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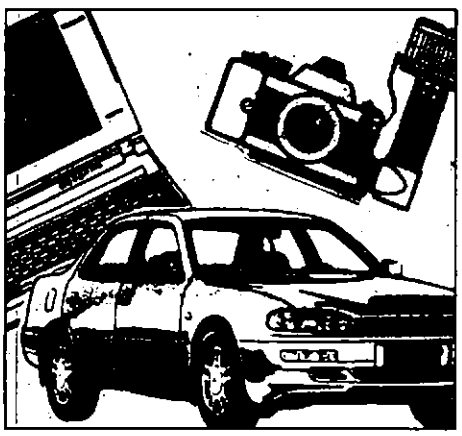

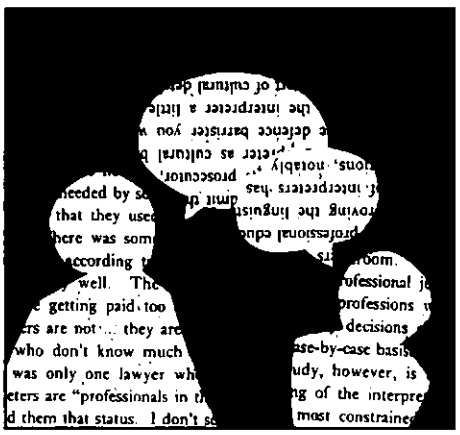

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Janet Chan

Police Accountability in a Multicultural Society

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In recent years most Australian police forces have taken the challenge to adapt their policing strategies to meet the changing needs of Australian society, which is increasingly comprised of diverse cultural and linguistic groups. As well, the image of policing has been dramatically altered in recent years: gone are the militaristic metaphors of crime-fighting and the flashy display of technology and weapons. The new vision of policing is increasingly one of being accountable to the community and establishing a partnership with the community in policing. But what if "the community" consists of 105 ethnic groups with different languages, cultural traditions and policing needs? Are the Australian police forces equipped to provide appropriate services to these subgroups in the community?

This article discussed some of the innovations adopted by Australian police forces to meet the needs of multicultural communities. In spite of a genuine willingness on the part of the police to meet the challenges of a multicultural Australia, many areas of tension between traditional policing and community policing remain.

Innovations and Achievements

A national conference in 1990 brought together senior police from all Australian States and Territories, as well as New Zealand and Fiji, community leaders, government representatives and researchers to examine the trends and issues of police service delivery to multicultural communities (Australian Bicentennial Multicultural Foundation [ABMF] 1990). The conference report listed a large number of recommendations, including the establishment of a National Police Ethnic Advisory Bureau to coordinate and implement the recommendations and provide expert advice on police-minority matters. The police delegates presented the conference with an impressive array of initiatives undertaken by Australian police forces in recent years to meet the needs of ethnic minorities. These included:

- adoption of a policy of access and equity in the delivery of police service;
- adoption of community based policing strategies;
- establishment of a specialist ethnic affairs adviser or unit;
- appointment of ethnic liaison officers (police and civilian);
- provision of multi-lingual information literature to the communities;
- recruitment of police officers from ethnic communities;
- police education in cultural sensitivity and awareness;
- liaison with ethnic communities, community organisations and ethnic media;
- establishment of police consultative committees with ethnic communities; and
- appointment of Aboriginal police aides.

All this is happening at a time of worldwide disillusionment with the para-military model of traditional policing and a national move to professionalise the policing occupation in Australia (Etter 1992). In 1992, Australian police commissioners identified critical issues of the future of policing: the role of the police, the environment, police professionalism, police accountability, police and other agencies, technological advancements and the change process. The "increasingly multicultural nature of the Australian community" (Etter 1992) is certainly one of the environmental considerations, but the "blueprint for the future" of policing is not one of piecemeal tinkering of police practices or the police image, but a dramatic departure from traditional policing:

> Police, in order to be competitive and to attract the resources necessary to fulfil their role of the future, must become outward-looking, increasingly sensitive to developments and trends in their environment, responsive and resilient to change, innovative and creative in their approach to problem solving and idea generation, and more open and accountable to the community and Government (Northern Territory Police 1991, p.32).

Thus the strategies of policing in a multicultural society are not meant to be an augmentation of traditional policing, but part of a totally new approach to policing, which emphasises innovation, change, problem solving, openness and accountability. Some of the initiatives undertaken by Australian police forces include the following.

Policy of access and equity

The Commonwealth Government has maintained a policy of access and equity as part of its National Agenda for a Multicultural Australia. Virtually all police forces in Australia are committed to the provision of accessible and equitable service to ethnic minorities. In some forces this principle is implicit in their general policy, while in others the policy is explicitly written into a formal statement. However, these broad statements of policy do not provide adequate guidance in terms of everyday police work and unless gross levels of discrimination against ethnic minorities can be proved, such statements would have minimal effect on police practices. In other words, these policy statements must be backed up by relevant programs, adequate resources, appropriate administrative support, rigorous monitoring and an effective accountability structure.

Overcoming the language barriers

In Australia, both Commonwealth and State governments provide professional interpreter services which police forces could make use of on a user-pays basis. Apart from Victoria, South Australia and the Commonwealth Government, there is no statutory right for citizens to have access to interpreters when dealing with the legal system. Different police forces have different rules regarding the use of professional interpreters and there is a great deal of discretion exercised by individual police officers in judging whether a person has adequate English language skills (Australia, Commonwealth Attorney-General's Department 1990). The reluctance of some police officers to use qualified interpreters when dealing with ethnic minorities has been seen by community workers as a "burning issue" (Chan 1992, p.13; NSW Ethnic Affairs Commission 1992; Australian Law Reform Commission 1992, p.57; Wilson & Storey 1991, p.18; O'Neill & Bathgate 1993, p.142).

Costs and delay are the major justifications for police reluctance to use interpreters. Police tend to use professional interpreters when preparing for prosecution to avoid having their evidence disputed in court. The introduction of electronic recording of police interrogation in some jurisdictions has meant that the usage of qualified interpreters is virtually mandatory for indictable offences. Petty offences and casual inquiries are often dealt with using friends and relatives, local business people, ethnic liaison officers, or police officers who speak the language.

To ensure that people of non-English speaking background are not disadvantaged by the legal system, police forces need to take the provision of professional interpreting services seriously. At the very least, detailed instructions and guidelines should be established so that individual officers are aware of their responsibility for obtaining professional interpreters under appropriate circumstances.

Community policing strategies

By far the most significant ideological shift in recent years in Australian policing is the adoption of community based and problem-solving policing strategies (*see* Alderson 1983; Weatheritt 1987; Bayley 1989; Goldstein 1979). This approach de-emphasises the traditional police preoccupation with random patrol, fast car response, and retrospective criminal investigation. A partnership with the community is manifested in various community liaison activities, the appointment of liaison officers, the establishment of crime prevention measures such as neighbourhood watch and safety house, the increased use of foot patrols, and the encouragement of grassroots feedback through community consultative committees. The benefit of a community based policing strategy for multicultural communities is that police work is geared to a local level of accountability: providing quality service to ethnic minorities is no longer a marginal issue for police commanders whose jurisdictions consist of a sizeable proportion of people from minority ethnic backgrounds. In some cases, information pamphlets and phrase books are printed in community languages, multi-lingual liaison officers are employed, and language-specific community consultative groups are set up. Most of the efforts are directed at reducing the distance between ethnic minorities and the police, instilling confidence and building support among ethnic minorities.

Recruitment and training initiatives

In recent years, the push for professionalisation of police has been renewed with great vigour and speed. Many police forces have made substantial revisions to their training curriculum in a move away from a focus on operations towards a wider educational base, emphasising "effective skills training in the areas of communication, negotiation, conflict resolution, cross-cultural awareness and the proper use of police discretion" (Etter 1992; NSW Police Recruit Education Programme 1991). While the intentions of these training initiatives are laudable, there is evidence to suggest that the effect of police recruit training is greatly transformed by the reality of police work and the "commonsense" of the police occupational culture (Brogden et al. 1988, pp.32-33; Fielding 1988; Centre for Applied Research in Education, University of East Anglia 1990). Cross-cultural awareness training, in particular, must be conducted with great care, or it could confirm existing prejudices rather than lead to greater tolerance of minority cultures (Southgate 1984). In general, training and education must be seen to be relevant to police operations and pitched at a practical rather than an abstract level. Training must also be reinforced and supported by peer groups and senior officers if it is to have any long-term influence on behaviour.

The recruitment of police officers from minority ethnic groups is likewise a positive initiative, but police forces need to pay special attention to the conditions under which minority members work within the police organisation. In Australia, there is

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a marked reluctance among those in certain ethnic communities to join the police, and those who join sometimes find themselves in a difficult position with respect to their own communities. Police management must also be careful that minority officers are given the same career opportunities as other officers and not have these opportunities limited because they are "needed" in their own community.

Areas of Tension

Many areas of tension remain. The political climate in Australia is "unusually favourable" by world standards for policing reforms (Bayley 1989). The much publicised scandals and criticisms of some Australian police forces have not dampened the push for reforms; instead, they have reinforced the need for fundamental changes to the conception and philosophy of policing, as well as accelerated the path towards professionalisation.

Crime fighting vs community policing

In spite of the new emphasis on community based policing, many police officers still see crime fighting as their major concern. Consequently, harassment and unfair targeting of certain communities are justified in terms of the degree to which these groups are engaged in offending behaviour (*see* Cunneen & Robb 1987). While the argument appears reasonable on the surface, it ignores the significance of discretion in law enforcement practices and represents a complete abdication of responsibility on the part of the police in terms of community policing. Much of routine policing is concerned with petty personal and property matters and public order offences. The trouble is many police officers still see community consultation and community partnership as a public relations exercise, the aim of which is to have the community "on side" to assist the police, and do what the police tell them to, rather than to seek wisdom and advice from the community. The effect of unilateral crackdown and insensitive policing strategies among areas of high racial tension is well illustrated by the Brixton Riots in England in 1981 (*Scarman Report* 1981). Community policing is not a panacea, but it is at least a viable alternative to some of the more divisive traditional policing strategies.

Efficiency vs legitimacy

Some problems of police race relations can be directly attributed to an inappropriate bias towards efficiency at the expense of legitimacy. This refers to a range of police practices, from the reluctance to use professional interpreters, the stereotyping and unfair targeting of certain minority groups, to the violation of the due process of the law in dealing with suspects (*see* Wilson & Storey 1991; Cunneen 1990; Human Rights and Equal Opportunity Commission 1991). Some police commanders discourage the use of professional interpreters to save costs. Lower ranking officers save time and money by making use of friends and relatives of the non-English speaker as interpreters. Instead of being seen as important members of the policing team, civilian ethnic liaison officers are treated as free interpreters by some police officers. Similarly, in proactive police work officers target suspicious and unusual activities, often by stopping and searching young people from lower socioeconomic groups and minority ethnic communities (Youth Justice Coalition 1990; Federation of Ethnic Communities' Council of Australia 1991). Intimidation, threat or actual use of force is seen to be an efficient way of obtaining confessions and investigative leads from "known" suspects (*cf* Holdaway 1983). These are all ways of making police work more efficient, but at the same time they contribute to the erosion of the confidence and respect of minority groups.

Policy vs practice

The discrepancy between policy and practice, between the "management cop culture" and the "street cop culture", and between the appearance of militaristic command and the reality of a mock bureaucracy is well known (Reuss-Ianni & Ianni 1983; Van Maanen 1983). The occupational culture of the lower-ranking officers, those most in contact with the general public, has been found to consist of various degrees of secrecy, racial prejudice, cutting corners, "easing", and distrust of the public (Sparrow et al. 1990). Upper management may produce mission statements, operational philosophy, instructions and guidelines. They may introduce incentives, disciplinary measures, training and recruitment initiatives and community consultative mechanisms. However, the extent to which any of these measures have an impact on day-to-day policing is dependent on a host of factors, including the commitment of local commanders, the degree of trust lower level officers feel about upper management, the quality of supervision, and the effectiveness of accountability mechanisms.

Local accountability vs uniformity of practices

Most police forces now rely on a decentralised system of command, whereby police officers are seen to be accountable to their local community. The local police commander consequently enjoys a great deal of autonomy, both in terms of operational policy and resource allocation. This is fine when the performance of patrols is being monitored and properly assessed, and the local commander can be held responsible for the performance of his or her patrol. But police organisations still have a long way to go in terms of quality control of their work, at either an individual level or at a patrol or regional level. The Inspector General of the New South Wales Police, an office set up to monitor and evaluate the performance of senior managers, identified serious "anomalies" in the organisation following decentralisation. For example, planning and decisions taken at the highest level of the organisation were often not understood nor practised at the local level. In general, he found that the concept of accountability lacked meaningful, objective and credible translation in organisational practice (NSW Police Board 1992). Admittedly indicators of performance are difficult to define in police work, but if policy has any relevance to police operations, there must be constant and rigorous auditing of local and individual performance.

Open organisation vs hostile environment

An accountable police force requires a degree of openness and honesty which supports the organisational goal of providing fair and equitable service in accordance with the rule of law. Accessibility and efficiency of avenues for complaints against police misconduct must be part of this openness (Sparrow et al. 1990). However, many members of police organisations still see complainants as enemies, do-gooders, trouble-makers or left-wing civil libertarians who are out to subvert the authority of the police. Without a systematic understanding of the areas of weakness and problem within the police organisation, police managers are left to fend for themselves when scandals are uncovered. By that time the organisation is only concerned with getting over the immediate crisis and protecting the organisation from further damage. The perception that the community comes away with is that police will only do something when the media perform an exposé on police deviance. Yet, unless they are backed by more powerful and more vocal groups, minority members are extremely reluctant to go to the press with their problems..

Conclusion

The success of reforms to improve police-minority relations relies on a credible and workable system of police accountability. Impressive as many of the initiatives undertaken by police forces in recent years may appear, they can only be considered as the first bold step forward. The reality is that policies and directives from headquarters are often not understood; they are resisted or ignored by local police and thus have a limited impact on local police/community relations. Both external and internal monitoring should be undertaken, yet suitable indicators and auditing mechanisms are rarely built into programs and policies. Community consultative committees as presently constituted lack the expertise, the power and the resources to effectively monitor local police practices. In the absence of systematic monitoring by police managers or external agencies, the measurement of police performance has been left to the volume of formal complaints or the ferocity of public scandals. While scandals may be an effective way of putting political pressure on governments to expedite reforms, they incur great costs to the integrity of the organisation and often lead to politically expedient solutions rather than rational or meaningful ones. Instead of discouraging complaints and discrediting complainants, police organisations would do better to encourage feedback and take complaints as a barometer of community feelings and a valuable source of information about areas of community discontent, unprofessional practices, administrative deficiencies, training inadequacies, or communication failures. Ethnic minorities should have as much access to a credible and effective complaints system as to a fair and efficient police service. Police accountability in a multicultural society requires not simply a change in policing style, it requires a fundamental shift in police culture.

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Interpreters: The Quiet Achievers

SENADA SOFTIC IS A LEGAL INTERPRETER WORKING IN VICTORIA

While most Australians speak English, over 370 000 Australians are unable to speak English well, if at all. Many more cannot read and write English. These individuals are grossly disadvantaged in functioning effectively as members of the Australian community.

Migrants from non-English speaking backgrounds have traditionally been disadvantaged, largely due to language and cultural barriers which have limited their access to government services and their participation in wider community activities. Consequently the provision of quality language services is an essential element in a coordinated strategy to redress the multiple disadvantages caused by language and cultural barriers.

In the legal system, the lack of provision of competent interpreters is said to have led to serious consequences in individual cases. It is common to hear of relatives, even young children, acting as interpreters for their parents. In Brisbane in 1989 there was an attempt to engage a court cleaner to act as a court interpreter.

The 1988 Discussion Paper *Toward a National Agenda for a Multicultural Australia* noted that "the provision of an interpreter with sound knowledge of the law and the legal system was identified by many of those consulted as a major means towards achieving genuine equality before the law".

Accessible, reliable interpreting is often critical to the administration of justice. It is as necessary to the legal system as for those who enter its doors.

Significant progress has been made in this area. Legislative changes providing for mandatary provision of interpreters in criminal proceedings, particularly in Victoria, is consistent with the view expressed by the National Agenda for a Multicultural Australia which states that "one of the most obvious threats to equality is where evidence in court is inaccurately or incompletely communicated because a witness does not speak or understand English. Professionally trained interpreters are necessary."

However, the problems of legal interpreting are much more complex than merely saying "professionally trained interpreters are necessary". One must consider the environment in which interpreters work and the manner in which they are "used" or "exploited" in the legal system. I will attempt to highlight some major issues associated with the work of legal interpreters in courts.

There have been many definitions as to the role of a legal interpreter. In a few cases where Australian courts have considered the nature of the role of the legal interpreter, the conception has been that of a mechanical instrument, namely an "interpreter machine". In the case of *Gaio v. the Queen* (1961) the definition of the role of an interpreter states "He contributes nothing of his own that is material. He is merely the mouthpiece alternatively of A and B". In short, the interpreter is a mere "conduit pipe".

Amongst some legal professionals, including magistrates and judges, there still seems to be the belief that knowledge of a foreign language is enough to be an interpreter. As Karla Dejan-Le Feal, member of the International Association of Conference Interpreters (AIIC) pointed out, that to a true interpreter this is the same as saying "The knife maketh the surgeon". It is equally preposterous to claim that one is an interpreter because one has studied languages. Language is nothing but the interpreter's scalpel. Its effect will depend entirely on the skill with which it is handled.

In Australia, professional interpreters have completed vigorous examinations to gain accreditation by the National Accreditation Authority for Translators and Interpreters (NAATI). Those wishing to practise as legal interpreters must have minimum NAATI Level III accreditation, and professional development training in the area of legal interpreting is preferred.

Australia has gained international recognition in the development of tertiary studies for interpreting and translating degree, diploma and certificate courses. In Victoria the majority of legal interpreters, in the major community languages, have a Bachelor of Arts Degree or Graduate Diploma in Interpreting and/or Translating.

However, even after twenty years interpreters still seem to lack status, particularly in the legal sector. Lawyers, magistrates and judges, do not consider interpreters as fellow professionals. The term

"using an interpreter" is indicative of the relationship with the interpreter. Terms such as "assisted by" and "working with" an interpreter are more appropriate and relevant to the working relationship.

From an interpreter's perspective, we are often treated as "sub-professionals". There is a failure to provide for the interpreter's human needs. We are expected to stand during lengthy proceedings, our brain and mouth are constantly in motion interpreting the whole proceedings to the NESB client (for example, defendant) and those present in the court-

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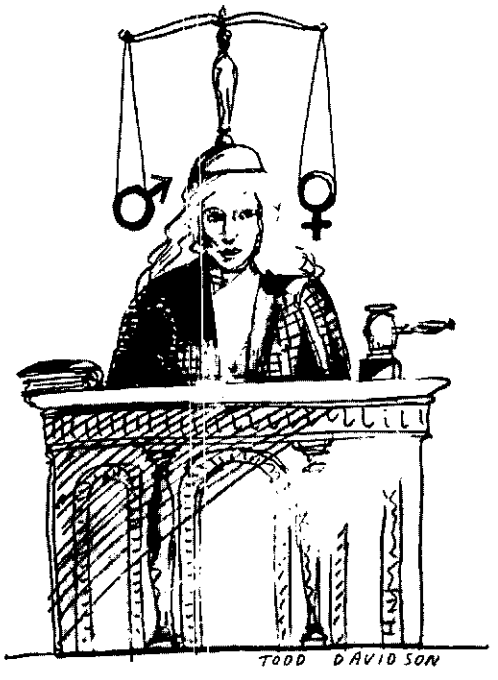

room. On many occasions we are denied adequate breaks during the course of the court case. The Australian courts, to date, have not been designed to accommodate the interpreter in court. The working conditions of interpreters in court are fairly poor.

In addition to the above, the legal interpreter has to deal with the difficult nature of legal interpreting and the linguistic complexities. Magistrates, judges and lawyers need to acquire awareness of the lexical and grammatical complexities of other languages as certain basic English words and sentences cannot be "easily" matched in other languages. The cultural aspects of language further hinders the interpreter's work in transmitting the information precisely and promptly.

The complexities of cross-examination, coupled with the various styles of questioning make the interpreters task more difficult. On the one hand, the cross-examiner expects the interpreter to literally translate the questions and answers but also incorporate the tone, rhythm and nuances, whilst on the other hand, the NESB client (the defendant) is inadvertently pressuring the interpreter to act as an advocate. The pressures of these conflicting demands are enormous.

There is very little appreciation of the speed and length of questions or statements delivered in court. There needs to be formal acknowledgment of the competing demands being placed on interpreters in court and there should be a greater onus on magistrates and judges to control proceedings when interpreters are involved.

Greater understanding and appreciation of the work of legal interpreters will prove to be a productive educational strategy. Legal interpreters are in desperate need of further training and professional development. Interpreters need to be aware of the complexities of the legal system including the procedures and practices. Whilst lawyers, magistrates, judges and other court personnel need to be aware of the complexities of interpreting, competing demands placed on interpreters and ethical dilemmas facing interpreters, there needs to be greater appreciation of the legal interpreter's role and the position of the legal interpreter in court.

There needs to be much more study and discussion of the impact legal interpreters have on court proceedings and some of the issues in this article should be examined in greater detail. As a matter of urgency, I believe lawyers, magistrates and judges should focus on the cross-examination process involving interpreters and evaluate the impact interpreters have on the objectives of the cross-examination process and the possible outcome.

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Kathy Laster & Veronica Taylor

The Compromised "Conduit":

Conflicting perceptions of legal interpreters

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The Australian legal system has been slow to recognise the importance of legal interpreters. Mostly, the problem of communication in the courtroom was resolved pragmatically—either let the NESB person "get on" as best they could or accept the services of someone with enough knowledge of both languages to get basic points across. The failure of the legal system to recognise the importance of full participation in the legal system by NESB people became a political embarrassment for governments committed to a "justice" and "equity" policy platform. It also arguably violated the provisions of the International Covenant on Civil and Political Rights (1966).

In a country where more than 3 per cent of the population are not fluent in English continuance of ad hoc arrangements was clearly inadequate (Advisory Council on Multicultural Affairs 1989).

The net effect has been a flurry of legislative measures which, in various formulations, create a NESB persons "right to an interpreter" in a variety of legal proceedings. Commonwealth measures mirror initiatives taken in a number of state jurisdictions. The *Children and Young Persons Act 1989* (Vic.) and the *Magistrates' Court Act 1989* (Vic.) direct the court not to hear a matter without an interpreter being provided for a person who does not have sufficient knowledge of the English language. Progressively, Australian legal systems are coming to acknowledge that the provision of interpreter services in court is a necessary and "routine" part of legal adjudication.

While the "right" to an interpreter has been recognised, its implementation in practice has been less sure-footed. Little thought has been given to the way in which interpreters will be accommodated by the legal system in general and the courts in particular. This is an easy oversimplification of the theoretical and practical problems involved (Laster 1990; Taylor 1989).

This article explores empirically the extent to which the lawyers and interpreters adhere to the law's conception of the role of interpreter as "conduit". This theoretical role can be tested in the formal setting of the court because court procedure leaves little room for anything other than language exchange.

Although both the interpreter and lawyer participants all maintained that they accepted and subscribed to the idea of "interpreter as conduit" their practice in specified cases deviated significantly from this. The conduit model in a number of cases was only sustainable in the courtroom because professionals had devised a number of informal ways of circumventing its limitations. It is likely that the conception of the interpreter as conduit is more frequently undermined when interpreters work with lawyers in less formal legal settings. It may be more fruitful to devise a conception of the role of legal interpreters which more accurately reflects professionals needs and experiences.

Comparing professional perceptions

Prosecutors, defence counsel and interpreters involved in eight county court criminal trials were interviewed to ascertain their experiences of interpreted evidence during the course of a trial. The cases were randomly selected from requests for provision for interpreters' services from the former Victorian Ethnic Affairs Commission Legal Interpreting Service (LIS). A wide variety of languages, including Greek, Vietnamese, Arabic, Croatian, Italian and Turkish were part of the sample. All interpreters were accredited to NAATI (National Accreditation Authority for Translators and Interpreters) Level III standard. The lawyers had varying degrees of experience working with NESB people. All, however, had used interpreter services previously. Four of the sixteen lawyers interviewed were born overseas or grew up in families where a language other than English was spoken. The cases concerned a range of serious crimes, including: murder, incest, extortion, rape, assault causing grievous bodily harm, armed robbery and false imprisonment. In all except one case, the interpreters were required to interpret for the NESB accused or victim/witness giving evidence during the course of proceedings.

The interviews sought to establish each profession's understanding of the role of the interpreter in the context of the linguistic and cultural issues

which emerged in the individual cases in which they were involved. Participants were asked open-ended questions about interpreting issues in the courts system, such as training, working relationships, and the needs for NESB parties.

A semi-structured interview of between twenty and forty-five minutes duration was conducted. The interviews were, with the permission of all except three of the participants, taped and transcribed. When no tape was available, detailed notes were made during the course of the interview and written up immediately afterwards. In total, twenty-one interviews were conducted.

The legal paradigm: interpreter as conduit

The conduit model of legal interpreting was developed as a technical solution to avoid the enormous evidentiary problems associated with the exclusion of evidence as hearsay. Rather than treat the interpreter as a third party, the court constructed the exchange between the principals as if the interpreter had not been present (Laster 1990, p.18). The role of the legal interpreter was conceptualised as a mechanical service, not a complex human interaction. In the leading case of *Gaio v. the Queen* (1961) 104 CLR 419, Badham QC argued that the interpreter is a mere "conduit pipe" (429). The metaphor, based on English precedent, (*R v. Attard* (1958) No. 43 Ct Ap) characterised interpreters as "mere ciphers" appealed to the judges of the High Court.

In the view of Justice Kitto, the interpreter was merely a "bilingual transmitter", "not different in principle from that which in another case an electrical instrument might fulfil in overcoming the barrier of distance" (p. 430).

The narrow conception of the interpreter as "mere conduit" expressly excludes the human elements of successful communication. Interpreters are not expected to take an interest in proceedings but rather are required to "perform" as neutral, machine-like functionaries. In the courtroom, the advantage of this concept was to preserve lawyers' traditional control and dominance of proceedings. Confining the role of interpreter denied the potential impact that interpreters might have on the linguistic strategies deployed in trial proceedings.

The other important advantage of the narrow conception of the role is that it allows the legal profession to impose a seemingly "objective" standard of good interpreting to which an individual interpreter could be held accountable. This measure provided a way of distancing the emerging "professional" interpreter from the unethical and unsatisfactory practice of the "bad old days". The development was welcomed by interpreter educators because it paralleled linguistic paradigms of sophisticated, instantaneous language exchange. This in turn lent credibility to claims that interpreters (and legal interpreters in particular) were professionals with high level, specialist skills. In our study, all the Level III accredited interpreters demonstrated their professional status by their adherence to this model of their role.

One interpreter recognised that, at least formally, this role precludes any exercise of discretion. Lawyers, too, accepted that the "ideal" interpreter will "translate every word that is said" and "interpret as literally as possible, exactly what you are saying".

An interpreter who is "passive and unobtrusive" and who is not "noticed" comes closest to the barristers' ideal. Yet, detailed questioning reveals that both lawyers and interpreters recognise that it is seldom possible to strictly adhere to such a narrow conception of their role. Linguistic and cultural complexities often forced participants to consciously or unconsciously deviate from the conduit model. In practice, interpreters were expected to, and clearly did, extend themselves well beyond being a "mere conduit".

Compromising the conduit

It is ironic that law, as a profession of words, (Mellinkof 1973) should deliberately construct a role for interpreters which denies the complexities inherent in language. The adversarial courtroom, the linguistic complexities of legal interpreting and the significant cultural dimensions of cases involving NESB people force interpreters and lawyers to compromise the conduit model.

The pressures of the courtroom

The adversarial courtroom is a deliberately tense environment, and the trial process purposefully aggressive. The trial is a mechanism for deciding between competing claims by testing the evidence relied upon by each side. Much depends on the reliability of the evidence given by witnesses and their relative "credibility" or "credit". Each side seeks to undermine an unfavourable witness's credit by making them appear confused or unreliable. The strategies adopted are essentially linguistic. Linguists call courtroom language "dysfunctional", "absurd", or even "pathological communication" (Bogoch & Danet 1984). Cross-examination is a good example. Here the apparent aim is to extract information from a witness or to clarify points of testimony. Lawyers seek advantage for their own clients by highlighting weaknesses in a witness's version of events. Information or real "answers" are the last thing cross-examiners want.

Successful cross-examination requires mastery over language and control over the responses of the witness. Young lawyers are taught that the cardinal rule of cross-examination is: "Never ask a question to which you do not know the answer", and to phrase their questions so as to constrict the possible answers which the witness can give. The judge, as neutral umpire, has the job of intervening if this goes too far. In the hands of a skilful cross-examiner, though, the techniques stay within the bounds of acceptable conduct.

Interpreters are required to further the objectives of the cross-examiner by not only literally interpreting the questions and so capturing the tone, rhythm and style of speech employed. Mechanistic, neutral

literalism is not enough. The demand is for the interpreter to assist the cross-examiner to achieve the strategic objective. Professional interpreters recognise the need to reproduce the colour and style of cross-examination, as well as its content. Failure to put the cross-examiner's questions forcibly enough can disempower the cross-examiner and the party represented. Adopting a neutral tone in interpreting the reply of the NESB witness can also have a profound effect. It can make the response sound more plausible if relayed in a detached unemotional way, or it can deny an NESB witness the opportunity to use their own rhetorical style.

Interpreters are confronted by three problems in cross-examination. The formation of cross-examination questions may not be linguistically or culturally capable of interpretation. They must also echo the style and delivery of the cross-examiner's questions and the witness' response. This means that they are constantly switching persona. They are also subject to subtle pressure from the defendant to act as an advocate, by putting his or her case in the best possible light. The pressure of these conflicting role demands are enormous.

Interpreters' skills are manipulated by lawyers and witnesses alike to secure perceived advantages. Or if lawyers and witnesses do not like the answer they will allege that the interpreting wasn't good. One interpreter put the problem more bluntly: "Barristers tend to trick you."

Both defence counsel and prosecutors were sensitive to the effect that interpreted evidence can have on the judge and/or jury's impression of a witness.

Prosecutors are likewise wary of using interpreters in certain circumstances. An interpreter may undermine their ability to destabilise a witness through rigorous cross-examination. Also, the delay occasioned by the need to interpret questions and answers disturbs the "flow of proceedings".

Lawyers cannot address any inappropriate inferences drawn by the judge and/or jury from the absence or presence of an interpreter for an NESB party.

Leaving aside the impact of interpreters on credit and outcome, even the most "straightforward" courtroom exchanges require not only high-order linguistic skills, but also the exercise of discretion by interpreters.

Linguistic latitude

Interpreters are endlessly confronted by the problem of communicating meaning when there is no precise equivalent to an English word in the target language (Dixon, Hogan & Wierzbicka 1980; Eades 1988). Linguistic difficulties are exacerbated when interpreters are called upon to interpret technical legal terms. Accuracy of interpretation is also complicated by the linguistic tricks exploited by lawyers in the courtroom: lawyers' use of the double negative for example.

One area in which English often differs from other languages is in the forms of expression used between people of dissimilar age, different gender or unequal status. Interpreters experienced difficulty with reconciling the norms in the target language with the need for accuracy in conveying the English message.

The linguistic choices made by the interpreters in these types of cases may or may not have had a significant impact on outcome. The important point is that although interpreters formally subscribed to their role as "conduits", in practice, linguistic and cultural factors militated against a rigid adherence to this model in practice.

Most lawyers recognised that the interpreter has a right to interrupt in order to clarify a linguistic problem. Lawyers differed among themselves about when such intervention would be appropriate. For interpreters, intervening during the course of proceedings appeared inconsistent with their role as conduit. Past experience had taught them that some lawyers and judges do not take kindly to being interrupted.

These differences can have devastating practical consequences. In pilot interviews conducted for this study the barrister and the interpreter in one case independently noted that in their view the witness was unsophisticated and seemed to have a great deal of difficulty comprehending questions, even in her own language. The judge, on the other hand, commented in interview that he had formed the impression that the witness was "just playing up". He also thought that the jury may well not have formed the same negative perception of the "uncooperative nature of the witness", perhaps influencing their finding that the defendant was not guilty. On hearing the quite different perceptions of the witness held by the interpreter and the barrister, the judge commented that he would like to have had those views brought to his attention during the trial (Lancaster 1990).

There are similar differences of opinion about the role of the interpreter in conveying what an NESB person is seeking to communicate when they mix English and their mother tongue.

Differences between interpreters and lawyers in their understanding of the ambit of the conduit model were even more pronounced when they dealt with the cultural questions which arose in individual cases.

The complexities of culture

Many of the cases concern significant cultural differences which might account for the behaviour of the accused. Once again, interpreters and lawyers varied in their expectations of the extent to which the "conduit" should be expected to provide information about the cultural context of the case. Mostly, interpreters maintained that they resisted acting as a "cultural expert". They were wary of generalising about culture and stereotyping practices and attitudes.

Interpreters who had grown up in Australia were particularly wary of providing cultural explanations. They were less confident of their knowledge of cultural practices and resisted the frequent attempts by

barristers and solicitors to have them comment on cultural aspects of the case.

For their part, lawyers also stated that asking interpreters to explain culture "would get you into really dangerous ground". If an interpreter provides such information they "start to become partisan, or appear in the eyes of the jury to be partisan". Allowing an interpreter to be a cultural bridge, they suggested, creates the potential for "a lot of abuse in a way, and misuse".

Although interpreters and lawyers reported that they were unwilling to broaden the conduit role to include provision of cultural information, they appear to canvass and discuss cultural issues together informally. Where a case involved allegations about confessional material obtained during police investigation, one interpreter sought out the defence counsel and explained that the accused's fear of talking to the police in Australia stemmed from the widespread fear of police in his country of origin. In another case, the lawyer admitted that the interpreter had been "extremely helpful" in explaining Muslim marriage practice, which was a legally relevant issue in the case.

For lawyers, interpreters are frequently the most accessible sources of information and advice on cultural issues and many admit that they had "learnt a lot from them". One prosecutor, while eschewing the role of interpreter as cultural bridge, thought that "as the defence barrister you would probably want to use the interpreter a little bit to try and ascertain some sort of cultural details".

From the perspective of the NESB accused, the interpreter is an important source of information about Australian culture and the legal system: "They do ask your opinion, what is best to do". One interpreter had the family telephone him repeatedly to find out what was happening in a case. Some interpreters resist such pressure while others are prepared to provide some limited advice and support.

Lawyers mainly expected interpreters to remain neutral. Lawyers also implicitly expected interpreters to assist with, or take responsibility for, explaining the Australian legal system to the NESB person. Most lawyers recognised the fine line between interpreters explaining proceedings and usurping the legal adviser's role.

Many of the deviations from the conduit model described by the two professional groups related to interpreting work outside the courtroom. Here, greater latitude was given to the professional judgment of the interpreter and both professions were more willing to make discretionary decisions about their ethical obligations on a case-by-case basis. The point highlighted by this study, however, is that subtleties in the understanding of the interpreter's role are present even in the most constrained and controlled environment of the courtroom.

Interpreting the data

Differences in attitude between and among the two professional groups in this study could be ascribed to differences in their professional backgrounds and the legal and linguistic variables of each case. Deviations from the "conduit" model of communication could be explained by a failure to adequately familiarise professionals with its parameters. In this kind of analysis, even if deviations are widespread, the cure would be to have interpreters and lawyers internalise the model by educating them more thoroughly.

Interpreters themselves concede the need for improved professional education.

Improving the linguistic and technical competence of interpreters has been a priority in other jurisdictions, notably the United States' Federal Court, which tests interpreting and translation skills but only as they apply to a courtroom setting (Gonzalez et al. 1991). Our data suggests that the way in which the professional roles of interpreters and lawyers are organised is more significant than the degree of adherence to the conduit model. When interpreters considered their training needs, they nominated training about law and the legal system, rather than linguistic training as a priority. One of the most common observations among the interpreters was "Actually, we should have more training", including practice courts, observational work in the courtroom, and greater detail about rules of evidence, court documents and generally "what is going on".

Adopting the conduit model of interpreting is one way in which the professional dominance of law over interpreting is reinforced (Abbott 1988). Interpreters reported that the legal system and the courtroom are intimidating environments in which to work, and that they experienced some rivalry with the legal profession.

One interpreter noted that "psychological acceptance is quite needed by some legal people" and others admitted that they used to feel "intimidated by lawyers". There was some sense of gentle professional rivalry, according to one interpreter, "... we get along very well. The only difference is the lawyers are getting paid too much money and the interpreters are not ... they are not the only professionals who don't know much about interpreters". There was only one lawyer who volunteered that interpreters are "professionals in their own right and I accord them that status. I don't see them as assisting the profession, I see them as having a distinct, discrete professional status".

Lawyers supported the extension of training for legal interpreters: programs should be directed at understanding what is happening in the courtroom, legal jargon, and the role of the different participants. Some lawyers went further and believed that interpreters should have training in "interpersonal skills, I mean some accuseds look a bit rough and they could be intimidating".

For their part, lawyers were less inclined to favour specialist training for their own profession about how to work more effectively with an interpreter. Even lawyers with bilingual skills maintained, "I don't think you really need that much—

it's a pretty simple thing dealing with interpreters".

One reading of the findings would suggest that there is still much work to be done in improving the professional relationship between lawyers and interpreters. The only way to effect change would be to re-negotiate professional boundaries. Honest working relationships and free exchange of information, however, are unlikely to develop in the absence of better professional education. Nor will interpreters be accorded higher status and a more flexible role if this is perceived as undermining the centrality of the courtroom and the linguistic strategies which are integral to a system of adversarial justice. But it is equally unlikely that improvements in working relationships between the professions can be achieved by merely reinforcing the message that an interpreter is "a mere conduit".

Reconceptualising the role of interpreter

In solving a narrow technical issue, the adoption of the "conduit model" has avoided other, pressing concerns of lawyers and interpreters. The resulting choice is between refining the conduit model, or acknowledging that it is a fiction with limited utility and re-defining the legal interpreter's role.

Our study and interpreter's own experiences suggest that there are always ambiguities in the interpreter's role. Subtle combinations of roles are required to accommodate the demands of changing circumstances. No single prescriptive definition of role can overcome this.

We need a more sophisticated conceptualisation of the role which recognises its importance, fluidity, and potential power. For these reasons, our preferred formulation of the role is as "communication facilitator". Unlike "language expert", "communication" embraces the cerebral, non-verbal and cultural dimensions of human interaction. "Facilitator", rather than "conduit" credits the interpreter with a more active and discretionary role. An important corollary is the recognition of the high level of skill required to undertake interpreting. "Communication facilitator" assumes that the legal system is dynamic and multi-faceted. It is not predicated on the courtroom model of interpreting.

This formulation, however, concedes the limitations of the role of interpreter. It recognises that interpreters are not "advocates", because they do not initiate independent ideas and strategies, nor do they have the power within the system to implement these. They are not independent cultural experts, beyond what is required to effect communication between the parties.

Formal acknowledgment of the "real" power of interpreters on the process and outcome of legal disputes has three immediate consequences.

Professionalising legal interpreting

The valiant efforts to accord interpreters a professional status for the work they do will not succeed until there is a realistic assessment of their "work value". So long as the law holds them to be a technical service to be "used" they are denied the status of professionals. A key feature of professionalism is the exercise of discretion.

Adequate remuneration and improvements in working conditions also flow from recognition of this professional status. This in turn should have a dramatic impact on job satisfaction, recruitment and retention of highly trained and experienced legal interpreters.

Education

Educating interpreters and lawyers to recognise the competing demands and pressures of the role of interpreter should be more useful than training programs which reinforce the fiction that the interpreter is a "neutral conduit". Interpreters should be made aware of the complexities of the legal system and encouraged to openly explore and debate the resolution of role conflict. In the field, as interpreters have long known, the "conduit model" is of little practical assistance. For lawyers, too, education and training needs to be expanded beyond simple "recipe-like" formulae on "how to work with an interpreter" to incorporate a self-conscious awareness of the nature of legal interviews and formal questioning techniques. It goes without saying that this should be more helpful for young lawyers for preparing them generally for the demands of practice generally.

Accountability

The corollary of a broadened professional role is greater accountability. Evaluation of the performance of the interpreter shifts to a realistic assessment of the complexities of their work. Likewise, lawyers and judges are rendered more accountable for the demands which they place on interpreters. In some cases, formal acknowledgment of the competing demands being placed on interpreters by lawyers in a courtroom for example, may mean there is a greater onus on the judge to control proceedings.

A changed conception of the role of the interpreter will involve deviations from current practice —some subtle, some more dramatic. A broader conception of "communication facilitators" has significant implications for the training, accountability and ethical responsibility of interpreters, areas in which further empirical research is indicated.

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Crime and Older People, February 1993
Crimes against Businesses, February 1994

It is also hoped to make available on disk papers from the following AIC conferences:

Law, Medicine and Criminal Justice, August 1993
Aboriginal Justice Issues II, June 1994
Youth Crime Prevention, April 1994

Jenny Burley

Issues of Access and Equity — Barriers to Reform

Multiculturalism and the Law (ALRC 1992), has thoroughly canvassed and subsequently identified the issues of access and equity which arise in the administration of the criminal justice system in a culturally diverse Australian society. Recognising the importance of cultural differences, the Commission makes a number of sensible and achievable recommendations for change which could be implemented with relative ease if the political will existed to make the necessary funds available.

One way to facilitate these changes would be by channelling funds for services through mainstream ethnic community organisations. However, research with the Vietnamese in South Australia suggests internal cultural contradictions and specific attitudinal problems which exist towards crime and criminals in this community cannot be legislated, or funded, away.

While the research, not unexpectedly, reveals a widespread ignorance of the Australian legal system, respondents held firm, and surprisingly harsh, views on the kinds of punishment which should be meted out to offenders, and did not exclude capital punishment. These attitudes go some way to explaining the reluctance of "mainstream" Vietnamese organisations to be involved with helping other Vietnamese who break the law.

Being a refugee rather than a migrant adds a layer of difficulty to successful adaptation to Australian society. Without an understanding of this "refugee" factor reforms proposed by the ALRC report may still be insufficient to address issues of access and equity in the Vietnamese community. Add to this the possibility that a cultural specificity unique to all ethnic groupings may well exist and we are once again confronted with the bogey of "multiculturalism".

The ALRC did not engage in the controversy surrounding what is meant by "multiculturalism" but adopted the Government policy definition of the term. It is this uncritical approach which creates barriers to reform at the stage of policy or legislative implementation. While it is important to emphasise, as the Commission has done, the shared values and characteristics between a variety of cultural groupings, insufficient attention to significant differences which exist can result in eventually ineffective policy reforms. This is particularly so in the area of criminal justice.

ALRC Report

The Australian Law Reform Commission's inquiry into the underlying philosophy and principles of the law in Australia in relation to its possible discrimination against ethnic minority groups has comprehensively identified issues of access to and equity before the law for these groups. There are, however, some qualifications to be made.

In the area of criminal justice, the role of the Commonwealth is limited and criminal justice is largely a state responsibility (ALRC 1992, p. 198). Although there are moves toward establishing a Model Criminal Code for adoption by the Australian States, there is a need for the findings of the present inquiry to be incorporated immediately into State and Territory law if rights are to be protected and equality before the law is to be guaranteed for members of ethnic minorities accused of crime (p. 199). Without this State legislation the Commission's recommendations in terms of criminal justice will not help the majority of non-English speaking background (NESB) people involved in criminal proceedings.

Delivery of reform measures is always the most difficult phase of any inquiry but the use of community networks is an effective means of distributing information and education services for the majority of any given ethnic population (p. 23).

In the case of the Vietnamese, the use of community networks becomes problematic. The difficulties, however, are complex in origin and interwoven with the nature and composition of the refugee movement from Vietnam since 1975 as much as the historical institutional inadequacies of Australia's immigration policies and expectations. Not the least of these difficulties is the notion of multiculturalism.

Multiculturalism

When first promulgated by the incoming Whitlam Labor Government in the early 1970s, the approach of multiculturalism in immigration policy was seen as a new social ideal which was sensitive to cultural difference and as a bipartisan approach to public

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policy which encouraged and celebrated such diversity (Liffman 1983, p. 13). It was not long though, before the concept and the policies began to be criticised as conceptually flawed, as incoherent, socially divisive and even racist.

Most of the debate about multiculturalism is about what it means. However, as Liffman said as early as 1983, it has no "coherent theoretical and practical content, or a meaning which is genuinely understood and agreed upon by either its advocates or its opponents, let alone the community at large".

Five years later in 1988 the Fitzgerald report on immigration made the same criticism, as did D.L. Jayasuriya in 1990.

This lack of a shared meaning has given rise to twenty years of criticism of either the idea or the policy, or both, from all shades of the political spectrum. To summarise, it could be said that for those arguing for substantial, structural reform in the interests of equal opportunity and equal access to justice for members of ethnic groups, the idea of multiculturalism is seen as romantic idealism and the policy, in its failure to produce either equality or justice, as therefore lacking the rigorous analysis it must have to bring about the necessary structural change.

This is not to say that multiculturalism is without its supporters. Unfortunately though it remains problematic.

The number and variety of understandings of multiculturalism make it difficult to be clear about its precise meaning. Although any multicultural strategy or policy in a social justice framework seeks to address disadvantage, it is necessarily, perhaps unavoidably, couched—as ALRC recommendations are—in general terms. And it is in this very generality that well-meaning policy reforms can flounder and ultimately be less effective. To demonstrate how this might happen it is useful to look more closely at the case of the Vietnamese.

A case study—the Vietnamese

To understand why there may be barriers to the implementation of ALRC reforms to the criminal justice system using Vietnamese community networks, it is necessary to understand the history, nature and composition of the refugee population in Australia.

After the war led by Ho Chi Minh from 1945 to 1954, huge numbers of people fled from the North to the South. One official source puts the figure at 927 000, 60 per cent of whom were Catholics fearing that a communist regime was not likely to protect them.

Shortly before and after the fall of Saigon to Ho Chi Minh's forces in April 1975, over 200 000 people escaped from the South in panic and fear. They were to be followed, in successive waves over the next fifteen years, by an estimated 1.5 million more (UNHCR 1990).

For the majority of the Vietnamese, though, there was no thought of leaving in the early days of the new Republic. For many, the defeat of the Americans was the defeat of yet another colonial power. The task of reconstruction was massive, especially since foreign aid from the USA was cut off. Almost immediately, standards of living fell dramatically, food was scarce and freedom of movement became a thing of the past. The presence of security agents dominated every facet of life and authorities required no warrant to make arrests on the basis of vague, circumstantial or even incorrect information (Nguyen & Kendall 1981, p. 33). Refugees from Vietnam thus bring with them the experience of thirty years of war where the rule of law had broken down and the memory of the pervasive destruction of their country and their people. Those under thirty in 1975 have known nothing else.

It is important in this discussion to understand a little of the religion and culture of the Vietnamese. Vietnamese Buddhist values are embedded in the Vietnamese way of life and are the foundations to Vietnamese relationships with others. By far the most important of these values are those associated with the family, where individual interest is subordinate, if not irrelevant, to the welfare of the whole group (Vu 1978, p. 17). Family honour is paramount and stringent social censure is applied to family members dishonouring the family name. Should such a disgrace occur, families are accustomed to dealing with those matters internally and without help from outside.

Traditional Vietnamese society is also patriarchal with a quite rigid division of labour between men and women. This does not leave women completely powerless but does confine their decision-making influence to the domestic sphere. The obedience required of women and children to the male head of the household also makes for authoritative approaches to behaviour which, for children, is strictly, if lovingly, controlled.

Ethnicity, class and religion: Vietnamese in Australia

The Vietnamese who have settled in Australia are not a homogeneous group, nor are they representative of a cross-section of the population in Vietnam. There are four basic divisions within Vietnamese society. There are the differences between people from the North who live in a harsh and poor environment and those from the South who live and work in fertile areas with easier access to cultural centres and universities.

Apart from the mutual distrust existing between North and South Vietnamese, there are also rigid class differences within both groups. Education, occupation and family social status are associated with an urban-dwelling middle class while the small rural farmers and those who live by fishing—both groups with little more than primary education—are considered to be peasants. There is a wide cultural gap between the two classes.

Religious differences can be described as those existing between Buddhism and Catholicism. Catholics are a small proportion of the Vietnamese population, but a large proportion of the refugees. In my experience this section of the population are

politically and philosophically very conservative.

Finally, there is also a large Chinese Vietnamese population, concentrated in the South, who are mostly business people. Culturally, the ethnic Vietnamese and Chinese Vietnamese do not interact and it was this latter group who were "forced" to leave in huge numbers in 1978-1979 when their businesses were confiscated by the new regime.

Of the Vietnamese refugees escaping between 1979 and 1982 would find that the majority were elite Northerners resident in the South, followed by South Vietnamese elites, Catholics and Chinese (Viviani 1984, p. 130)—the groups who had most to lose under a Communist regime and, certainly in the early days, the "richer, stronger and better connected groups" favoured to succeed in their escape (Lewins & Ly 1985, p. 17).

There are, however, other characteristics of the Vietnamese population in Australia which need to be taken into consideration. At the end of 1982, 57 777 Vietnamese had entered Australia. They were a comparatively young group with large numbers needing employment and a high proportion of school age children (Zulfacar 1984, pp. 4-7). In the early years there was a distinct bias of males, and many refugees were unskilled by Australian standards (Viviani 1984, pp. 131-34). Fifty per cent of the population were married but did not necessarily have their spouses with them and there was an overall low number of complete families (p. 132). As discussed earlier, there were ethnic, class, regional and religious differences within the group with Catholics and Chinese Vietnamese being over-represented.

Since 1982 Australia has substantially reduced its commitment to both refugee intakes and family reunion programs from nearly 22 000 in 1981-82 to 12 000 in 1986-87. Criteria for the family reunion group have been tightened to exclude extended family members. Those members who are eligible to migrate must be paid for by the relations already resident in Australia who are "among the poorest section in the Australian community", having only recently been refugees themselves (Refugee Council of Australia 1986). They also suffer from high rates of unemployment in economically difficult times.

Refugees are different

What these short facts attempt to demonstrate is that refugees arrive in Australia possessing characteristics which differentiate them from voluntary migrants in important ways, for example: the degrees to which they may have suffered from the violence of war or under politically totalitarian regimes; the amount of time, resources and money they had to prepare for departure; the important members of family who had to be left behind; the relatives who did not survive the war; the escape or the journey; the lengthy and uncertain time spent in unsanitary transit camps; and the overarching fear and anxiety which accompanies existing only to survive when the future is unknown. Each of these factors will affect the chances of successful settlement for refugees but, what is more significant for one group or individual will vary according to culture and experience. This is particularly so in the case of the number of unaccompanied minors who were refugees from Vietnam.

Unaccompanied minors

For young Vietnamese the presence of family in Australia will be of overriding importance. Kin networks are the bedrock of Vietnamese culture and society and the extended family is the source of all problem solving, guidance, support and welfare. The public nature of Australian welfare is thus an alien concept for the Vietnamese and dealing with it can create significant difficulties for them in the resettlement process.

Between the years 1975-1982 there were large numbers of unaccompanied minors accepted for settlement in Australia, many of whom were fostered into Australian families for care and were thus able to continue their education. For some, this was a successful process which resulted in eventual reunion with their own families (Nguyen 1986). For others, it did not work. Leaving school for work was a solution for some, joining with other Vietnamese in shared housing helped others. Where these options were not available, where lack of language and skills spelled long-term unemployment, these young Vietnamese were vulnerable to existing street cultures where there was every likelihood that they could be introduced to drugs and petty crime. In this they were no different than other young Australians in similar circumstances although the research indicates that crime rates for the young Vietnamese are proportionately about half those for the Australian-born population (Easteal 1989). Even so, this lifestyle creates substantial problems for their relationship with Vietnamese community organisations where they might be helped through ALRC recommendations to use such organisations to implement criminal justice reforms.

Community organisations

There are now a variety of Vietnamese community organisations in Australia which meet the needs of different sections of the community. Although Vietnamese workers are employed in more generalised community welfare services such as migrant resource centres, migrant women emergency services and shelters or youth support services, these workers do not have the influence in the community which is accorded to the "official" organisations.

The structure, sentiments, politics and service priorities of Vietnamese community organisations naturally reflect the dominant cultural values of the founding members who have now been in Australia up to fifteen years. Drawn from both North and South Vietnamese elite, it has been my observation that these leaders tend to be largely male, conservative and, in the Vietnamese way of things, authoritative. They command a great deal of respect in the community, wield considerable power and are staunch upholders of traditional Vietnamese customs and values. Consequently it will be found that the elderly are cared for, parents are supported, approved

young people are encouraged and children educated in their language and culture in Saturday schools.

If, however, individual Vietnamese do not fit into this conservative cultural norm it will be difficult to get help from such an organisation. A woman victim of family violence will not be able to confide her problem to a community worker let alone be given the information and support she needs. Although Vietnamese workers may feel some sympathy for the victim, they also believe that this is a problem to be sorted out by the family and is none of their business. Least of all is it the business of the police. It will be up to an Australian woman worker to help the Vietnamese victim of family violence and even then, cultural taboos and language barriers may prevent the victim from being able to act to protect either herself or her children. The single mother is in a similar position, particularly if she is unmarried. To be in such a position is to be thought of as a prostitute and beyond the pale of conventional society. Divorce or remarriage for women is also not sanctioned in traditional Vietnamese culture.

In the same way, young people unattached or detached from their families who are in trouble with the law will be reluctant to relate their problems to workers who, as more senior and therefore culturally to be obeyed, not only disapprove of their actions in breaking the law but also of their separation from the family. The vulnerability to homelessness, drug addiction and crime of unattached or detached youth has been recognised as a problem for some years and Grant-in-Aid workers have been employed by community organisations to reach out to these youth. If the offending youth do not comply with the conventions, however, they will not continue to be helped. This will not be an outright refusal to provide advice or support but a more subtle lack of response. It may be that the workers themselves apply sanctions to services or that they are directed to do so.

Internal cultural contradictions

The strength of the familial nature of Vietnamese culture is responsible for the strict social control which is exerted over not only the young but all members of the society. Unrepentant criminals, having breached this code of family honour, are ostracised from their own families and thus live marginalised lives in the wider society. What this means for the Vietnamese—mostly young men between the ages of eighteen and thirty—is that they are adrift in both their own and a foreign culture.

Reverting or continuing to live in an all too familiar survival mode where the young refugee has perhaps endured the brutalisation of war, the terrors of escape and the worst of fears, these young Vietnamese males relate to the legal process according to their culture and experience. On the one hand this dictates a respect, deference and passive acceptance towards authority figures such as police, lawyers or magistrates and a fear of divulging information, learned under the communist regime, where even the giving of a correct name and address could result in the disappearance of oneself or other family members. On the other hand, in a contradictory way, the Australian legal process holds very little fear for the Vietnamese law-breaker. Even in more serious offences, due process and a prison sentence will be more humane in Australia than that which could be expected in Vietnam. It is also possible that prison life could be more physically comfortable and secure than life on the streets, in Vietnam, or in a transit camp. Thus, in the scheme of things, it may well be that if a Vietnamese is unattached to a stable family, is unemployed, and marginalised in Vietnamese and Australian society, the threat of prison is an acceptable risk to run for other needs to be met.

A further dimension of these culturally internal contradictions is the young law-breaker's response to police harassment. Although it can be experienced as fearful and unpleasant, it is not seen as an infringement of rights or as a matter for complaint. Treated far more violently by the system from which they came, police brutality is not only to be expected but also to be endured. It is also true that the Vietnamese know that they are readily identifiable in the general population and a real fear exists that complaints may bring worse treatment in the future. Although it is necessary to facilitate access to independent police complaint authorities, as the ALRC has recommended, the research suggests that there will continue to be factors which hinder Vietnamese use of such services.

From the point of view of the police there are real difficulties for them in their dealings with Vietnamese offenders. The cultural and language barriers are substantial and there is a constant problem to provide the evidence which will bring a case involving Vietnamese offenders to trial.

ALRC Recommendations

There are a number of barriers to suggested reforms in the Vietnamese community. First, the tendency of reforms (framed in the context of a non-problematic multiculturalism) to be unaware of significant cultural differences which can stand in the way of effective implementation. Although the cross-cultural awareness training for legal professionals and all those involved in administering the legal system is a necessary and long overdue reform, it is unlikely that a full range of understandings will be available, in the Vietnamese community at least, if conventional community wisdom is to be the yardstick of what counts as "cultural" values.

This presents a problem for the amount of police and judicial discretion which is built into the ALRC's recommendations for accommodating cultural diversity in the criminal law. Deciding that there should be no general cultural defence to charges involving criminal liability or ignorance of the law, the Commission suggests that the cultural background of the accused should be taken into account when decisions are made to proceed with a prosecution, in the recording of convictions, again in the sentencing process but not when determining standards of reasonableness (ALRC 1992, pp. 169-

87). These recommendations rely heavily on the amount and kind of knowledge of diverse cultures possessed by legal professionals and the goodwill of those officers. Given the levels of frustration the police already experience in bringing a case involving Vietnamese suspects to trial, it is hard to see how knowledge of the existing Vietnamese community attitudes to crime and sentencing would provide an alternative or improved set of practices.

Second, the ALRC is aware of the special needs of women and young people within a number of ethnic groups and suggests that research is necessary as a first step in identifying areas of particular need. My research confirms this finding and makes it clear that in providing information and support services through Vietnamese Grant-in Aid workers two important groups within this community—victims and perpetrators of domestic violence and young men detached from family networks—will be difficult to reach because of their ostracism from the community. Unless all ethnic group values are understood at this level of detail criminal justice reforms are at risk of missing the very people they are designed to help. Clearly, a great deal more research is necessary.

Lastly, by far the most serious barrier to reform of the criminal justice system is the provision of resources to implement the recommendations. The research and training alone will be very costly and may take years to complete. There will also need to be a considerable commitment to the process of reform from not only the Federal and State governments and legal professionals but also from the society in general. In straightened economic times where previously free services are increasingly provided on a "user pays" basis—higher education, interpreting and even legal aid for instance—it is difficult to see that such a commitment will be forthcoming when it can be seen as being of benefit to only minority sections of the population.

Conclusion

Issues of access to, and equity within, Australian institutions have been on the Federal Government reform agenda for many years. Central to these policy initiatives has been the promotion of multiculturalism as a social ideal through which disadvantages suffered by ethnic minorities could be addressed. Multiculturalism as an idea, ideal or social policy has, however, proved to be a problematic and vigorous debate for twenty years has not yet produced a clear and shared meaning of how the term is to be understood.

This lack of shared meaning has meant that despite a comprehensive inquiry into the legal system, some reform measures proposed by the ALRC report, *Multiculturalism and the Law*, may fall short of their targets. This is chiefly because, in their generality, they are unable to take account of significant differences which may exist within an ethnic community. Using a case study taken from the findings of recent research in the Vietnamese community, an attempt has been made to demonstrate that due to the nature of their organisations, internal cultural contradictions and the attitudes to crime and criminals in this community, educational and support networks designed to combat present injustices in policing and in the criminal courts will continue to hampered by these very specific factors.

It has been argued that ethnic communities need to be understood at this level of detail if reformist policies are to be effective. If what is true for the Vietnamese community is also true for other ethnic groups—especially those who come to Australia as refugees—it is clear that a great deal more research must be carried out if the persistent disadvantage suffered by ethnic minorities in their dealings with the criminal justice system is to be eliminated

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Hanna Assafiri & Maria Dimopoulos

The Legal System's treatment of NESB women victims of male violence

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There are already a vast number of research reports, findings and recommendations that reveal the unmet needs of NESB women in the legal system; and there is restatement of how the legal system's emerging attempts to interpret multiculturalism only serve to reinforce and perpetuate racist and sexist stereotypes.

Migrant women, by virtue of our social, cultural and biological identities, are constructed and defined as deviants by the legal system. The NESB woman stands outside the "normal" discourse of legal frameworks. In defining her, the legal system resorts to psychiatric terminology. As a victim of male violence she is "diagnosed" and subsequently "treated". Such treatment seeks to control and remedy deviance resulting in pathologising consequences.

Our emphasis is on the formulation of knowledge about NESB women that render them deviant, passive and invisible, and how some judges and magistrates perceive and define them. This type of perception subsequently impacts on the manner in which migrant women are treated. The success of this "treatment" serves to establish their eligibility or "deservedness" of the protection of the legal system.

Migrant women's ability to autonomously define their own realm of existence is nullified, effectively making their identity subservient to the omnipotent definition provided and superimposed by the legal system. This process effectively disqualifies migrant women's accounts of their own social and political realities.

The above position is directly informed by the voices and experience of NESB women who have sought legal intervention. With their permission, we attended intervention order hearings in a number of magistrates' courts where NESB women were complainants. In challenging the usual methodology of "researching" migrant women as if they were mere objects of scientific experiments, we ensured a reciprocal relationship of exchange and support. Confidentiality was sought from all the women and workers involved. We have respected this request, particularly in light of some women's ongoing persecution when they dared to complain and challenge their treatment.

A series of interviews were also conducted with the Refuge Ethnic Workers' Programme as they are in a unique position to provide a precise overview of the general manner in which migrant women and children experiencing domestic violence are treated. The workers were able to give first hand information of treatment that, in some instances, had served to force women back into intolerable and potentially fatal, violent situations.

Historically, the Australian legal system has been largely silent on the issue of domestic violence against women and children. Indeed, in some instances it actively condoned the use of such violence as a method of chastising and controlling women, ensuring they fulfilled their prescribed societal roles as mothers and wives.

It has been due in large part to the efforts of survivors of male violence and women generally that the legal system has made some improvements in acknowledging the need to view family violence as criminal and unacceptable. However, the experience of victims and workers clearly reveals an enormous disjuncture between legal policies and front line practices. Whilst certainly this may indicate the prevalence of attitudes within the community that serve to legitimate violence against women and children, the legal system has been distinctly ascribed the role of adjudicating and enforcing laws. Within this context, it is crucial that the legal system take some responsibility in educating the public through its condemnation of violence against women and children.

Migrant women encounter particular problems when they seek to leave or escape violent men. They have to cope not only with the trauma of violence and the loss of their homes, but also face the widespread racism of the legal system, as evidenced by our research. The use of various stereotypes by some magistrates when considering applications for intervention orders by NESB women served to enable the implicit manifestation of racism through ill-defined notions of deviance, and subsequently, notions of "deservability". The process we witnessed revealed the positioning of the victim's behaviour and her culture as the appropriate arena for scrutiny, rather than the adjudication of the violence of the perpetrator. Consequently the corre-

sponding notion of legal protection was rarely identified as a right, but rather a privilege delivered or offered differentially to NESB women. Indeed it appeared that in some instances magistrates indulged in extensive efforts to evaluate the ethnicity of the woman in relation to the degree to which her culture may permit absorption into the mainstream dominant Anglo culture. The less able that culture was of being absorbed, the more likely that woman was diagnosed as deviant.

This process was revealed in a number of instances such as the following.

A Greek woman returning to court for a full intervention order was denied a request for an interpreter on the basis that the magistrate believed her sixteen-year-old daughter could interpret for her. He was not prepared to adjourn the matter to another date. The woman spoke of her feelings of humiliation in having to interpret through her daughter, and as a consequence withdrew her application. Undoubtedly, such a situation would have also seriously compromised the position of her daughter.

This situation clearly reveals a gap in the perception of the availability of interpreters as a privilege rather than a right. Furthermore, the woman was implicitly being punished because her accessibility to the English language was limited. The request that her daughter interpret is not one that would need to be made in the case of her Australian counterpart.

A Turkish woman was denied her application for an intervention order on the basis that she should be familiar with the "extreme patriarchal nature of her culture", and as such the violence was held to be a natural and "expected" outcome of such cultural values. The magistrate, in expressing his paternalistic concern, suggested the woman seek out assistance within her own community. In this way, she would be ensured of a culturally appropriate remedy.

This case highlights a response that is being increasingly relied upon by some magistrates. It suggests that culture causes violence, and as such victims of violence need to be addressing their culture and not the economic and political conditions that give rise to male violence. Although couched in terms that suggest acknowledgment of cultural difference, it merely acts as a powerful reinforcement of racist stereotyping.

A magistrate tried to coerce a Muslim woman to swear on the Bible, insisting that it was the same as the Koran. The woman, through her interpreter, tried to explain the importance of giving a Koranic testimony, as anything else could be suggestive of an untrue testimony. Finally, in exasperation the magistrate told the woman that unless she was prepared to swear on the Bible, he would throw the case out of court.

A Vietnamese woman had not requested an interpreter as she felt this would be asking for too much. During her testimony, the magistrate made his frustrations known by exclaiming that he could not understand her English. Rather than adjourning the case to another date he proceeded to request that the woman "act" out the nature of the violent behaviour. Whilst attempting to respond to this totally unreasonable and humiliating request, there was an outburst of laughter in the courtroom. Although the woman was granted the order, she later spoke about her feelings of being treated like an "animal", rather than a human being.

Another Asian woman found herself being lectured by the magistrate about the position of women within Asian cultures, as if they constituted some homogenous whole. The magistrate made reference to the "passivity of her types", suggesting she should learn from the progress made by her Australian counterparts now that she was residing in Australia.

The perpetuation of the myth of passivity of "Asian women" serves to reinforce degrading and subhuman images. Furthermore it suggests that Australian women are free of gender oppression, hence submissiveness and silence within patriarchal society have been effectively eliminated. This is a scenario that undoubtedly would come of great surprise to many Australian women.

A magistrate determined that the testimony of a Turkish woman was clearly untrue as she was unable to maintain eye contact with him. He went on to articulate to her that if she was indeed telling the truth, then she would not be hesitant in responding to his request that she look at him when answering his questions. He dismissed as totally irrelevant her attempts to explain the cultural inappropriateness of looking a person of authority in the eye. The intervention order was not granted.

A Croatian woman was mistakenly provided with a Serbian interpreter. The woman refused to speak to the interpreter as she strongly believed that this would compromise her in the eyes of her Croatian community. The magistrate responded by stating that "international conflicts should not be brought into the arena of Australian courts". He suggested that if she could not use the services of the interpreter, then quite clearly this indicated that she was not in desperate need of an intervention order. Clearly then a NESB woman must endure such diagnoses and treatment, or anything of its ilk, if she is to prove her "desperation" and deservedness for such an order.

A Turkish worker attempted to seek an intervention order in her capacity as a support/advocacy worker for a Turkish woman. They approached the registrar requesting to make an application for an interim order. The registrar questioned the worker's ability to provide effective support to the woman, suggesting that her accent might compromise her ability to convey accurate details of the violence to him. Despite the numerous years of experience acquired by the worker, it would seem that an accent can be perceived as undermining her credibility and intelligence. The registrar indeed went on to express surprise at the existence of Turkish social workers.

A Chilean woman was experiencing enormous anxiety in responding to questions by the magistrate.

The woman, through her interpreter, consistently apologised for her nervousness, indicating it was the first time she had been in contact with the Australian legal system. The magistrate responded by making a joke saying "It's all right dear. This is not a police state". The joke, however, was totally inappropriate for the woman and served to trivialise her fear of the police and legal system, and her very real experience of torture.

Such comments by magistrates also conveniently forget that for many Aboriginal Australians the legal system is indeed an instrument of torture and death.

A Fijian woman sought an intervention order. The perpetrator was in attendance at the hearing. His legal representative argued that the perpetrator was unaware that his actions were of a criminal nature and could be the subject of a legal order. He proceeded to indicate that laws of equivalent stature were not present in Fiji. After hearing the evidence and testimony of both parties, the magistrate prefaced his determination with a comment about the multicultural nature of Australian society and the corresponding requirement of cultural tolerance. In conveniently pushing aside the long standing legal principle of "ignorance of the law is no excuse", the magistrate informed the woman that he would not grant the order in this instance due to the perpetrator's lack of awareness of the implications of his violence in an Australian context. However, he warned that should the behaviour continue, then the perpetrator would have no defence. The woman's need for protection from the violence became a secondary, or in fact a non-existent, issue.

Although the above examples are not indicative of the responses or attitudes of all magistrates or registrars, they convey messages to migrant women that effectively deter them from pursuing legal intervention. In discussions held with migrant women who had refrained from seeking intervention orders, one woman stated, in what was to typify many of the responses:

> What's the point. They don't like us. As women they like us even less. Multiculturalism is used when it suits them. Why isn't it used to support us in our efforts to get protection from violence. It has nothing to do with our culture. It has everything to do with the violence.

The myth of the legal system's objectivity in disseminating justice is clearly exposed when its responses are scrutinised in relation to its treatment of NESB women victims of male violence. Our magistrates' courts are too often packed with the perceptions and language, not of rights to be free from violence, but rather that of psychiatric labelling of deviant. Instead of firmly positing the issue of domestic violence as a social and economic problem, they promote a discourse emphasising the personal pathology of women who are the victims of violence. The above examples highlight how some magistrates unwittingly perpetuate racist assumptions about the prevalence of domestic violence in ethnic communities as opposed to the perceived harmony of Australian society.

In the words of one magistrate, who indeed granted the intervention order, "The Australian legal system should not be seen to be condoning the transportation of violence by the ethnic communities into Australian society".

Perhaps it is worth recalling a history of a legal system that condoned the violent dispossession of the original inhabitants of this land.

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Brent Davis

Crimes against Business: an overview

- PIRACY AT SEA;
- THEFT;
- COUNTERFEITING; AND
- FRAUD AND EXTORTION.

Crime against business has a long, if not necessarily proud, history. While the ingenuity and impact of such crime has increased in recent times, the fundamental basis of crime against trade and commerce has probably changed little over the centuries.

Ironically, many countries of the world have used what would be regarded as improper commercial practices to aid their economic development and growth. What economists call "the convergence theory of economic growth" is really how lesser developed countries copy the products, services and innovations of their more advanced brethren as a faster track to growth.

Some companies have embraced similar strategies, most notably what was referred to as "de-engineering", that is, purchasing a product, pulling it apart, seeing how it works, and making copies. Indeed, a certain Japanese company has its origins in what some may describe as "copy-catting" practices. A young Japanese fellow visiting a large city in the mid-1880s was called upon to repair an aged German wind organ, which he did. He then spent several years studying and copying the wind organ. Later he expanded to make other musical instruments and, in time, motorcycles . . . his name was Mr Yamaha.

Piracy at Sea

Much under-recognised as a crime against business, piracy at sea includes the conventional "stealing" of a ship at sea and the "sinking" of a ship at sea. The Asian region is acquiring something of a "Barbary Coast" reputation in international shipping circles with the International Chamber of Commerce (ICC) recording eighty-three major acts of piracy at sea in the Far East in the first nine months of 1993. This is well up on the sixty-nine incidents reported for the same period in 1992, and fifty-two in 1991. Most of the ships attacked were general cargo carriers, followed by tankers and bulk carriers.

These figures include so-called "isolated attacks", that is, one-offs. However, they do not include piracy in harbours (which are counted as land-based crimes) nor piracy and acts of violence against yachts and smaller vessels.

In most cases of piracy, some or all of the cargo is stolen and the ship is allowed to proceed, in contrast to the "steal and sink" practice of the late 1980s in the South Atlantic, which involves the pirates capturing the vessel and taking it into a "safe port", then unloading the ship of its cargo, taking the ship out to sea, and sinking it (or sailing it away for redesignation). Not surprisingly, there were allegations of collusion by many parties.

After a rash of such activities in the mid to late 1980s, the incidence of "steal and sink" appears to have declined in recent years.

False Invoices

Another form of crime against business which is attracting attention is the growing incidence of false invoices. Quite simply, invoices are sent for products or services never supplied, and quite often never requested. Such invoices come usually from a fictitious, but plausible sounding, company located in western Europe. Switzerland, for some reason, seems to be a prominent source of these invoices.

Many of these false invoices are targeted at larger corporations who the perpetrators presume are less likely to question invoices. The ACCI has been subject to this scam with billings from providers of international telex directories. According to the billings ACCI owed a total of US$1880 for two entries in two separate telex directories. While the telex numbers were correct, both had been disconnected for four and two years respectively!

Commerce and industry is encouraged by the reported crackdown under way by the Trade Practices Commission. While the TPC can act against Australians involved in these "scams" it will be interesting to see whether they can slow the distribution of false invoices from the originating sources, especially those located overseas.

Product Counterfeiting

Product counterfeiting is probably one of the least recognised of the major crimes against business but it is a crime, it is major and is no longer a "cottage

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industry". It can and does deter new investment, endanger public health and safety, and undermine trade and commercial relations. The disincentive effects upon cutting edge research and development are very real.

Product counterfeiting can and does lose the genuine producer sales, costs the genuine producer a loss of reputation; engages them in liability claims for "defective" goods which are not their product which, in turn, can lose them their competitive advantage in the marketplace, and it can even push the genuine producer out of business altogether.

The nature of product counterfeiting is changing. It is no longer just fake watches or clothing, which may be relatively harmless to the consumer/user, but now includes machinery and equipment, electronics, computer technology (hard and software), spare parts of all types, and even pharmaceuticals.

The ICC, with which the ACCI maintains close relations, have made some estimates of the extent and damage caused by product counterfeiting and believe it accounts for around 5 per cent of world trade, represents around US$80 (A$113) billion annually; and has destroyed around 120 000 jobs annually in the United States, and 100 000 jobs annually in Europe, over the past decade.

In addition, it is estimated that worldwide product counterfeiting: costs the European motor vehicle industry around US$200 (A$280) million annually; perfume companies say they lose around US$70 (A$100) million annually; the Swiss watch industry calculate they lose around US$850 (A$1200 million) annually from fakes; while the recorded music and computer software industries place their losses at (a conservative) US$1 billion (A$1400) million annually.

Contrary to popular perception, product counterfeiting is not the sole domain of third world countries, although they tend to be amongst the main players. It goes on very much in the first world. According to the ICC's Counterfeit Intelligence Bureau (CIB), a number of third world countries are virtually "safe havens" for counterfeiters: they include Thailand, Indonesia, South Korea, Brazil, Chile and India with China and the CIS nations attracting increasing concern.

Consider the following, potentially quite significant, instances of product counterfeiting:

- fake transistors were discovered in 1976 being used in the United States' space shuttle program;
- US aviation authorities discovered fake fire detection and control systems on the flight decks of more than 100 Boeing 737 aircraft;
- authorities also discovered fake wing bolts on civil aircraft—the critical parts which affix the wing to the main body of the aircraft!
- US medical authorities have found fake valves in surgically implanted heart pumps;
- fake parts have been found in US military hardware, including advanced, guided missile systems; and
- fake parts have been found in front line NATO military helicopters.

Perhaps most distressing is to learn of cases of large-scale infant and child death in third world countries from counterfeit pharmaceuticals. In one case, which killed more than 100 children, the preparation was little more than an industrial solvent with some headache powder mixed in. And this is likely to be repeated with around 70 per cent of all "prescription" drugs sold in Africa beimg counterfeit. Product counterfeiting is not only unethical, it is dangerous, and can be fatal.

The ICC's CIB have also identified a move by organised crime and "illegal" organisations towards product counterfeiting. Organised crime, reportedly, consider it to be "a low risk, high reward" area of criminal activity. Few would realise the areas of product counterfeiting organised crime have infiltrated: clothing, fragrances, credit cards, films and videos are prominent examples.

However, there are substantive actions being taken to deal with counterfeiting and business is investing heavily in, and making considerable use of, new product-protection technologies: holograms, heat/light reactive compounds and biotechnology markers, are being embraced by business.

Some business groups in the US and Europe spend more than US$1 million annually chasing and prosecuting counterfeiters. More and more countries are legislating penalties of imprisonment and sizeable fines for product counterfeiting; and intellectual property disciplines are now contained in the GATT codes. But attention and action is still needed in third world countries, especially where governments, at best, turn a blind eye or are, at worst, complicitous in product counterfeiting.

Fraud

Despite the recent economic recession, fraud would appear to be a healthy, growth industry. According to one business survey, fraud is expected to continue to grow in coming years which may be the fault of business itself, who appear to have something of an ambivalent attitude to fraud. For example, a survey by the KPMG group found half those polled thought fraud was a major problem; the other half either thought it was not, or gave a "did not know" response. The KPMG survey gives us an interesting insight into fraud:

- 44 per cent of responding businesses had experienced some type of fraud in the previous year, and
- 63 per cent of frauds were "inside jobs", a mere 12 per cent outside (the remainder, a combination).

The main types of internal fraud included: misappropriation of funds; expense account fraud; purchases for personal use; manipulation of personal cheques; forgery of cheques; false invoices; and, phantom vendors.

Some other interesting findings of the survey include:

- by value, most frauds involved amounts under

$10 000, but a sizeable proportion included amounts up to $50 000;
- while a large number of frauds are detected by internal management processes, "a significant proportion" were brought to light by what one would call "good luck".

Companies often bring frauds upon themselves by lack of effective internal controls, management over-ride of controls, and something called "corporate mentality" and, companies still appear to be "soft" on fraud.

The Victorian Fraud Squad provides some measures of white collar crime which include:
- white collar crime in 1992 cost the business community, nationally, some $4 billion, with Victoria accounting for one-quarter of this figure;
- the national figure is 1 per cent of our GDP, and equivalent to just under half of what we spend on defence of the realm!
- over the past five years the Victoria Fraud Squad has charged 930 offenders with nearly 20 600 offences totalling some $540 million (pers. com. Detective Chief Inspector Bob Michell of the Victorian Fraud Squad).

It is not uncommon for a white collar fraud to involve many millions of dollars and it is predicted these orders of magnitude will increase in coming years, as will the sophistication of white collar crime. Trends reveal that:
- white collar crimes are becoming highly technical;
- financial liberalisation and technological advance have made the business sector more vulnerable;
- it is becoming more difficult and expensive to collect the evidence necessary for a successful prosecution, and
- there is an increasing penetration of organised crime into apparently legitimate business activities.

So, what can be done to combat fraud? Two options have been identified by Australian law enforcement agencies.

The first is the introduction of a National Fraud Code. Such a code would strengthen the hand of law enforcement agencies in combating fraud, in particular, helping to overcome the legal and procedural differences between State laws which are seen to be a significant inhibiting factor to effective white collar crime investigation.

The second is to apply the old maxim "an ounce of prevention is better than a pound of cure". Individual businesses need to strengthen internal control mechanisms, the absence or weakness of which often makes them "soft targets". The business ethics or standards of business leaders, or high profile "prominent business identities", also need to be addressed.

Extortion

A much under-recognised crime against business is extortion, or what would be called in legal circles, demanding money with menaces. Extortion takes two forms:
- person-based extortion, the more dramatic form of which is kidnapping of business executives and/or members of their families, for ransom; and/or
- product-based extortion which is the actual or threatened interference with products, often for ransom but also for socio-political reasons.

Extortion against persons is a very real problem for business. While fanatical groups like the Red Army appear to have waned since the mid-1970s, kidnapping is a real risk for business leaders and executives.

In the past the response of business has been to pay any ransom for a kidnapped executive, and then implement security measures. However, there are increasing signs of business adopting preventative strategies. Scotland Yard reportedly maintains a master list of some 7000 executives who are actual or potential targets for extortion. The list reportedly includes a growing number of Australians. Indeed, experts now suggest Australia is just five or so years behind European trends in this area (but well behind the more vulnerable Americans).

Not surprisingly, and quite rightly, Australian law enforcement agencies are adopting a "no comment" response to inquiries on the incidence of this form of extortion, except to say that the risk of person-based extortion rises with their public profile.

Interference with products is not uncommon in Australia. While the motivation is often money, revenge is also a cause, revenge for a dismissal or some other perceived mistreatment. Some Australian examples, made public by successful police action against the perpetrator(s), include:
- an employee of a chocolate making business poisoned the products with battery acid;
- extortionists putting broken glass into a breakfast cereal;
- glass was added to dog food;
- a multinational food producer found baby foods poisoned, motive apparently political;
- other separate cases of food poisoning: confectionary, tinned fruit, frozen foods;
- threatening phone calls to airlines; and the list goes on and on.

Interestingly, most of these cases appear to have been motivated by revenge or socio-political considerations, rather than money. There is an increasing tendency for disgruntled executives to damage their employers by leaking confidential information to competitors, the media, or the taxation/corporate law authorities.

But these are only the tip of an iceberg where the police have apprehended and successfully prosecuted the extortionist, and it has been claimed that only one in seven extortion cases in Australia, either person or product-based, ever become public knowledge.

Doing something

The global spearhead role is taken by the International Chamber of Commerce through a number of its agencies:

- the International Maritime Bureau, which combats maritime fraud;
- the Counterfeit Intelligence Bureau, which tackles product counterfeiting, and
- the recently formed Advisory Council for Commercial Crime, or ACCC.

The ACCC has five main aims:

- to raise awareness amongst international business about the nature and extent of commercial crime;
- to promote research into the causes, structure and development of commercial crime;
- to promote ethical standards for the conduct of commerce;
- to promote accepted standards and procedures for resolution of cases of commercial crime; and,
- to promote greater understanding by government of commercial crime, and the need for stronger international law enforcement

The ICC's Counterfeit Intelligence Bureau (CIB) has been a valuable player in detecting and investigating product counterfeiting. Since its formation, in 1985, the CIB has undertaken more than 250 successful investigations of product counterfeiting in thirty countries. Fake products detected have ranged from wall coverings to alcoholic beverages to (quite disturbingly) pharmaceuticals. They have also caught out the purveyors of faked fine art works, Swiss watches, designer-label garments at the top end of the market, and faked brand-name toothbrushes, as well as "Batman" and "Ninja Turtle" merchandising in other parts of the market.

Australian law enforcement authorities are acting on business crime, and not just by mainstream policing, but through a strategic and analytical research framework approach. The Victorian Fraud Squad/Deakin University study of white collar crime in the business sector, which will be focusing upon the types, nature and number of frauds committed in Victoria, and any trends within the business sector, identifying ethical issues which may need examination, identifying strategies and preventative measures, and creating greater awareness in business of the commercial damage caused by white collar crime.

Such research should be built upon and extended to other areas of crime against business.

This is an edited version of an original paper presented at the Australian Institute of Criminology Conference, Crimes against Businesses, in February 1994. Original papers from this conference will be available on disk from the Australian Institute of Criminology at a cost of $25 (including postage and handling). Papers from other conferences which will also be available on disk are:

Crime and Older People, February 1993
Migrants and the Criminal Justice System, April 1993

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Law, Medicine and Criminal Justice, August 1993
Aboriginal Justice Issues II, June 1994
Youth Crime Prevention, April 1994

Dennis Challinger

Feeling Good at Work - An Antidote to Workplace Crime

In 1993 an explosion at a Chinese chemical plant in the central province of Hunan killed sixty-one people. Authorities later announced that the blast had been caused by a disgruntled worker who "was furious at not getting a job transfer" (*Australian Financial Review* 1993). In the United States, on one day in May 1993, two male employees of the post office in different states killed other workers, continuing a decade long string of thirty-one killings by employees. In those incidents one man was allegedly upset at losing a promotion to a woman, and the other had been dismissed for stalking a female co-worker (*Time* 1993).

These two events must surely represent the very worst of employee initiated crime—commonly called workplace crime—a major sub-set of crime against business. The described events are made even worse by the fact that the victims of the crimes extend beyond the employers against whom they were particularly aimed. In the Chinese example such a conclusion was probably quite unintended, but it would seem the mailmen saw their fellow workers in some way related to their unsatisfactory situations and almost as representatives of their employer.

The events also suggest that there are no cultural impediments to workplace deviance, which together with research showing such deviance is not restricted to any particular industry, indicates workplace crime is a global problem.

Crime In the Workplace

Workplace crime is generally seen as comprising offences that cause an identifiable loss to an employer (homicides in the workplace such as those above which are now the leading cause of death at work in some American states, are not usually counted as workplace crime). Immediate losses to an employer are obvious but there are also a number of other associated and indirect costs. For the employer these include reduced profits, increased insurance premiums, higher costs for additional security and internal controls, decreased employee activity, lowered morale, decreased service quality and damage to company image. For government, there are losses in sales and other taxes, and the costs involved in the criminal justice machinery dealing with the offences. For the public there are higher prices, and possibly less employment because of business failures and lack of investment in future business.

The lack of a formal and agreed definition of workplace crime makes estimating its total cost a major undertaking. One component that is perhaps more easily measured is what is called employee or internal theft, or pilferage. In Britain that is estimated as "running at 1.8 per cent of the gross national product" (Hamilton 1993 p.1), and a recent American report puts its cost (excluding time theft), at US$40 billion a year, further suggesting that internal theft causes approximately 20 per cent of all US business failures annually (Filipowski 1993).

Why Employee Theft?

The preponderance of workplace misbehaviour makes it very difficult to explain why it is that some employees do engage in crime and deviance and others do not. Nevertheless there are some points that can be made. Firstly, few of those who do steal at work would regard themselves as thieves, they may not feel they are stealing from anyone, and in any event because their work group "restricts and limits theft by defining what can be taken and from whom" (Altheide et al. 1978, p.113) they may feel a certain legitimacy attached to their stealing. Apart from an employee's perception that the activity is not illegal or is a well-deserved "perk", a lack of loyalty and commitment to the company, and job dissatisfaction or concerns over job security, are significant factors motivating employee theft.

Do employees need to steal?

Hollinger and Clark in their seminal study say they found little evidence to support the hypothesis that employees become involved in theft because of greater economic pressure (Hollinger & Clark 1983, pp.60-1). Nevertheless the theory still has intuitive appeal especially where staff may receive modest pay, or may suffer low self-esteem at work. Additionally, in the retail industry many employees are surrounded by large quantities of cash and desirable goods which they see many people able to buy.

DENNIS CHALLINGER WORKS IN THE CORPORATE SECURITY AND LOSS PREVENTION DEPARTMENT AT COLES MYER LTD. THE VIEWS EXPRESSED IN THIS PAPER ARE CHALLINGER'S ALONE. THEY CANNOT BE ATTRIBUTED TO, AND DO NOT REFLECT UPON COLES MYER LTD

Measurement : the Special Case of Retail Shrinkage

Measuring the extent of crime in any business can be difficult and measuring the amount of that crime that is committed by employees is even harder. In the retail industry measurement is a little easier because all retailers suffer from, and make some attempt to measure and monitor, the rather euphemistically titled, shrinkage.

Basically shrinkage is the difference between the recorded value of stock purchased and the value of the stock physically at hand divided by the total value of sales during a period. Shrinkage figures range from less than 1 per cent upwards, for instance the British Retail Consortium's 1992-93 survey of Retail Crime Costs for 34 341 retail outlets reports an overall shrinkage of 1.18 per cent, ranging from 0.27 for electrical, gas and music goods retailers to 2.44 for a group of retailers selling toys, books, jewellery or photographic goods (Burrows & Speed 1994). Plainly if shrinkage gets too high the very existence of a retail business is put at risk.

Factors related to shrinkage

It is plainly in the best interests of any retailer to reduce shrinkage but that requires more than what might be called standard security responses. Recent analysis of data from the 1992 American National Retail Security Survey shows factors related to staff appreciation and loyalty are associated with shrinkage levels (Hayes 1993) and show shrinkage is lower in stores where:

- sales staff salaries are higher
- salary incentives are provided
- profit sharing is practised
- staff turnover is low
- managers are promoted from within

More sophisticated statistical analysis of that data empirically established that a retail company's shrinkage was found to be best predicted by the following four store-related factors:

- high turnover of its store managers;
- its employees' ability to share in company profitability;
- the existence of an employee pay incentive scheme; and
- lower use of part-time staff (Hollinger & Dabney 1994).

These results suggest that concerted attention to human resource and industrial matters could reduce the impact of deviance on a retail company. However in this case the deviance is not restricted to staff. Indeed retailers agree that there are three main sources of shrinkage. While exact figures for the industry as a whole are not possible there is a consensus that theft by customers (widely known as shoplifting) accounts for around 40 per cent, theft by staff accounts for another 40 per cent or so and the remainder is accounted for by, usually inadvertent, processing and paperwork errors. An indication of the difficulty in measurement is provided by theact that that 40-40-20 split is by no means universally agreed upon.

The first area can, and is, attacked through increased security measures such as electronic article surveillance, closed circuit television, and other loss prevention techniques. The third area is subject to increased use of sophisticated computer based systems to reduce processing errors. The second area—staff theft—will continue to be discussed here.

Responding to Internal Theft

Work-related factors are of major importance in relation to internal theft and other workplace crime. Consideration of available research about internal theft identifies a number of possible approaches to reduce that activity. They include:

Reducing employee dissatisfaction

It is more than plain that dissatisfied workers are more likely to engage in deviant activities. Reducing that dissatsfaction is plainly important. Four areas identified by Analoui and Kakabadse (1991)—bad working conditions, lack of a comprehensive recruitment and training program, inadequate pay and reward systems, and inadequate supervision by management — are able to, and should, be addressed. Attempts to make work interesting, varied and fulfilling are also obviously of value.

Belonging and morale

In their national survey of American security professionals' perceptions of workplace crime Baker and Westin (1987) found that respondents saw the most significant and damaging indirect cost of petty theft and fraud at work to be the negative effect on staff morale. As low staff morale itself is related to theft there is a cyclical problem here.

Closely allied with morale is the sense of "belonging" at work. Intuitively those who do not belong will be less likely to care about the victims of their thefts, and this is supported by American supermarket surveys which, using actual admissions of stealing by employees found the highest risk group to be young males, on night or varied shifts, with three or more jobs in the last year, and having less than two years experience, these last factors suggesting little sense of "belonging" in the workplace (Jones 1992).

Positive efforts to improve morale and build a sense of corporate belonging can take a number of forms. They might include introduction of "team talks" or "quality circles" at which staff from all levels discuss issues of common interest. For those activities to be successful managers should be encouraged to be both sensitive to feedback from staff and to appreciate the contributions made by subordinates. Provision of "real" staff privileges such as staff discounts, access to facilities such as a gymnasium or subsidised dining room, and active encouragement of staff through rewards for suggestions or commendatory articles in an in-house staff magazine can also strongly create a sense of corporate belonging.

Staff participation and involvement

A further logical step is to involve staff, and their unions, in devising approaches to tackle staff dishonesty. Apart from making them part of the solution (and therefore less likely to steal themselves) it also conveys immediately the knowledge that the issue is one that management believes needs attention. As Adler (1993) puts it, employee participation is the strongest tool in deterring and identifying employee dishonesty.

Another advantage of utilising staff input into developing policies is that it avoids the apparent imposition of requirements from above, and those workers involved in the development process can explain to their peers the reasons behind them. Sabotage, as described above, will probably persist as a response to perceived unfairness, so staff participation in developing grievance procedures in which workers can have confidence would be particularly useful.

Demonstrated concern by management

Employers should actively seek to be sensitive to staff issues that could increase, even unwittingly, deviant behaviour. Their concern about employee theft can be conveyed by generalised public announcements but can also be directly demonstrated by actively drawing employees' attention to particular problems.

Management should also be aware of the ways in which their own actions can directly affect the levels of deviance in their workplace. A very good example of this is provided by Greenberg (1990) who measured the level of employee theft in three American factories following wage cuts forced by loss of business. Briefly, in one factory the necessity for a ten week 15 per cent wage cut was somewhat crudely announced without explanation, in the second the cuts were announced with careful explanation of the need to do so, and in the third—the control—no wage cuts were necessary. Employee theft rates were measured for the ten weeks prior to the cuts, for the duration of the cuts, and for a ten-week period following the cuts. Theft rates stayed steady in the control factory, increased in the pay-cut period where the explanation was given, but soared in the factory where no explanation was given. After the pay-cut period was over all theft rates returned to the pre-pay-cut level.

As there had been no other notable changes in the operation of these factories during the periods in question it is reasonable to conclude that the differences in theft rates were explained by the way in which management had treated their workers prior to the wage cuts. It should be noted that despite that, the theft rate in factories where cuts were imposed did rise for the duration of the cuts suggesting workers may have responded to their situations by stealing more to make good their lost income. Notwithstanding that, the impact of what might be called sensitive management in reducing exposure to worker deviance is clear.

Setting rules

It is essential that employees know what the rules are and what is expected of them. Hollinger and Clark's study (1983) showed that organisations with a clearly defined anti-theft policy which was competently and repeatedly broadcast, had lower theft levels. The increasing use of Codes Of Conduct in business is a clear indicator that this approach is being adopted.

Word alone is, however, not enough. Managers must, through their own behaviour, emphasise the organisations' standards. An organisation that is not only ethical and responsible but seen by its employees to be ethical and responsible, has a very good chance of suffering less workplace crime.

Enforcement

Having set rules is all very well but the likelihood of detection and prosecution of errant workers has to be real. Most employees act honestly and with integrity, so do not generally like working with thieves and would accept a formalised prosecution policy with standard penalties which are uniformly applied. The value of this is confirmed by Shepard and Durston who state that "companies with the lowest incidence of employee theft are those with a clear commitment from top executives to line supervisors that theft will not be tolerated (Shepard & Durston 1988, p.9).

Reducing opportunities

None of the above should in any way divert attention from the necessity to concentrate on reducing the opportunities for people to commit internal theft or any workplace crime. Unprotected company property or slack company procedures that provide irresistible temptation for some, or easy pickings for others, do not suggest a company that takes a serious view of workplace crime. Sound security confirms to the worker, or indeed any observer, that a company does treat protection of all of its assets as a major issue.

It might be observed that most of these suggestions could well have come straight from a human resources manual for providing a productive and happy workplace. The reality is that such a workplace would also have lower rates of internal deviance which in turn would reduce further the cost of crime against that business.

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This is an edited version of an original paper presented at the Australian Institute of Criminolgy Conference, Crimes against Businesses, in February 1994. Original papers from this conference will be available on disk from the Australian Institute of Criminolgy at a cost of $25 (including postage and handling). Papers from other conferences which will also be available on disk are:

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Migrants and the Criminal Justice System, April 1993

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Law, Medicine and Criminal Justice, August 1993
Aboriginal Justice Issues II, June 1994
Youth Crime Prevention, April 1994

PUBLICATIONS

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GPO Box 2944
Canberra ACT 2601
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Fax: 61 6 274 0260

Trends and Issues in Crime and Criminal Justice
ISSN 0817-8543
Subscription: A$30 p.a.
(minimum 6 issues per annum)

No. 44 *Fear of Crime and Fear Reduction Strategies*
Grabosky, P.N.
May 1995. ISBN 0 642 22735 7

No. 45 *Crimes against Businesses in Australia*
Walker, J.
June 1995. ISBN 0 642 22677 6.

Australian Criminology Information Bulletin
ISSN 1034-6627 Vol. 5, no. 6, February 1995. Final issue.

Allen & Unwin (Aust)
PO Box 8500
St Leonards NSW 2065

Sociology of Deviance: An Obituary
Sumner, Colin
1994. ISBN 0 335 09780 4. 346 pp. A$45.00.

Colin Sumner charts the rise and fall of a field of enquiry. The first part of the book documents the formation of the field of the sociology of deviance from its conception to its coming of age in the late 1930s. The second part examines the heyday of the field as a popular science and critique of social control into the 1960s. The final part analyses its death at the hands of the post-1968 critics.

Butterworths (Academic Promotions)
PO Box 345
North Ryde NSW 2113

Indigenous People and the Law in Australia
Cunneen, Chris and Libesman, Terri
1995. ISBN 0409 30063 2. A$32.00.

This book is divided into four sections:
1. Historical context to issues: early contact, early government policy re indigenous people and the taking away of Aboriginal children.
2. Crime and the law: focussing on the effects that European laws have had on Aboriginal people.
3. Land ownership, using Mabo as a key to understanding this issue.
4. Law and Aboriginal society: looking at government regulation, political power and how international law effects Australia's obligations toward Aboriginal society.

La Trobe University Press
La Trobe University
Bundoora Vic 3083

Cultures of Crime and Violence: The Australian Experience
Bessant, J., Carrington, K. & Cook, S. (eds)
A special edition of the *Journal of Australian Studies*
No. 43 1995. ISSN 0314-7694 ISBN 1 86324 417 4.
230 pp. A$24.95.

This volume is divided into four sections: Institutional Cultures of Crime and Violence; Representations of Cultures of Crime and Violence; Sexualities and Cultures of Crime and Violence; and Social Issues and the State: Contesting Theoretical Frameworks. Contributors include: Ken Polk, Rob White, Jocelynne Scutt, Linda Hancock and Christine Howlett.

Courts, Tribunals and New Approaches to Justice
Mendelsohn, O. & Maher, L. (eds)
A special issue of *Law in Context.*
1994. ISBN 1 86324 418 2. 162 pp. A$19.95.

This volume contains the following chapters: "Re-exploring the Pathways to Decision-Making"; "The Difference between a Court and A Tribunal of Morals: The Case of the ICAC"; "The Australian Experiment in Merits Review Tribunals; "Rethinking the Structure of Administrative Justice in Britain: A Proposed Agenda"; "Exploring the Attic: Courts and Communities in Material Life".

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University of South Australia
22-26 Peel Street
Adelaide SA 5000

Uncertainties and Possibilities: A discussion of selected criminal justice issues in contemporary Australia
Sarre, Rick
1995. ISBN 0 868 03112 7. 288 pp. A$28.00 plus A$5.00 postage and handling.

This book is suitable as a text for tertiary criminal justice courses. Chapters are as follows:
1. The contingent nature of "justice"
2. Defining crime
3. Policing and the maintenance of order
4. Punishment
5. Criminology and victimology
6. Possibilities and emerging themes.

Faculty of Law
Human Rights Centre
University of New South Wales
Kensington NSW 2052

Australian Journal of Human Rights
Andrew Naylor & David Sonter, (eds)
ISSN 1323-238X
Subscription: Students, A$30; Australian subscribers, A$40; Overseas subscribers, A$50.

This annual is the first in Australia to be exclusively devoted to the publication of articles, commentary and book reivews about human rights developments in Australia and the Asia-Pacific Region. The journal deals not only with legal aspects of human rights but also with philosophical, historical, sociological, economic and political issues as they relate to human rights in Australia and the Asia-Pacific region.

The first issue includes discussion of vilification laws, judicial review, Aboriginal land rights, sentencing of political offenders, genocide, the right to a prompt trial and debt reduction programs.

Sage Publications
6 Bonhill Street
London EC2A 4PU England

Evaluation: The International Journal of Theory, Research and Practice
Two issues in 1995. From 1996 the journal will be quarterly.
Rates: Individual £18 (2 issues); Institutional £60 (2 issues).

This new journal is being launched in July 1995 and will encourage dialogue between different evaluation traditions such as programme evaluation, technology assessment, auditing, value added studies, policy evaluation and quality assessment.

The journal will also bridge domains where evaluation is currently taking place including: education, science and technology policy; criminal justice; health care and social services vocational training; and regional development. The journal will be interdisciplinary and welcomes contributions from across the social sciences and related disciplines.

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University of Toronto
130 George Street
Rm 1001
Toronto, Ontario M5S 1A1
Canada

The Violence Prediction Scheme: Assessing Dangerousness in High Risk Men
Webster, C.D., Harris, G.T., Rice, M.E., Cormier, C. & Quinsey, V.
1994. ISBN 0 919584 74 8. 1994. 94 pp. C$10.00.

This booklet is intended for use by mental health professionals in the conduct of assessments of dangerousness and risk. It is intended for researchers, records personnel, and practising forensic clinicians. Its main use will likely be in systematising the conduct of assessments. It is also intended to provide impetus for future research on the actuarial and clinical prediction of violence.

Public Complaints against the Police: A view from complainants
Landau, T.
1994. ISBN 0 919584 77 2. 106 pp. C$12.00.

Civilian involvement in the handling of public complaints against the police has emerged as an important dimension in the debate over police accountability, control and improving police-community relations. The findings of this Canadian study challenge the conventional wisdom about the "success" of current legalistic approaches to handling public complaints against the police.

CONFERENCES

Australian Institute of Criminology

Violence and the Gay and Lesbian Community
October 1995, Sydney

Topics to be discussed include Heterosexism, Sexism and Racism, Community Education, Schools -Based Violence, Anti-vilification Legislation, Influencing Social Policy, Reducing Homophobia, Gay Hate Related Murders, Community Legal Policy, Response to Hate Crimes, Bringing Change, Sociology of Violence, Levels of Violence, Human Rights, Media Attitudes and Future Policy Directions.

For further information about the conference program, contact Ms Marianne James (61 6 274 0242). Enquiries about registration, venue, accommodation or travel should be directed to Ms Glenys Rousell (61 6 274 0224) or Ms Sylvia MacKellar (61 6 274 0228), or write to Australian Institute of Criminology, GPO Box 2944 Canberra ACT 2601.

University of Sydney
Institute of Criminology
Faculty of Law

14 September:
"Ethnicity, Difference and Criminal Justice"

For further information regarding the Public Seminar Program for 1995 contact:
Ms Sandra Fox
Institute of Criminology
Faculty of Law
University of Sydney
173-75 Phillip Street
Sydney NSW 2000
Tel: 61 2 225 9239
Fax: 61 2 221 5635
email: sandraf@sulaw.law.su.oz.au

Centre for Crime Policy and Public Safety, Griffith University and the Queensland Corrective Services Commission

Community Corrections in the 21st Century: Challenge, Choice and Change
3-4 July 1995, Brisbane

This conference will examine problems that arise when considering community corrections as a viable and alternative option to incarceration. Promising strategies from Australia and overseas for community corrections will be presented. Keynote speaker will be Professor Todd Clear, School of Criminal Justice, Rutger's University, New Jersey, USA.

For further information, please contact:
Amanda-Rose Arnett
Centre for Crime Policy and Public Safety
School of Justice Administration
Griffith University
Brisbane Qld 4111
Tel: 61 7 875 6808
Fax: 61 7 875 5608
email: M.Hauritz@edn.gu.edu.au

Social Policy Research Centre
1995 National Social Policy Conference

Social Policy and the Challenges of Social Change
5-7 July 1995, Social Policy Research Centre, University of New South Wales, Sydney

Themes will include:

- work and welfare
- social and economic inequality
- family, the life course and the state
- community services
- citizenship and mixed economy of welfare

For further information, please contact:
Marilyn McHugh
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Tel: 61 2 385 3863
Fax: 61 2 385 1049
email: sprc@unsw.edu.au

ANZ Society of Criminology and Department of Criminology, University of Melbourne

Working with Young Women in Juvenile Justice and related areas
10-11 July 1995, University of Melbourne

Keynote speakers are Professor Meda Chesney-Lind, University of Hawaii, and Dr Kerry Carrington, University of Western Sydney

Issues to be discussed include:

- impact of legislative reform
- complaints procedures
- working with lesbian young women
- family group conferencing and mediation
- young mothers and violence
- empowering young women
- working with Aboriginal young women

For further information, contact:
M. Baines
Department of Criminology
University of Melbourne
Tel: 61 3 344 9446

International Association of Forensic Linguists
1995 IAFL Conference
10-13 July 1995
University of New England, Armidale

This first conference of the International Association of Forensic Linguists (IAFL) will cover such topics as: language and power in the courtroom; the language of legal documents; the role of interpreters and the linguistic and legal challenges faced by them; legal and linguistic developments in the analysis of allegedly verbatim records of interview.

For further information contact:
Diana Eades
Linguistics Department
University of New England
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Fax: 61 2067 73 3735
email: deades@metz.une.edu.au

The Winter School in the Sun
The 2nd Window of Opportunity National Congress
Dealing with Drugs: Ethics, Economics and Efficiency
10-14 July 1995, Brisbane Convention & Exhibition Centre, Soutbank, Brisbane
Speakers will include: Dr Stephen Mugford (ANU); Professor Eric Single (Canadian Centre of Substance Abuse); Dr A. Wodak (St Vincent's Hospital, Sydney); and Dr Adrian Reynolds (UNDCP/WHO Project UN High Commissioner for Refugees, Hong Kong).

For further information, contact
Winter School in the Sun/Window of Opportunity Secretariat
Alcohol and Drug Foundation - Queensland
PO Box 332
Spring Hill Qld 4004
Tel: 61 7 832 3798
Fax: 61 7 832 2527

The Australian Department of Foreign Affairs and Trade in conjunction with the National Environmental Law Association (ACT Division)
Development and Implementation of the International Environmental Law in the Asia-Pacific Region
20-22 July 1995, Northern Territory University, Darwin

Theme addresses will include an overview of regional involvement in and implications of global environmental treaties, such as the Basel, Climate and Biodiversity treaties and regional environment instruments and institutions such as ASEAN, ESCAP and COBSEA.

For further information, please contact:
Alice Wood
NELA
Private Bag 6 Post Office
Deakin ACT 2600
Tel: 61 6 285 4233
Fax: 61 6 285 4235

Australian Security Industry Association Ltd
10th Annual Exhibition and Seminar
Security '95
8-10 August 1995, Radisson Hotel, Melbourne

Overseas and domestic speakers will deliver papers on a range of matters of importance to all who are involved with security. The conference is conducted in conjunction with an exhibition of security products.

For further information, please contact:
ASIAL
PO Box 326
Bayswater Vic. 3153
Tel: 61 3 720 3652

The National Environmental Law Association in conjunction with
The Environment and Planning Law Association (NSW) Inc.
Environmental Law Conference
15-16 September 1995, Sydney

A two-day conference dealing with a wide range of issues of interest to persons concerned with environmental law in Australia and the Pacific region.

For further information, please contact:
Michele Kearns
Tel: 61 2 221 3527
or Jan Brown
Tel: 61 19 657 728

The Second Annual Symposium of Corrections Health Service
Drug Related Crime: Achieving Better Outcomes In and Out of Gaol
21-22 September 1995, Sydney Hilton Hotel

Themes include:
- imprisonment and drug use
- community drug treatment
- panel future directions
- drugs and crime

Speakers include: Dr Janet Chan (University of New South Wales); The Honourable Ian Pike (Chief Magistrate NSW Local Courts); Professor Ron Penny (St Vincent's Hospital); Dr Don Weatherburn (NSW Bureau of Crime and Statistics).

National Association for Gambling Studies
NAGS 95
Sixth National Conference
28-30 September 1995, Esplanade Hotel, Fremantle, WA
Themes to be discussed include:

- what will be the next wave of gambling products?
- what is the role of government policy on gambling?
- how effective are the developing services for problem gamblers and their families?

For further information, please contact:
Bianca Crompton
NAGS Conference Registration
Office of Racing and Gaming
PO Box 6119
East Perth WA 6892
Tel: 61 9 425 1878
Fax: 61 9 325 1041

50th Anniversary Conference of Australian Law Teachers' Association
"Internationalism, National Identity and the Law"
28 September-1 October 1995
La Trobe University, Melbourne

This conference will examine tensions between the trend to globalisation (internationalism) and nationalism in the socio-legal context. There will be a number of plenary sessions given by leading Australasian and international scholars covering the following topics:

- citizenship - identity
- culture and constitution
- indigenous peoples' legal issues
- globalisation - the internationalisation and local concepts and practices
- Asian linkages, legal education in an age of globalisation and legal practice in Asia and Australia
- the development of an Australasian jurisprudence

For further information, please contact:
Lee Ann Marks
ALTA Conference Secretary
School of Law and Legal Studies
La Trobe University
Bundoora Vic 3083
Tel: 61 3 479 1245
Fax: 61 3 779 1607
email: l.marks@latrobe.edu.au

Queensland University of Technology, Teex and the South Pacific Association of Collision Investigators
The Inaugural International Conference on Accident Investigation and the Law
15-19 October 1995, ANA Hotel, Gold Coast, Queensland

This conference aims to promote understanding and cooperation among engineers, accident investigators, lawyers, police services, and related groups at both the investigation stage and in subsequent legal proceedings.
For further information, contact:
Tel: 61 7 864 1538/2544
Fax: 61 7 864 1515

NAPCAN
5th Australian Conference on Child Abuse & Neglect
"Taking Responsibility: Sharing Solutions"
16-19 October 1995, Radisson President Hotel, Melbourne

For more information, contact NAPCAN:
Tel: 61 2 223 3565
Fax: 61 2 221 5936

The National Injury Surveillance Unit and the Department of Health, Housing and Community Services
3rd International Conference on Injury Prevention and Control
18-21 February 1996, Melbourne

This conference will focus on matching injury solutions to settings. It will provide a forum for the exploration of the different strategies injury prevention workers might use when addressing problems in their own socio-cultural settings.

For further information, please contact:
3rd International Conference on Injury Prevention and Control
National Injury Surveillance fUnit
Mark Oliphant Building
Laffer Drive
Bedford Park SA 5042
Tel: 61 8 374 0970 Fax: 61 8 201 7602

National Occupational Health and Safety Commission
Occupational Injury Symposium
24-27 February 1996, Sydney

Topics for consideration include:

- behavioural influences and effects
- economic aspects
- epidemiology and surveillance
- risk assessment and management
- safety science
- safety solutions and applications

For further information, please contact:
Occupational Injury Secretariat
Professional Education Program
National Occupational Health and Safety Commission
GPO Box 58
Sydney 20001
Tel: 61 2 565 9319 Fax: 61 2 565 9300

Overseas

Criminal Justice Associates
The Abbey Community Centre, Westminster, London

26 June
Training seminar:
Reed Report/Mental disorder

4 July
Training Seminar:
Criminal Justice and Public Order Act 1994

10 July:
Training Seminar
Youth Justice Update

All events start at 10 am. The cost is £85 per event inclusive of materials, lunch, refreshments and VAT (except for two-day workshops which cost £170 inclusive for the two days).

For further information, please contact:
Chrissie Baldwin
Criminal Justice Associates
9 Medland
Woughton Park
Milton Keynes
Bucks MK6 3BH, United Kingdom
Tel. or fax: 44 1908 679465

Mediation UK
Annual Conference
Mediation: Take it to the Limit?
21-23 June 1995, Hoddesdon, Hertfordshire, United Kingdom

This conference provides an opportunity for experienced mediators and newcomers to meet, exchange their experiences as practitioners, acquire new insights and explore the limits to mediation and conflict resolution. It is also an opportunity for those outside mediation to learn more about this growing, morally attractive and effective solution to conflict.

For further information, please contact:
Mediation UK
82a Gloucester Road
Bishopston
Bristol BS7 8BN, United Kingdom
Tel: 44 117 924 1234
Fax: 44 117 944 1387

First Annual Pan-Asian
Information Technology Security Summit '95
26-28 June 1995, Oriental Hotel, Singapore

Key issues to be addressed include:
- securing distributed computing environment
- identifying common and unknown viruses
- detecting telecom fraud
- providing secure access control to your network
- defining next generation security

For further information, please contact:
IIR Pte Ltd
Tel: 65 338 3521
Fax: 65 336 4017

The British Council
Advancing the Scientific Investigation of Crime
1-14 July 1995, Durham

This seminar is designed to bring delegates up to date with the new technology for crime scene investigation and forensic analysis. In addition, delegates will learn about initiatives being taken for the training of crime scene examiners and forensic scientists. It is expected that speakers will include: Mr P. Bennett, Facial Indentification Specialist, Aspley International; Mr K. Cree, Serious Crimes Unit, Metropolitan Police Forensic Science Laboratory; Dr Z. Erzinclioglu, Forensic Entomologist; Professor B.H. Knight, Senior Home Office Pathologist, University of Wales College of Medicine, Cardiff; Mr R. Neave, Medical Artist, University of Manchester; Dr J. Thompson, Director General, the Forensic Science Service.

For further information, contact:
The British Council
PO Box 88
Edgecliff NSW 2027
Tel: 61 2 326 2022
Fax: 61 2 327 4868
or
The British Council
10 Spring Gardens
London SW 1A 2BN
United Kingdom
Tel: 44 71 389 4264/4252
Fax: 44 71 389 4154

National Council of Juvenile and Family Court Judges
58th Annual Conference
Providing Judicial Leadership: Beyond the Bench
9-12 July 1995, USA

Topics to be discussed include:
- repressed memories and false accusations in child abuse - how reliable?
- adoption - legal and moral considerations
- judicial advocacy - a moral imperative defining judicial ethical duties and limits.

For further information, contact:
NCIFCJ
58th Annual Conference
PO Box 8970
Reno NV 89507 USA

American Society of Law, Medicine & Ethics
Fourth International Conference on Health Law and Ethics in a Global Community
16-20 July 1995, Amsterdam

For further information, contact:
International Conference Cooperating Organisations
American Society of Law, Medicine & Ethics
765 Commonwealth Avenue
16th Floor
Boston Massachusetts 02215 USA
Tel: 1 617 262 4990
Fax: 1 617 437 7596

British Criminology Conference
Annual Conference
18-21 July 1995, University of Loughborough

For further information, contact:
Diane Winterburn
Midlands Centre for Criminology
Dept of Social Sciences
University of Loughborough
Loughborough
Leicestershire LE11 3TU United Kingdom
Tel: 44 509 22 3670

Youth 2000
An International Conference
19-23 July 1995, Middlesbrough UK

For further information, please contact:
Centre for the Study of Adult Life
School of Human Studies
University of Teesside
Middlesbrough
Cleveland, TS1 3BA, United Kingdom
Tel: 44 642 342 346
Fax: 44 642 342 396

Office of International Criminal Justice
Annual International Symposium on Criminal Justice Issues
Terrorism, Past, Present, and Future
31 July-3 August 1995, University of Illinois at Chicago, Chicago Circle Center

Issues to be discussed include:
- 1996 Olympics security (Atlanta)
- UNABOM - the serial bomber
- Radical fundamentalism and the West (Revisited)
- State-sponsored terrorism and US policy
- Russian Mafia - organised crime/terrorist violence
- Terrorism, the media and the public
- Illinois anti-terrorism legislation

For further information, please contact:
Ms Nancy Taylor
OICJ
1033 W. Van Buren Street
(M/C 777) Suite 500
Chicago IL 60607-2919
Tel: 1 312 996 5201
Fax: 1 312 413 0458
World Wide Web: http://www.acsp.uic.edu.

Fourth United Nations World Conference on Women
4-15 September 1995, Beijing, China

To assist Australian women in planning for this conference and other events in the lead up to it, the Office of the Status of Women has produced an information kit for Australian women, and women's organisations.

Copies of the kit are available from:
DAS Distribution
PO Box 655
Fyshwick ACT 2609
Tel: 61 6 202 5696
Fax: 61 6 202 5628

International Forum for Child Welfare
Worldforum 95
The Child as a Priority on the World Agenda: What will it take?
26-29 September 1995, San Jose, Costa Rica

Themes include:
- sexual exploitation of children
- drug and alcohol abuse in children and adolescents
- youth and violence
- violence and the mass media
- institutionalisation of minors
- physical abuse of children and youth

For further information, please contact:
Worldforum 95 Secretariat
c/o Fundacion Paniamor
PO Box 25216-1527
Miami FL 33102-5216 USA
Tel: 1 506 234-2773
Fax: 1 506 234-2956

Supreme People's Procuratorate and the Ministry for Supervision of the People's Republic of China
7th International Anti-Corruption Conference
6-10 October 1995, Beijing New Century Hotel, Beijing

Topics will include:
- damage of corruption to social stability and economic development
- corruption in financial and securities markets
- organised crime and corruption
- anti-corruption legislation
- international anti-corruption cooperation.

For further information, please contact:
Mr Zhang Xinxe
AICC 95 Secretariat
Supreme People's Procurate of the People's Republic of China

147 Beiheyan Street
Beijing 100726
People's Republic of China
Tel: 86 10 512 5332
Fax: 86 10 522 3621

John Jay College of Criminal Justice
Conference on Criminal Justice Education
20 October 1995, New York

The John Jay College of Criminal Justice is sponsoring a one-day conference dealing with a range of issues concerning criminal justice education. Areas of concern are criminal justice education for liberal arts students, undergraduate majors in criminal justice, training/education of practitioners, and graduate education in criminal justice. A special issue of the *Journal of Criminal Justice Education* will be devoted to proceedings of this conference.

For further information, contact:
Professor Eli Silverman
Dept of Law, Police Science & Criminal Justice Administration
John Jay College of Criminal Justice
899 Tenth Avenue
New York NY 10019 USA
Tel: 1 212 237 8375
Fax: 1 212 237 8309
email: ebsjj@cunyvm.cuny.edu

American Society of Criminologists
Annual Conference
15-19 November 1995, Boston Park Hotel, Boston

For further information, contact:
James Austin
Program Co-Chair NCCD
Suite 620
685 Market Street
San Francisco CA 94105
USA
Tel: 1 415 896 6223

NEWS

Review of Child Protection Laws

Mr Patrick Parkinson, Senior Lecturer in Law and specialist in children's law, has been appointed by the NSW Government to chair a reference group to review the *Community Welfare Act* and the *Children (Care and Protection) Act*. The first Act governs the funding regime for non-government welfare agencies as well as looking after the emergency relief funds dealing with disasters like bushfire and flood. The review of the *Children (Care and Protection) Act* will look at the definition of child abuse and responsibilities concerning reporting and intervention.

A Charter of Rights for Australian Children and Young People

The National Children's and Youth Law Centre is undertaking a joint project with the Australian Youth Foundation to develop a Charter of Rights for Australian Children and Young People based on the UN Convention on the Rights of the Child. The Charter will be drawn up in the form of draft legislation to both protect and enhance the rights of children and young people. Public consultations will be held around the country in May-July 1995 to promote the concept of the Charter and to gauge community response to the terms of the draft Charter. The final version of the Charter will be produced in October 1995 based on the feedback obtained from consultations. The Senior Project Officer is Nivek Thompson. He can be contacted on (02) 398 7488.

Juvenile Justice (JUVJUST) Electronic Mailing List

The United States Office of Juvenile Justice and Delinquency Prevention (OJJDP) and National Criminal Justice Reference Service (NCJRS) have a new service—the Juvenile Justice Electronic Mailing List. Recipients will receive information about programs, publications, products and other resources directly from OJJDP and NCJRS.

There is no cost but it is necessary to have access to Internet mail. To join, send message to:

+ listproc@aspensys.com
+ leave subject line blank
+ in body of message type: "subscribe juvjust yourname".

Centre for New Technologies, Law and Management

The University of Wollingong is planning to establish a Centre for New Technologies, Law and Management for research and learning in "world best practice" for the successful management of the application of new technologies and the legal environment in which they must operate. Practising solicitor and author Shane Simpson has accepted the appointment of Visiting Professorial Fellow in Law and will oversee the establishment of the centre and its programs of research and teaching activity.

Visitors to Australian Universities

Faculty of Law, University of Adelaide: Professor T. Meron, New York, USA, August 1995.

Faculty of Law, James Cook University of North Queensland: Emeritus Professor E. Hayek, Ottawa, Canada, until 1 December 1995.

Faculty of Law, Macquarie University: Dr S. Beale, Simon Fraser University, until June/July 1995.

Faculty of Law, The University of New South Wales: Judge H. Lilles, Territorial Court of Yukon, until 14 July 1995.

Faculty of Law, University of Western Australia: Professor M. Tilbury, NSW Law Reform Commission, 19 August-3 September 1995.

Australian Violence Prevention Award Winners

THE SELECTION BOARD FOR THE AUSTRALIAN VIOLENCE PREVENTION AWARDS RECEIVED 110 NOMINATIONS IN 1994. THE LIST OF WINNING PROJECTS, REGIONAL WINNERS, COMMENDED PROJECTS AND OTHER CERTIFICATE PROJECTS IS AS FOLLOWS:

The Winning Projects

Reducing Violence, Crime and Fear in the Gay and Lesbian Community (NSW Police Service Community Safety Development).

Lesbian and Gay Anti-Violence Project, Darlinghurst (NSW).

NSW Department of School Education Anti-Violence Initiatives

Regional Winners

What's your a-gender? A peer education package for preventing sexual violence (NSW).

Geelong Local Industry Accord (Vic.).

The Positive Parenting of Pre-schoolers Program (Qld).

Media Violence and Advocacy Project (SA).

Wunngagatu Patrol (WA).

Joint Council, Rotary and PCYC Youth Project (Tas.).

Anti-bullying Project, Richardson Primary School (ACT).

Commended Projects

Armadale Domestic Violence Intervention Project (WA).

Atunya Wiru Innyma Uwankaraku: Good Protection for All Women (NT).

Cobham Outreach Groups (NSW).

Community Education and Training Workshops: Addressing violence against Women (NT).

Desperately Seeking Justice: A resource and training manual on violence against women in a culturally diverse community (Vic.).

Domestic Homicide Awareness Project (Vic.).

Domestic Violence: A Regional Strategy Plan (Vic.).

Domestic Violence Core Training Package in Spanish (Vic.).

Entertainment Safe Train (Vic.).

Juvenile Aid Group, City Police (WA).

Red Cross Men's Referral Service (Vic.).

Surfers Paradise Safety Action Project (Qld).

Wauchope Student Support Service (NSW).

Youth Leadership Project, Insearch Foundation (NSW).

Other Certificate Projects

Cannington Fast Track Program (WA).

CLAN (Community Link and Network) (WA).

Community Awareness of sexual assault (Vic.).

Family Violence Display Boards (Vic.).

It's not OK to shake babies, NAPCAN (NSW).

Maddington Teen Scene (WA).

Marymead Family Skills Program (ACT).

Mobile Assistance Patrol, Adelaide (SA).

PSST - Personal Safety Success Training: Preschool Program (Vic.).

Safe, Strong and HappyMallee Family Care (Vic.).

Shoalhaven Suicide Prevention Network (NSW).

St Vincent de Paul Mens Violence Management Program (NSW).

Suzanne Daley's Self-Defence for Women Centre (Vic.).

The Sound of Violence - The Voice of Arabic Women (NSW).