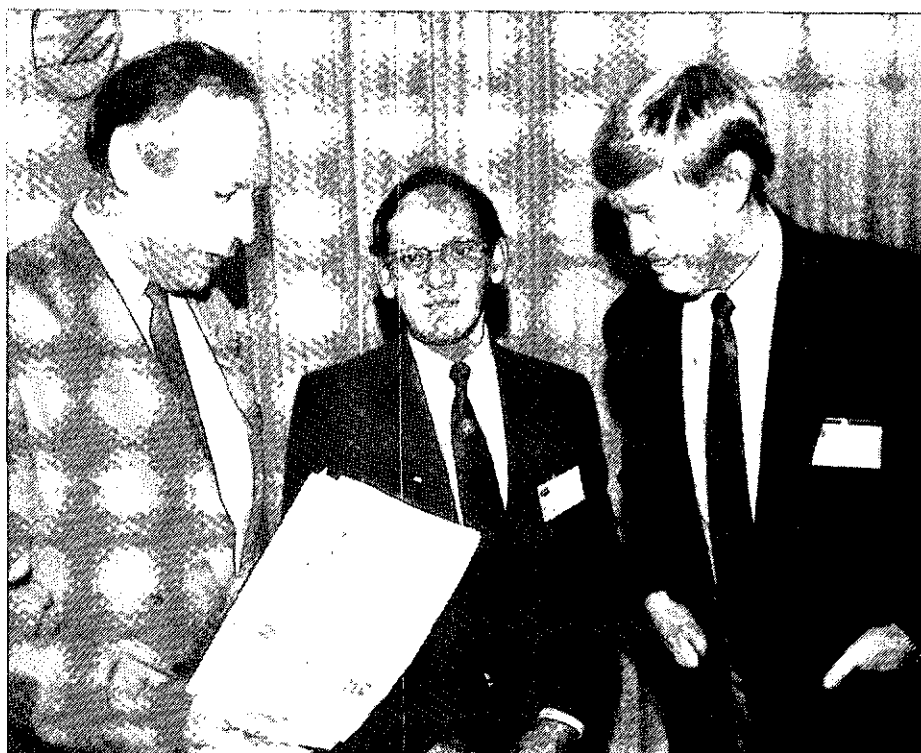
The empirical evidence strongly suggests that there are disproportionate numbers of police in the so-called 'Aboriginal' towns in NSW. All the towns shown in Table 1 have significantly greater numbers of police per head of population than the state average.

How would we explain such over-policing within the model of community policing? Community policing, we are told, is 'police work as a community endeavour' with a focus on preventive policing. It is a proactive approach to policing. Meanwhile the official explanation for the allocation of police numbers, at least in NSW, relies on a system of measuring workload and allocating resources accordingly. Workload measurement includes categories such as charges, intoxicated persons, telephone messages, crime reports and stolen vehicles. While some of these categories may be taken to, at least partially, reflect the occurrence of crime, others such as charges and reported offences will be influenced by the social dynamics of policing practices.

Despite what might appear to be objective criteria in allocating resources, the discretionary nature of policing will itself directly effect any model for workload measurement. As Grabosky (1989, p.165) and others have noted, proactive policing will generate much of its own workload. In towns with large

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Sir Max Bingham (left) and Dr Paul Wilson, Acting Director of the Australian Institute of Criminology at the launch of *The Size of the Crime Problem in Australia* by Dr Sat Mukherjee (centre) and Dianne Dagger. The publication was launched at the community policing conference.



Aboriginal populations, proactive policing, given the nature of Aboriginal/police interaction, is likely to amplify conflict between the groups and thus justify further police intervention. Such intervention itself may lead to more authoritarian reactive styles of policing (such as the use of tactical response police).

The Fitzgerald Report advocates the use of the Eric St Johnston ratio for determining the ratio of police to population (Fitzgerald 1989, p.225). The Eric St Johnston ratio is shown below in Table 2.

TABLE 2

**Eric St Johnston Ratio
Police to Population**

Population Size	Ratio Police/Population
Population under 5,000	1 : 1000
From 5,000 to 20,000	1 : 530
Over 20,000	1 : 350

Source: Fitzgerald 1989, p.225

If the Eric St Johnston formula were applied to Wilcannia we would expect a police presence of 1 officer rather than 11, in Brewarrina we could expect 1-2 officers instead of 11, in Walgett 2-3 officers instead of 26 and in Bourke 3-4 officers instead of 30.

Even decisions to operate a 24-hour police station service is not necessarily based on workload considerations. For example the introduction of a 24-hour police station in Bourke, and the increase in police numbers which that entailed, was the result of political lobbying by the Local Shire and Chamber of Commerce. The lobbying itself was based on claims of a breakdown in law and order which was attributed to Aboriginal people (Cunneen & Robb 1987, p.210; Cunneen 1989). Indeed the continual political lobbying around law and order issues between the mid-1970s and mid-1980s meant that the number of police in Bourke doubled from 13 to 26 between 1976 and 1986 while the town's population remained stable at a little over 3,000 persons (Cunneen & Robb 1987, p.211). In 1990 the town's population is still a little over 3,000 and there are now 30 police officers.

The number of police stationed in towns with significant Aboriginal populations directly affects the way in which Aboriginal people perceive their

relations with police. Aboriginal community leaders interviewed in Wilcannia, Bourke and Walgett saw the large scale police presence as part of the mechanism of control over Aboriginal people. The question of police numbers was not simply an abstract ratio of police per head of population, but one which was embedded in the wider political relations between Aborigines and white society. Far from a feeling of participating in the establishment and control of the policing priorities, the local Aboriginal communities felt that they were the subjects of control.

Community Policing and Local Politics

A key area of implementation of community policing strategies has been the use of community crime committees or consultative committees to give effect to the principles of community involvement (see, for instance, Fitzgerald 1989, pp.230-3). The composition and maintenance of such groups clearly poses problems in areas where there is social polarisation. In addition they may simply provide a forum for co-opting sections of minority groups to an apparent consensus. In some townships in north-west NSW the community consultative committees are made-up of equal numbers of Aboriginal and non-Aboriginal members. Such a composition appears on the surface as an adequate recognition of the reality of two communities. Yet the relevant positions of power mean that Aboriginal participants are often bludgeoned into

positions they later, on reflection, regret. The non-Aboriginal members represent the interests of Local Council and the Chamber of Commerce and the meetings are held in Council Chambers. Such committees become a forum, not for 'democratic' decision-making, but rather the exercise of political power by one group over another. The forum in reality masks the implementation of sectional interest priorities and instead presents such policies as those of the 'community'.

NSW Police Instructions at Section 38.26 (dealing with Aborigines) call on the Patrol Commander to keep open lines of communication to Aboriginal people for the purpose of preventing misunderstandings. One can question the efficacy of this Instruction when decisions are made daily about how to police Aboriginal people which exclude their presence but include other powerful and interested parties. Examples of this type of policing profile can be found in north-west NSW, in the use of local government ordinances for the purpose of prohibiting public drinking. These ordinances are used almost exclusively against Aboriginal people³. There are other 'voluntary' decisions between publicans and police in relation to serving alcohol in glass containers. Again this agreement is apparently applied selectively to Aboriginal people (Cunneen 1990a, pp.42-4).

Such 'informal' mechanisms of control in the name of community policing may operate with open disregard to the formal separation of powers within state institutions⁴. For example a meeting was held in Bourke between members of the Shire Council, the police (including the

police inspector and the police prosecutor) and the visiting magistrate. The meeting was called by the Shire to discuss 'community conduct' (19 September 1989). Given that 87 per cent of persons arrested for public order offences in Bourke are Aboriginal (Cunneen & Robb 1987, p.91), then what is coyly referred to as 'community conduct' clearly means Aboriginal conduct. In such circumstances, notions of the 'community' are being used to enforce criminal sanctions against Aboriginal people. What is important is not so much what was discussed at the meeting, but that a meeting should have occurred at all between those who were present. In any formal sense of the system of justice such a meeting between the Shire, the police and the judiciary was totally inappropriate. The independence of the respective arms of the state, and indeed the supposed sanctity of the rule of law, was shown to be a mockery.

Tactical Response Policing and Community Policing

Public disquiet in relation to the policing methods of the NSW Tactical Response Group (TRG) has been raised during the last twelve months because of a number of incidents including the raid on Redfern in February 1990 and the shooting of Darren Brennan in Glebe in June 1990. The Redfern raid was the subject of a Human Rights and Equal Opportunity Commission report (Cunneen 1990b) and an investigation by the NSW Office of the Ombudsman. The Brennan shooting is currently being investigated by the NSW Police Tribunal under Judge Staunton. I am concerned here specifically with the use of the TRG in relation to Aboriginal communities in NSW⁵. Complaints about TRG-style policing have also emerged in relation to Aboriginal communities in other states including Queensland, Northern Territory and Western Australia.

In NSW, TRG personnel have been used on many occasions in the policing of rural and urban Aboriginal communities, including Bourke, Brewarrina, Walgett, Dubbo, Wilcannia, Cobar and Redfern. In Bourke the TRG were flown into the town to police a demonstration by Aboriginal people. The demonstration was itself concerned with perceived discrimination by the criminal justice system against Aboriginal people (Cunneen & Robb 1987). In Brewarrina the TRG were flown in to conduct street patrols after an Aboriginal man, Lloyd Boney, was found hanged in the police cells (Goodall 1990). The TRG have visited other country towns (such as Dubbo) as a result of complaints about the breakdown in law and order.

The use of the TRG in the policing of Aboriginal communities has, from the outset, been the subject of controversy.

Shortly after the TRG was established, the NSW Police Association requested that the Police Department form TRG units in Moree and other north-western towns. Moree was itself the site of intense conflict between Aborigines and police during the early 1980s. In rejecting the Association's request, Assistant Commissioner Graham, on behalf of the Police Department, stated

The attendance of Tactical Response Group personnel at Moree or other country centres where racial problems exist could lead to feelings of provocation on the part of some people and lead to unnecessary confrontations (NSW Police News, vol.64, no.4, October 1983).

By the mid-eighties police thinking had changed to the extent that it became acceptable to use TRG police to control Aboriginal people in rural and urban areas. The change indicated an important reversal in policing policy which now legitimised the reliance on pro-active, paramilitary police squads to maintain order - even in the face of overseas evidence that such policing methods could polarise resistance to state intervention (Scarman 1981). More importantly the change occurred at the very time of an officially endorsed and promoted emphasis on community policing strategies. One can question how the increased use of the TRG fits with the following statement,

The fundamental strategy [of the NSW Police] for the future will be built around the professional community-based police officer working with the particular community of his/her beat to solve... local problems (Nixon 1990, p.232).

It is worth noting then that the TRG is structurally removed from the process of community policing. The TRG is divided into four regional groups. However when involved in patrol functions, TRG operatives are not under the normal patrol command. They are responsible to the next most senior TRG officer, then to the regional Chief Inspector of Operations.

Their structural position appears as follows

Regional TRG (responsible to)

1 Senior Sergeant
6 Sergeants
18 Constables

(see Cunneen & Findlay 1990)

Nixon states that 'the effect of the new management arrangements was to place the majority of services at local level and to make lines of accountability unequivocal - through state, region, district, division and patrol' (Nixon 1990, p.234). While the restructuring emphasised line management (and the accountability that entailed) down to the patrol level, the TRG were essentially outside this structure. Also the TRG were outside the structure designed to initiate community policing which was centred at the patrol level.

Perhaps the most important implication with the establishment and use of the TRG, is the admission that 'relations between the normal civil policing agencies and certain sections of the public have deteriorated to such an extent so as to necessitate a paramilitary response' (Cunneen, Findlay, Lynch & Tupper 1989, p.121). It has been noted that the very nature of the TRG means that,

It is not required to construct localised relationships or networks but to be ready to respond to situations judged in advance to be problematic and as likely to warrant special tactics and usually force... Such squads are also equipped with the weaponry and technology which permits, and perhaps even encourages, them to [resort to force] (Hogg 1984, p.50).

Of fundamental importance to the questions of Aboriginal/police relations and notions of community policing is the fact that the TRG are the very antithesis to any notion of a relationship between police and community. There is a predetermined absence of any relationship to a local community in all aspects⁶ of tactical response policing. One consequence of tactical response policing is that there is no requirement to consider the long-term effects of particular methods of control. In addition, because of the nature and duties of the squad, the style of intervention is likely to revolve around the routine use of force. The consequence of such policing methods is the further antagonism, alienation and resistance from those groups who are the subject of control.

Line of Command

Normal Regional Command Assistant Commissioner

Region
(Chief Inspector
Operations)
District
Division
Patrol

Indeed the result is the further removal of Aboriginal people from any possibility of community policing, particularly through galvanising Aboriginal opposition to police and through the increased feelings of harassment. Goodall (1990) has outlined the effects of the use of the TRG in Brewarrina. The effect in Bourke has also been to reinforce a perception of excessive policing (Cunneen & Robb 1987, p.186). Perhaps the most telling example of the way such police methods can be absorbed into a consciousness of police harassment was the case of a 67-year-old Aboriginal woman who was the victim of the Redfern 'raid'. She was unaware of the correct title of the TRG, she knew enough however to be able to refer to the police officers as the 'tactical group of police'. In the same statement she states that she challenged the police while they were searching her house, and after they had broken in her front door with a sledgehammer, describes them as behaving like 'German Gestapos' (Cunneen 1990b, p.30).

A comprehensive report has been produced elsewhere on the police 'raid' into Redfern in February 1990. (Cunneen 1990b). Two points in particular deserve mention in relation to community policing strategies.

Firstly the official justification for the raid by police staff and their Minister stressed that the raid was a response to the community. The NSW Minister for Police, Mr Ted Pickering quoted Chief Inspector Allan Peek, the Patrol Commander of Redfern, as stating that,

The main reason for the operation was the despairing cry for help from the Aboriginal community. The Aboriginal community expressed a grave concern with the upsurge of criminal activity (Cunneen 1990b).

The Minister went on to state that the operation 'was mounted to protect the law-abiding citizens of that area who are, of course, the vast majority'. The implication of this statement was that those who criticised the raid were somehow not part of the 'law-abiding' majority in the Aboriginal community. An appeal to notions of the 'community' was used to justify a para-military police response, while at the same ignoring the large number of Aboriginal people who attended mass meetings in Redfern to complain of police tactics.

Secondly there are a number of recommendations in the report to the Human Rights and Equal Opportunity Commission which are important in relation to community policing (Cunneen 1990b, pp.33-36). The Report found that 'over-policing of the Redfern Aboriginal community occurs' and that

It would be appropriate to seek a Departmental Review of the role of the Tactical Response Group in Aboriginal Communities, in particular their apparent

reliance on excessive force (Cunneen 1990b).

...The apparently routine use of the TRG in Redfern needs to be seriously questioned. Such a use of the group undermines any commitment to community policing. The nature of the TRG, as a fast response tactical police unit without ties to any locality, is the antithesis of community policing. In addition the nature of the group (both in training and operational duties) predisposes it towards an excessive reliance on force.

The Report also recommended that *It is open to the National Inquiry into Racist Violence to find that the Redfern raid constituted an act of racist violence within its terms of reference.*

Justification for the raid was based on the perceived racial characteristics of Aboriginal people. Sydney District Commander Peate was reported as referring to the Redfern Aboriginal community as 'one breed' where normal surveillance and policing activities do not operate. Thus a notion of 'race' was used as a prediction of particular social characteristics... The community itself was defined in a particular manner rather than any alleged criminals within the community.

...It is appropriate therefore to consider these policing practices as constituting institutional racism where the perceived difference of the Aboriginal community was used to legitimise an exceptional use of state force (Cunneen 1990b).

Aboriginal/Police Liaison Schemes

The report on the Redfern Raid also contained a recommendation in relation to Aboriginal/Police Liaison Officers. The recommendation called for a Departmental review of the role, status and authority of Aboriginal/Police Liaison Officers. The report stated that

There is evidence... that Aboriginal Police Liaison officers in Redfern had their advice ignored and were not informed of major policing operations involving the Redfern Aboriginal community... It would appear that particular police operations and practices constantly undermine the positive functions which such positions could fulfill. Rather than serving to facilitate any improvement in Aboriginal/police relations, the undermining of the functions of the liaison officers serves to discredit the authority of such officers and to create the impression that these officers have little influence over policing policies in Aboriginal communities (Cunneen 1990b, pp.33-4).

More generally it can be argued that the development of a system of

Aboriginal/police liaison officers, during the last decade, has had important consequences. During research which was conducted for the National Inquiry into Racist Violence many Aboriginal communities in NSW have complained about specific deficiencies with the system, including the recruitment methods by police, the lack of training, the location of the officers within police stations, the lack of clear (or in some cases any) statement of duties, and the lack of accountability to the Aboriginal communities with which the officers are expected to liaise. In addition the employment conditions of Aboriginal-police Liaison officers as temporary Ministerial appointments outside normal public service conditions is clearly unacceptable. The epithet often applied to the officers is that of 'police pimp'. This should not be seen as necessarily a comment on the individuals who fulfill these functions but on the contradictory positions in which they are inevitably placed.

Some of the criticisms of the NSW scheme in relation to training, employment conditions, authority and status could also be applied to other schemes such as QLD Aboriginal community police. It could be concluded that they are placed in a structural position which virtually guarantees their high turnover rate and limited success.

Police Violence and Community Policing

The issue of police violence is one area which has received increasing attention, and is an issue more than others which raises the question of commitment to community policing in a stark form. The National Inquiry into Racist Violence has commissioned a report on the issue of police violence and Aboriginal juveniles as a result of widespread concern about the issue amongst Aboriginal people from a number of states. That research has been completed and will be released shortly⁷.

While it is not possible to relate substantially the findings of the research at present, some general comments can be made. The research found that allegations of police violence against juveniles were widespread and serious in the three States which were surveyed. There were allegations which related violence occurring in public places and at police stations and lockups. In addition to allegations of violence there were many complaints concerning the use by police of racist language. In the majority of cases there was no formal complaint made to a recognised body.

The results of the research are also confirmed in issues which were raised in public hearings that have been conducted by both the National Inquiry



into Racist Violence and the Royal Commission into Aboriginal Deaths in Custody in a number of states.

The research confirms a number of Australian studies which have raised the issue as one deserving serious and immediate attention. Such studies in relation to Aboriginal people and police violence include the Western Australian Equal Opportunity Commission (1990), Burger (1988) and White et al. (1990). Other studies which have looked at police violence in relation to juveniles generally include Bacon and Irwin (forthcoming), Youth Justice Project (1990), Alder (1989), O'Connor and Sweetapple (1988) and Rayner (1988).

Conclusion

At the local level 'community' policing strategies may disguise nothing more than a commitment to the enforcement of particular policing strategies which derive from, and serve the wishes of, sectional interests. This outcome is not necessarily a criticism of police motivations in relation to community policing per se, but rather a realistic assessment that policing is itself part of the political processes which involve the exercise of decision-making in the interests of the powerful.

Over-policing of Aboriginal people still occurs despite commitments to community policing. The litmus test for community policing would be to see a substantial reduction of police numbers in such areas.

The evidence strongly suggests an over-reliance on para-military police with their associated use of more extreme force levels in Aboriginal areas. Such a use blatantly contradicts the model of community policing.

There is also an apparent need to take seriously the role of Aboriginal-police liaison schemes if they are to fulfil a key function in community policing strategies. A prerequisite should be some form of Aboriginal control over such schemes and an adequate allocation of the necessary resources.

Finally the question of police violence needs to be openly confronted. Community policing strategies will continue to be viewed as little more than public relations rhetoric if violence on the part of state officials continues to go unchecked and, for all intents and purposes, unreviewed and unaccountable.

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At the community policing conference, Marshall Irwin of the CJC (left) chairs a panel comprising: Victorian Police Commissioner Kel Glare; Rick Sarre, Head of the Law School at the College of Advanced Education, South Australia; and Chief Superintendent John Murray, Officer in Charge, Prosecutions, South Australia Police.

Hogg, R. 1984, 'NSW Tactical Response Group' in *Policing: Practices, Strategies, Accountability*, eds D. Brown, R. Hogg, R. Phillips, G. Boehringer & G. Zdenkowski, *Alternative Criminology Journal*, Sydney.

Nixon, C. 1990, 'NSW Police Service 1984 to 1988. Maximising Productivity and Service' in *Police Resources and Effectiveness*, eds. J. Vernon, & D. Bracey, Australian Institute of Criminology, Canberra.

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Footnotes

1. The views expressed in this paper are those of the author and do not necessarily reflect the views of the Inquiry or Commission.

2. Bryson and Mowbray note that the use of the term signified a selective historical memory which serviced a 'conservative political position'. 'Gross inequalities, rigid status groups... persecution, intolerance... are carefully forgotten, so that the real "community" is seen only in terms of cooperation and harmony' (Bryson and Mowbray, 1981, p.256).

3. 'The conscious design of such intervention is to remove Aboriginal people from the streets and parks. It is not drinking per se which is defined as the problem but rather the public location of Aboriginal people. Indeed in Brewarrina and Walgett designated drinking areas have been allocated away from the main streets where Aboriginal people are 'allowed' to drink without harassment... During a public hearing by the Royal Commission [into Aboriginal Deaths in Custody] in Walgett it was revealed that 20 individuals had been charged with breaching the Local Government by-law. Nineteen of the individuals were Aboriginal' (Cuneen, 1990, pp.42).

4. Another example is the use made of the Community Aid Panels where police in effect become part of the sentencing mechanism.

5. See Cuneen & Findlay (1990) for a wider discussion of the issues involved in the NSW TRG from its inception in 1982 to the shooting of Darren Brennan.

6. Training, command structure, location, equipment and operational duties.

7. The provisional title for the research paper is Cuneen, C. (forthcoming) *A Study of Aboriginal Juveniles and Police Violence*, A Report to National Inquiry into Racist Violence, Human Rights and Equal Opportunity Commission.



Australian Institute of Criminology

GPO Box 2944, Canberra, ACT 2601

Mukherjee, Satyanshu K. and Dagger, Dianne. 1990.

***The Size of the Crime Problem in Australia*
2nd edition**

ISBN 0 642 14935 6. \$20.00.

The Size of the Crime Problem in Australia presents easily readable factual information on major crimes in all Australian states and territories while explanations of the data highlight salient features of trends observed in each jurisdiction and in Australia.

[Christine Kertesz], 1990.

***Directory of Criminal Justice Courses in Australian Tertiary Institutions*
ISBN 0 642 15860 6. \$10.00.**

This directory provides information about criminal justice courses available at Australian tertiary institutions. It includes references to criminology and law courses, as well as information about legal, police, correctional and security studies.

[Heidi James], 1991.

***Directory of Researchers of Crime and Criminal Justice*
ISBN 0 642 15866 5. \$30.00.**

This useful directory is divided into: list of researchers; list of organisations; index of areas of interest; list of research projects and index of topics.

Myrtle, John (Editor)

Australian Criminology Information Bulletin

**Vol 1. No. 5, December 1990.
ISSN 1034-6627.**

**Trends and Issues in Crime and Criminal Justice
General Editor, Dr Paul Wilson**

No. 26, Easta, Patricia Weiser and Easta, Simon, November 1990.

***The Forensic Use of DNA Profiling*
ISBN 0 642 15760 X.**

**No. 27, Biles, David, December 1990.
Remand Imprisonment in Australia
ISBN 0 642 15844 4.**

No. 28, Walker, J. & Henderson, M., January 1991.

***Understanding Crime Trends in Australia*
ISBN 0 642 15881 9.**

The following report is also available through the Australian Institute of Criminology:

Crime and Justice in Asia and the Pacific

A Report on the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, 1980-1986
1990. \$20.00.

McCulloch Publishing Pty Ltd

348 Drummond Street, Carlton, Vic 3053

Scutt, Jocelyne A. 1990.

***Even in the Best of Homes: Violence in the Family*
ISBN 0 949646 350. 358 pp. \$18.95.**

This is a revised edition of a detailed study of violence in the family first published in 1983. Included are chapters on child and sexual abuse, the role of the legal system and the politics of violence. The author has written extensively on feminist politics and the law.

The Law Book Company Ltd

44-50 Waterloo Road,
North Ryde, NSW 2113

Shanahan, D.R. 1990.

***Australian Law of Trade Marks & Passing Off*
2nd edition
0455 209 952. 663 pp. \$125.00 (hard cover).**

The new edition of this classic text deals in a practical and comprehensive manner with all aspects of the Australian law of registered trade marks, passing off and related trade practices. It includes detailed discussion of the Trade Marks Act 1955 and relevant case law.

Finn, Professor P.D. (Editor). 1990.

***Essays on Restitution*
0455 209 871. 356 pp. \$79.50 (hard cover).**

'Unjust enrichment' and 'restitution' are subjects that engage the attention more and more of judges and scholars throughout the common law world. This publication addresses the major areas of change and various issues of concern.

Sharpe, D., Wakefield, G. and McDonnell, M.

***Telecommunications Reporter*
6360QB. Looseleaf. \$595.00 p.a.**

lawyers practising in this field. It will also be useful for lecturers and students of telecommunications and general communications. The *Telecommunications Reporter* is a comprehensive guide to the often complex area of telecommunications, and includes all relevant telecommunications legislation.

Scribe Publications

RMB 3120
Lancefield Road
Newham Victoria 3442

Wilson, Paul
A Life of Crime
ISBN 0 908011 17 2. \$15.95
(paperback).

Paul Wilson's autobiography is an insight into the life of a social scientist at work and at home. The blending of personal narrative and public philosophy which is interwoven throughout the book gives this work an unusual character. Dr Wilson frankly discusses social justice in Australia as well as various aspects of the criminal justice system. As much of Dr Wilson's life was spent in Queensland, the book also reveals much about the characters surrounding the Bjelke Peterson regime. Dr Wilson is currently Assistant Director Research and Statistics at the Australian Institute of Criminology.

Blubber Head Press

PO Box 475,
Sandy Bay, Tas 7005

Brand, Ian 1990.
The Convict Probation System: Van Diemen's Land 1839-1854
ISBN 0 908528 20 5. \$45.00 (hard cover).

The aim of the probation system of convict discipline was to punish, but also to reform the convicts through education and religious instruction. It was introduced in Van Diemen's Land in 1839 following widespread dissatisfaction in Britain with its predecessor, the assignment system, which was seen as too lax and inconsistent, depending on the usefulness of the convicts to their respective masters. The new scheme was an abysmal failure: it bred idleness, disorder and vice, and in 1846 Lt. Governor Eardley-Wilmot was dismissed for his inability to manage the probation system. Charles Joseph La Trobe was appointed as a caretaker administrator, and his entire report of the system is now published here for the first time. Also included is a private report on the Darlington probation station, and a detailed account of the rise and fall of the probation system.



Australian Institute of Criminology

DNA Profiling in Court
2-3 March and 23-24 March, Canberra

For further information, please contact:

Ms Julia Vernon
Tel: (06) 274 0226
Fax: (06) 274 0225

"Healing our People"
Aboriginal Community Justice and Crime Prevention Forum
2-5 April 1991, Red Centre Resort, Alice Springs

This is an innovative, largely skills oriented conference, designed to focus on community-based solutions to addiction, family violence and crime in Aboriginal communities. The conference will comprise of speakers and workshops to introduce new skills and to examine old ways of handling new problems. The issue of community control over community solutions will be an important aspect of the discussion.

For further information, please contact:

Ms Sandra McKillop
Tel: (06) 274 0223
Fax: (06) 274 0225

Australian Institute of Criminology Conferences for the remainder of 1991 will be as follows

- | | |
|------------|--|
| 6-8 May | Sex Industry and Public Policy, Canberra |
| 4-6 June | National Overview on Crime Prevention, Adelaide |
| tba June | Local Government and Crime Prevention, Melbourne |
| 29-31 July | Courtroom Innovations - Sydney |
| 13-15 Aug | Fraud Conference, Gold Coast |
| 23-25 Sep | Guns and Violence, venue tba |
| 12-14 Nov | Asia Pacific Police Technology Exhibition and Conference (APPTec '91) - National Convention Centre, Canberra |
| 25-28 Nov | Role of Education, Training and Employment in the Criminal Justice System - Perth |

2-6 Dec The Window of Opportunity, Adelaide
First National Congress - an Intersectoral Approach to Drug Related Problems in our Society
(In conjunction with the Drug and Alcohol Services Council of South Australia and the National Centre for Education and Training in the Addictions)

For further information on any of the above conferences, please contact:

Conference Unit
Australian Institute of Criminology
GPO Box 2944 Canberra ACT 2601

Tel: (06) 274 0226/0223
Fax: (06) 274 0225

The Health Department Victoria and the Victorian Office of Corrections

**Corrections Health
First National Conference**
7-8 March 1991, Townhouse Motel, Melbourne

At the June 1990 conference of the Australian, New Zealand and Papua New Guinea Correctional Administrators, it was agreed that Victoria host a meeting to bring together practitioners and administrators involved in correctional health matters. This conference will focus on the application of training and research and how this may be encouraged in the correctional/forensic health areas. Sessions will include: 'Historical Overview and Current Practices in Corrections Health', 'Psychiatric Illness and Offenders', 'Alcohol, Drugs and Offending' and 'Voluntary Starvation/Hunger Strikes'.

The registration fee is A\$150.00 and a special conference rate of A\$102.00 (single, double or twin occupancy) is available at the Townhouse Motel.

For further information please contact:

The Congress Organiser
PO Box 410
Brunswick, Vic 3056

Tel: (03) 380 1429

Alcohol and Drug Foundation, Queensland

**The Winter School in the Sun
Living with Drugs - Responsibly**
2-5 July 1991, Brisbane City Travelodge

This conference is for generalist and specialist workers in the fields of medicine, psychology, social work, counselling, education, community

development, social policy, occupational health and safety, media, treatment services, research, sport and the licensed beverage industry. The keynote speaker will be Dr Michael Gossop, Head of Research, Drug Dependent and Research Unit, Maudsley Hospital, London.

For further information please contact:

The Winter School in the Sun
Alcohol and Drug Foundation -
Queensland
PO Box 320
Spring Hill, Queensland 4004
Tel: (07) 832 3798
Fax: (07) 832 2527

Social Policy Research Centre University of New South Wales

**Social Policy in Australia: Options for
the 1990s**
3-5 July 1991

For further information please contact:

Peter Whiteford
Social Policy Research Centre
University of New South Wales
PO Box 1 Kensington NSW 2033
Tel: (02) 697 5152
Fax: (02) 398 9903

Overseas

The Institute for the Study and Treatment of Delinquency

Deaths in Custody
25-28 March 1991, Canterbury, England

The conference program will include the following topics: 'Deaths in Police Custody', 'Deaths in Prison', 'The Plight of Minorities', 'Deaths in Preventive Detention', 'Juveniles and Young Persons', and 'Liability and Litigation'. Speakers will include: David Biles, Deputy Director, Australian Institute of Criminology; Susan M. Bailey, Consultant Forensic Psychiatrist, North-West Regional Health Authority and the Home Office, UK; Professor Robert Johnson, Professor of Justice, Law and Society, The American University, Washington DC; and His Honour Judge Tumim, Her Majesty's Chief Inspector of Prisons, Head of the Review of Suicide and Self-Harm in Prison Service Establishments in England and Wales.

Accommodation and conference fee
(inclusive of accommodation and meals):

ISTD Members - £210
Non-ISTD Members - £230

For further information please contact:

Martin Farrell
Director, ISTD
King's College London
Chelsea Campus
Manresa Road
London SW3 6IX, UK

Association of Paroling Authorities International Visions, Values, Viability 14-19 April 1991, Myrtle Beach, South Carolina

A number of workshops and specialised programs will be presented on a variety of issues such as: intermediate sanctions; the parole violations process; managing systems; legal issues for parole boards; parole as a viable option; and numerous other criminal justice issues.

For further information please contact:

Ms Susan Alford
APAI '91 Conference Coordinator
Post Office Box 5877
Columbia, South Carolina 29250,
USA
Tel: (803) 734-9278

Indiana University

**5th International Conference on Penal
Abolition
(ICOPA)**
22-25 May 1991, Indiana University, USA

For further information please contact:

Hal Pepinsky
Department of Criminal Justice
Indiana University
Bloomington, IN 47405, USA

**International Association of Crime
Victim Compensation Boards
Yukon Compensation Victim of Crime
Program
Violence within the Family**
27-31 May 1991
Whitehorse, Yukon, Canada

This conference will address some of the social, economic, judicial, and legislative programs, and review the International Association's need to take a leadership role in the promotion of universality and reciprocity of Crime Victim Compensation Programs.

For further information, please contact:

Mrs Dorothy Drummond
Chairperson, International
Convention
Suite 300
4114 - 4th Avenue
Whitehorse, Yukon, Y1A 4N7
Canada
Tel: (403) 667-3435
Fax: (403) 668-2079

Office of International Criminal Justice

Criminal Justice Study Abroad Program

16 June-13 July 1991
East China Institute of Politics and Law
Shanghai, China

This four-week justice studies program is designed for undergraduate and graduate students in criminal justice, criminal justice practitioners and academics. The intensive program will be conducted in English and will include seminars on the Chinese justice system, courts, corrections, public security and juvenile justice. Professional visits to prisons, courts and mediation sessions will be conducted. The application deadline is 15 March 1991.

For further information please contact:

Julie Brenner
Office of International Criminal Justice
The University of Illinois at Chicago
715 South Wood Street
Chicago, Illinois 60612, USA
Tel: (312) 996-3200

The Law and Society Association, and the Research Committee on Sociology and Law of the International Sociological Association

Joint International Conference
26-29 June 1991, University of
Amsterdam

This conference will focus on recent changes in law and society which have increased the need for collaborative and comparative study across national boundaries. The joint planning committee has called for papers and panels, and for proposals for joint working groups which will be empowered to organise their own presentations.

Proposals should be sent to both:

Prof. W. Felstiner
ABF
750 North Lake Shore Drive
Chicago, IL 60611 USA
Tel: (312) 988-6510
Fax: (312) 988-6579
and
Prof. E. Blankenburg
Vrije Universiteit
Faculteit der Rechtsgeleerdheid
Postbus 7161
NL - 1107 MC Amsterdam
The Netherlands
Tel: (020) 548-4684
Fax: (020) 462-594

World Society of Victimology

**Seventh International Symposium on
Victimology**
25-31 August 1991, Rio de Janeiro,
Brazil

Please submit papers or expressions of interest to:

Ester Kosovski
Vice-President
World Society of Victimology
Department of Criminology
University of Westfalia
24/25 Bispinghof
4400 Munster, Federal Republic of Germany

**Canadian Criminal Justice Association
and the British Columbia Justice
Association**

**Congress '91
In Search of What is Right**
8-11 October 1991, Victoria, British
Columbia, Canada

The program is designed to be relevant to criminal justice issues—policing; legal counsel; judiciary; court services; corrections; parole; community agencies; native affairs; women's concerns; victims and those with special needs. For further information please contact:

Mr R.E. Brown
Chairman, Organizing Committee
BC Criminal Justice Association
816 Government Street
Suite 323
Victoria, BC V8W 1W9 Canada
Tel: (604) 388-3267

**International Association for Scientific
Exchange on Violence and Human
Coexistence**

**IInd World Congress on Violence and
Human Coexistence**
13-17 July 1992, Montreal, Canada

Sessions will include: the nature and forms of violence; social violence; violence towards persons; violence against the human milieu; and solutions and cures for violence. Workshop papers are to be submitted to the Organizing Committee by 31 March 1992.

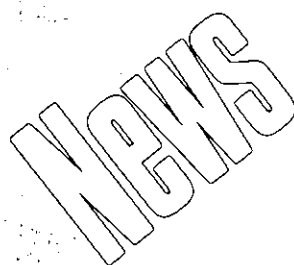
Registration fee:
until 30-04-1991 CA\$130
until 30-04-1991 CA\$145
until 30-04-1991 CA\$160

Accommodation:
University residence CA\$30 per day
Hotel C CA\$75
Hotel B CA\$95
Hotel A CA\$130

For further information please contact:

Venant Cauchy
Congress Organizing Committee
Chairperson
Secretariat of the IInd World Congress
on Violence and Human Coexistence
Universite de Montreal, C.P. 6128,
Succ. A
Montreal, Quebec, Canada
H3C 3J7

Tel: (514) 343-6111 ext. 1329 or 1330
Fax: (514) 343-2252



**Criminology Research
Council - New Grants**

The Criminology Research Council met in July and November and made the following grants.

*Drink Driving Rehabilitation Program
Evaluation*
Department of Social and Preventive
Medicine
University of Queensland

The Criminology Research Council granted \$9,612 to Dr Mary Sheehan, Dr Vic Siskind, Mr Doug Woodbury and Mr Robert Bleakley to evaluate an innovative community-based drink driving rehabilitative program.

Drink driving offences, especially those involving recidivist offenders, constitute a major and costly social problem. A rehabilitative program designed for recidivist offenders facing gaol has been set up in south-east Queensland. The program takes approximately six and a half months to complete and combines the efforts of the Community Corrections Department, the Health Department, the Ambulance Brigade, traffic authorities, the Insurance Council and legal aid solicitors.

The project will develop a model for a trial introduction of the program on a wider scale. The model is to be designed to enable a systematic evaluation of the program. The study is important not only because it builds evaluation into a program before it is implemented on a wide scale, but it will also focus on methodological issues such as how to set outcome goals for such evaluations.

*Reform of the Summary Jurisdiction:
Victorian Magistrates' Reactions to
Change*
Department of Criminology
University of Melbourne

A grant of \$13,561 has been made to Dr Roger Douglas and Ms Kathy Laster to analyse the reactions of Victorian magistrates to the wide-ranging reforms to the summary jurisdiction over the last ten years.

Using interviews and a questionnaire, Dr Douglas and Ms Laster will examine the reactions of magistrates to organisational and substantive law reform; analyse the

magistrates' assessment of the process of reform; and provide recommendations concerning the implementation of future reform measures.

*Attitudes Towards and Practice of
Euthanasia in South Australia*
Department of Sociology
The Flinders University of South Australia

Professor Riaz Hassan has been granted \$29,254 over two years to study the attitudes towards and the practice of euthanasia in South Australia.

The study is intended to provide information on possible passive and active practices of euthanasia in South Australia. Any dysjunction between attitudes towards and practices of euthanasia will be ascertained. It is hoped that the project will lead to a better understanding of this subject and possible legislative reforms.

*Statistical Models for Adult Offender
Populations*
Crime Research Centre
University of Western Australia

The Council made a grant of \$56,097 to continue research by the Crime Research Centre of the University of Western Australia into recidivism, criminal careers and related matters.

Earlier work by the researchers in the same area is highly regarded and, in addition, this project is an attempt to model criminal careers and evaluate individual prediction methods in the Australian context.

The principal investigators are Mr R G Broadhurst of the Crime Research Centre and Dr R A Maller of the Department of Mathematics, University of Western Australia.

*Problems of Aboriginal Youth Who
Criminally Offend*
Smith Street Films
Sydney

Ms Margaret Smith was granted \$7,600 to establish a comprehensive and detailed picture of Aboriginal young offenders and recidivism.

During the program, Ms Smith will attend Aboriginal juvenile court cases and interview the offenders, their parents and relevant organisations as well as magistrates, youth workers and solicitors.

The interviews will be used as a basis of a television documentary with Australian Broadcasting Corporation support.

*Evaluation of the Hindley Street Youth
Project*
University of South Australia
Adelaide

A grant of \$26,000 was made to Dr Ken Rigby and Dr Alan Barnes to evaluate the effectiveness of the Hindley Street Youth

Project in providing a safer environment for young people, particularly Aboriginal youth, who gather in the inner city of Adelaide.

Gender and Sentencing in the Victorian Magistrates' Courts: A Pilot Project
Monash University

Ms Bronwyn Naylor was granted \$10,093 to carry out a pilot study to examine the way in which gender stereotypes and expectations influence sentencing by Victorian magistrates for summary offences. The study will also examine the extent to which gender factors appear to advantage or disadvantage the individual offender, male and female.

Program Evaluation at Barwon Prison
Melbourne University Institute of Education

A grant of \$20,000 has been made to Dr Robert Semmens to evaluate the education program at Barwon Prison in Victoria. The aim is to assess the extent to which programs and activities are articulated in the interests of credentials and labour market opportunities for participating prisoners.

Visitors from Papua New Guinea

The Australian Institute of Criminology was host to visitors from Papua New Guinea in January 1991. The Police Minister, Mr Ejape was accompanied by Deputy Commissioner Mugugia, Acting PNG High Commissioner Mr Frank Miro, and Mr Ken Egan, Director of the Foundation of Law and Justice in Papua New Guinea.

From left to right: Mr Frank Miro; Police Minister Ejape; Professor Duncan Chappell, Director AIC; and Deputy Commissioner Mugugia.

Appointment to International Court of Justice

Professor Christie Weeramantry of the Law Faculty of Monash University has been elected by the United Nations to the International Court of Justice. Professor Weeramantry is only the second Australian to hold a seat on this important judiciary. (Sir Percy Spender served from 1958 to 1967.) Professor Weeramantry will take up his appointment in February 1991.

Visitors to Australian Universities

Visitors to the Law Faculties of Australian universities include the following:

Australian National University:
Professor W Andreen, Alabama, January to May 1991
Professor H.B. Connell, Monash, 7 January to 2 March 1991
Professor V. Zabigailo, Kiev State, February to March 1991.

Monash University:
Mr Du Jingyi, Changchun, PRC, until July 1991.

