

ordination between agencies, particularly at the bureaucratic level, was mentioned.

In his summing up, the Chairman for the morning suggested that State Branches should find out what planning was going on in each State, and that they should form sub-committees to liaise with people responsible for urban planning, education policies, social welfare policies, etc. Mr Loof in his final remarks, suggested that at present funds

against them". His recommendations included that there should be a greater emphasis on education for people at risk, and that more effective contraception programmes are paramount.

were expended on projects when it is too late, and more should be applied in areas of primary prevention. Dr. Dax in his summing up, stressed that underprivileged people are at much greater risk than others because "the dice are loaded

MONDAY 13TH AUGUST 1970 (Afternoon Session)

*Official Opening of the Tenth National Conference of The Australian Crime Prevention Council
by His Excellency, Sir Zelman Cowen, A.K., G.C.M.G., K.St.J., Q.C., Governor General of the Commonwealth of Australia*

At the beginning, and again close to the end of this decade, I find myself speaking here on themes relating to crime prevention. On the earlier occasion, I delivered the Turner Lecture on Sir John Barry in the University of Tasmania; on this occasion, I am opening a National Conference of the Australian Crime Prevention Council. Jack Barry, as I and as so many knew him, died late in 1969, so that this year marks the tenth anniversary of his death. I think that it is appropriate therefore that I should say something of his work, because in his work, his writing and his thinking, he was deeply concerned with questions of crime, criminology and crime prevention. He had a law practice which involved him with such matters; as a barrister more than forty years ago, he wrote in a law journal about the comparative lack of interest among Australian lawyers in criminal law. In the very year in which he wrote that, I, as an undergraduate in the University of Melbourne, studied the Law of Wrongs, Civil and Criminal as part of my law course. Very few weeks were spent on criminal law and the greater part of the course was concerned with torts, with civil wrongs. What criminal law there was had little or no regard to principles of criminal punishment; we spent scarce time on distinctions between larceny and false pretences and other offences relating to property; there was murder and manslaughter and the law on various driving offences as a consequence of which people lost their lives. Later in the course, in Jurisprudence, there was a brief brush with criminology, and that was perhaps more than was done elsewhere at that time. I think that Jack Barry's strictures were justified.

Barry became a Justice of the Supreme Court of Victoria in 1947; in 1951, he became Chairman of the Department of Criminology in the University of Melbourne. Norval Morris was then the dynamic and imaginative leader of that Department, which blazed a trail in this country, and then, and for long thereafter, Barry gave it his interest and sympathetic chairmanship. In 1955, he led the Australian delegation to the U.N. Congress on the Prevention of Crime and the Treatment of Offenders in Geneva, and he did so again in London in 1960. In 1957, he became Chairman of the Victorian Parole Board: work which deeply concerned and involved him. He spoke of parole as an enlightened or 'less repressive and draconian approach to the subject of imprisonment'. Yet he was wary of drastic change in approaches to the problems of criminal law and punishment. In particular, in his writings, he warned against going too far, against throwing punishment overboard, against giving society over to "the adjusters in white coats". He was emphatic in repudiating the notion that decisions on punishment should be handed over to administrative officers and taken out of the hands of judges. He argued that the parole system, which deals with punishment

by co-operation between judges and experienced administrative officers, may represent a reasonable advance in an area about which, for all the words that have been written and spoken, we really do not know very much. He said that we do not know much about the element of deterrence in punishment, and that often retaliation masqueraded in the guise of deterrence. In all these areas, validated knowledge is hard to come by. He pointed out that one of the major problems with which we are faced, is not so much that punishment is used as a mechanism of social control, but that the way in which the punishment awarded by the court was carried out was often unimaginative and was unnecessarily repressive. Even here, it had to be remembered that many offenders were not the most hopeful material for moral and social regeneration, and the emphasis on security — to prevent escape — and the failure to provide the resource to bring about dynamic penal reform were formidable barriers to progress. Barry never denied the need to incarcerate for as long as necessary the dangerous offenders who had shown themselves beyond doubt to be a danger to society if they were left at large. Barry however argued that it must be the aim of an enlightened penology to send back to society, as soon as was reasonably possible, the offenders who have responded to rehabilitative training and have shown that they are not likely to harm their fellow citizens.

All of this, and more, was spelled out in speech, writing, and practical application. He wrote extensively: his studies of **Alexander Maconchie** and **John Price** were significant, and indeed were more arguments about issues than biographies of men; his undelivered lectures on **The Courts and Criminal Punishments** which, happily, were published in New Zealand where they were to be given, are a significant and valuable contribution to the debate on matters with which this Council is directly concerned. And what he had to say in his introduction to Morris and Howard's **Studies in Criminal Law** is so moving and so eloquent that I should recall it to you.

"There is much evil in the world and human beings are constantly guilty of wickedness which, always bringing in its wake unhappiness and suffering, is frequently appalling in its atrociousness. In a sense the criminal law is the final barrier against the triumph of evil. Even where the offence is less than homicide, a criminal case usually involves a calamity for the victim. But we should be careful not to allow the emotional surge of the retributive impulse to blind us to the reality that it is, too, a disaster for a defendant who is innocent, and a tragedy, in great or less degree, even for a guilty wrongdoer. The bad man may get satisfaction from his wretchedness but it is warped and bitter satisfaction and it can hardly be doubted that were it possible he would wish to be another than he is. The agonising task of infus-

ing a coercive process with the spirit of justice calls for great and unusual talents and a constant awareness of Micah's splendid admonition 'to do justly and to love mercy, and to walk humbly with thy God'.

That is deeply moving writing and thought, and we do well, on this occasion, and in this Council, to remember Barry. In 1972, a volume of essays on **Law and Crime**, in his honour, was edited by Norval Morris and Mark Perlman, and if you do not know of the book, let me say that it contains writings which not only honour Barry, but which will also be of interest to you.

II

There is a great deal of writing on crime and punishment, and following on from what I have just said, I should like to refer to an essay on this very theme, published in 1978 in **Daedalus**, the Journal of the American Academy of Arts and Sciences by the able and contemporary criminologist, Marvin Wolfgang, who was in Australia last year. He notes that in America and perhaps in Western society, we are now experiencing an expansion in the acceptability of deviance and a corresponding contraction of what we define as crime, and that a contraction of what is deemed delinquent will allow the criminal law to be made more enforceable. The more narrow range of behaviour considered criminal will mean a stronger link of consistency with history, because the persistently serious offences like homicide, rape and thefts, which have almost everywhere and always been viewed as criminal will constitute the hard core of criminality and the perpetrators will continue to be viewed as criminals.

He points to the rise in crimes of violence (speaking in an American context) over a period of some fifteen years since the early 1960's. This does not say that there were not earlier high peaks; the rise in our times is, however, significant. If we ask why it is so, it is said that among the reasons given are unemployment, broken homes, inadequate education and housing, racial injustice, relative deprivation, lack of adequate law enforcement, too much leniency in the courts and so forth. Yet he points out there are significant **demographic** reasons: there are age groups in which criminal behaviour is most pronounced (in this case the 14-21 group). As fertility increases and this group waxes, such crime increases, so too it wanes as the group diminishes. This, he says, is a critical factor and "the weight of empirical evidence indicates that no current preventative, deterrent or rehabilitative schemes has the desired effect of reducing crime." Further it is to be noted that concern with crime increases as its impact is felt increasingly by the articulate middle and higher middle classes. So long as it was the poor afflicting the poor, it was less visible, less in the public eye. He observes also that there are shifts in the patterns of crime away from crime of violence to crimes of fraud and corruption. We may come, in the not too far distant future perhaps, to a new crime calculus in which such crimes may be seen as being as serious as aggravated crimes of personal violence. Our technology opens up increasingly the possibility and scope of information and knowledge theft, industrial espionage, computer crime. This, too, exposes the need for new detection and police skills requiring sophisticated education, and remuneration and status commensurate with the claims of the market place — a point which has been effectively made by David Biles of the Australian Institute of Criminology.

Dr Wolfgang deals with the aims and purposes of punishment and traces the history of doctrine in this field. There was a time when the medical and legal guilds joined in asserting that offenders could be reformed, rehabilitated, remolded and re-socialised thereby achieving a reduction in criminality. This doctrine persisted for many decades, but since the 1960's, there has been an "increasing disillusion" with the

rehabilitation model of punishment. The new, or at least the contemporary view is that sound social policy asserts that uniformity of sentencing and a decrease in judicial discretion are necessary to achieve greater justice in our criminal policy. The prevailing notion in punishment is that of just deserts: it takes us back to Beccaria and Bentham. Wolfgang quotes James Q. Wilson of Harvard as saying that we really can't do much about the root causes of crime. It is not possible for government to legislate love or affect the rate of broken homes. It is, of course, imperative to attack unemployment, low levels of education, poor housing and similar social and economic ills, but this should be done **primarily** because general social welfare and policy demand it, and only with a secondary reference to crime and the possibility of crime reduction.

Wolfgang states some propositions, which, while set specifically in an American context, bear careful consideration —

"... the criminal justice system is capable of direct manipulation, and federal and state governments should make efforts to effect change. These changes involve the following: increase in the probability of arrest and conviction, and a positive sanction of incarceration for offenders who have committed offences of injury, theft or damage; elimination of the indeterminate or indefinite sentence by judges and reduction of judicial discretion at the point of sentencing; inclusion of the juvenile records for adults who are convicted and about to be sentenced so that the seriousness of crimes committed as juveniles will be considered in the sentencing discretion; decrease of judicial discretion, which should be substituted by a uniform sentencing process based upon the seriousness of the crime committed rather than on characteristics of the offender."

Add to these the following considerations. We should not think in terms of a compulsory reformation or rehabilitation program: we should maintain the availability of therapy and service programs on a voluntary basis and without any rewards in terms of remission for participation in such programs. We should see **punishment** as a proper basis for the commission of crime, as a notion of proportional or 'just deserts'; offenders should be punished for what they have done and not for what they might do. This does not carry with it a notion of imprisonment as a vengeful response to criminal conduct and humane treatment in prison is seen as proper and appropriate; as Wolfgang puts it, the deprivation of liberty is a punishment sufficient unto itself in a democratic society which places high value on liberty and freedom of movement. Furthermore definite sentences rather than indefinite and indeterminate sentences are central to this notion of punishment, and parole and aftercare are eliminated as part of the criminal justice system. Helping agencies should continue to operate and should be augmented for assistance to persons released from prison, but not under coercion. Wolfgang makes two further points about punishment. First, imprisonment should be seen only as one among a much greater variety of punishments, second, capital punishment has no place in the system: retribution does not require it nor does proportional sentencing or the concept of just deserts.

I do not know how Sir John Barry, who laboured so long and so hard in the service of a parole system, would have seen all this. It is not for me to enter the puzzling debate on capital punishment which arouses great passions; I may however mention one teasing passage somewhere in the writings of Norval Morris in which he wrote of very long sentences of imprisonment as "gradual capital punishment". I have to say that I found Wolfgang's essay on Crime and

Punishment perceptive and stimulating, and I leave the matter with the suggestion that it merits your careful consideration and with the not very original observation that the wheel certainly turns.

III

Intimately bound up with issues of crime prevention are attitudes to the law. In other places and other contexts I have spoken of this, about the way we live now, about the fragile consensus. I note in a recent essay by David Biles and Bruce Swanton on **The Future of Criminal Justice in Australia**, an observation that there is a breakdown in "moral consensus" on the matters within the appropriate reach of the criminal law, and that there is an increasing polarisation of views on this matter. Moreover, in the stormy times through which we have come in very recent decades, it has been said that the law itself faces crisis; that whether we like it or not — and in varying degrees many do like it — we are in a period of instability, disruption and violence. The times question the idea of law and its administration. Law has not prevented the basic unrest. This, of course, is not new; we should not expect too much of law and ignore the setting in which law operates as but one factor among many. There appear, however, to be special concerns in recent days, and we do not have to look very far afield. I draw attention here to a passage in a brilliant essay by Edward Levi, a recent Attorney-General of the United States, who wrote it at the end of the 1960's when he was president of a great American university. He pointed out that law has to achieve through a combination of inducements a widespread personal willingness to submit to its governance. He said this:

"The necessity for voluntary submission emphasises the pernicious effects upon the whole system when a habit for violation is permitted or encouraged. Many aspects of our present system encourage this habit. Statutes which are misleading or which for one reason or another carry a high level of unenforceability, failures of enforcement with as high a level of crimes unsolved as we now have, the willingness to isolate areas of life, as in the ghettos, where a different standard is used — all these are enemies of law's legitimacy. The failure of law to make good its assertion of sovereignty, permitting unchallenged acts of violence, weakens its sovereignty and the effects are long with us . . . The danger for law as a whole is increased when a high moral value is placed on the violation, as within groups, where members violate in concert or where an individual . . . is encouraged or in some sense compelled to establish a significant legal right through a personal act of civil disobedience. The distinction between such acts and ordinary violations becomes much more fragile in a period of turmoil."

That was written at a time of great stress and in the United States. Yet it plainly has a relevance to situations extending far beyond. I suggest that it has a relevance to what you are considering here. Crime prevention is bound up intimately with respect for the law, and the maintenance of respect for the fabric of the law as a whole is in issue. This has many faces; one of them is the reach of the criminal law, as Mr Biles and Mr Swanton's reference to the "moral consensus" makes clear.

IV

In the passage I have just quoted, there is a reference to failures of law enforcement with as high a level of crimes unsolved as we now have. There are current concerns with unsolved and unreported crime. In a paper on **Crime Prevention and the Media**, delivered to a seminar in 1976, which he made available to me, Mr Biles had some interesting things to say about these issues, and particularly

about "unreported crime" which he described as the "dark figure". He argued that the media have a very important role to play in the operation of criminal justice; that, significantly, the public learn what is right and wrong from the media. They also learn their attitudes to police, courts and prisons from them. It is in the character of news, especially in the media with a wide reach, to report the unusual, the dramatic. It followed that spectacular, and generally violent or massive criminal acts were reported, leaving the much more common offences of housebreaking, motor theft and petty larceny unreported or with little emphasis. This gives a distorted picture in that it leads to the belief that the crime problem in Australia is predominantly one of violence, whereas the reality is that it is not: crime is, to a great extent, one or another form of theft. As to this, Mr Biles says:

"There is a number of serious consequences which flow from this situation. In the first place, if the average citizen believes that crime is essentially a matter of violence then he may be disinclined to report to the police the non-violent offences of which he is much more likely to be a victim. Thus the 'dark figure' of unreported crime is likely to be increased, and accurate criminal statistics which are an essential foundation to social defence planning will not be available."

He notes the conclusion of New South Wales researches that the two most common reasons for victims of crime not informing the police were the belief that the police could not do anything about the matter, and that they would not want to be concerned with such things. Whether these beliefs have any substance, they are influential and contribute to a total volume of unreported crime "so enormous as to make the formal criminal justice system seem almost irrelevant".

Mr Biles says that the main danger of a situation in which there are high levels of unreported crime is that people may take the law into their own hands and by-pass the procedures established by the State, which he calls the first step to anarchy. As to this, he is working criminologist and I am not, but I have to say that I wonder, and while the possibility is there, I really question whether in our situation this is so. He persuades me more readily when he says that a belief that the police are not interested in hearing or acting on reports of "unspectacular crime" — whatever the truth of the belief — is likely to undermine their popular support, and there can be no questioning the proposition that a police force that does not have the strong support of the community it serves will find its job very difficult. It is the case that a police force which enjoys high public esteem will have more crime reported to it than one which does not have this support, and that the image which the media fashion of the police and of the patterns of crime in the community generally is a matter of great concern to the welfare of the community, not least in the field of crime prevention.

I suggest to you that the role of the media in crime prevention, and concerted interest and action on the part of such bodies as this to shape and influence that role, are matters of high importance.

V

This is the Tenth National Conference of the Australian Crime Prevention Council. It is now a well established body with permanent officers, and with the support of a membership drawn from voluntary bodies as well as from police and professional correctional workers. It originated as the Australian Prison After-Care Council and was formed as such in Adelaide in 1960. Under the guidance of the late Mr Justice Jock McClemens who I met, as I remember in the company of Sir John Barry, its members originally represented prisoner after-care societies and probation services. Jock McClemens was a good, deeply concerned

man; and those of us who knew him and know his work, remember him warmly. In the years since then, the name of the Council has changed; it adopted its present name in 1974 and its concerns have broadened, as the extensive agenda of this meeting makes clear. I fear that what I have said is very general and does little to cover the matters comprehended within the extensive program. These are fields in which I have little expertness and competence, and they pose many difficult, some might think almost intractable problems. I start

furthermore, as I have told, with a regrettably deficient education in criminal law, and the fields in which I have worked in the law have been rather different. They may be due to the fact that I am a creature of my times and environment, and I recall what Sir John Barry said about lawyers' attitudes to criminal law and associated matters forty years ago when I first learned the little criminal law I then knew.

I have pleasure in declaring this Conference open.

TUESDAY 14TH AUGUST 1979 (Morning Session)

From the programme:

"Today we shall be looking at the area of urban development. In developing town planning schemes, there are opportunities to take into account social and environmental aspects that are relevant to crime prevention. It appears that such opportunities have not been taken in the past and that grave mistakes continue to be perpetrated. In the morning we shall be looking at these possibilities . . ."

Urban Planning and Development

CHAIRMAN:	Mr Geoff Sutton, Director of N.S.W. Bureau of Crime Statistics.
9.00-9.40 am	Dr. Trevor Lee, Senior Lecturer, Geography Department, University of Tasmania.
9.40-10.15 am	Mr Bob Graham, Planning Officer, Hobart City Council.
10.45-11.45 am	Group Discussions.
11.45-12.30 pm	Plenary Session.

COMMENTS ON THE MORNING'S PROCEEDINGS:

This was another successful morning with papers which were well delivered and the themes were nicely picked up in the group discussions.

There seemed to be some consensus of opinion that there are better ways of town planning than "broad acre" State Housing developments. The concept of "social mix" was vigorously discussed and it was felt that, given greater mix, there could be less stigmatisation of an area with a decrease in criminality as well as in human unhappiness. Interesting recommendations for improving "social mix" included a change of emphasis from renting housing to the economically disadvantaged in stigmatised areas, to subsidizing this group so that they can live where they wish.

An alternative was for the State to act as a Land Bank and to ensure that the majority of houses in their areas were for private development so that there would never be a preponderance of the economically disadvantaged in a housing area. Other recommendations included the provision of facilities and support services.

URBAN PLANNING FOR CRIME PREVENTION: SOME SOCIAL CONSEQUENCES OF PUBLIC HOUSING PROGRAMMES

By Trevor R. Lee†

Introduction

In recent years the proportion of new housing constructed by public housing authorities has increased substantially, and in Tasmania at least 25 per cent of new dwellings are currently built by or for the Housing Division. The importance of housing and the broader residential environment as components of the quality of urban life underscores the need to carefully evaluate the bases and consequences of public housing policies.

This paper seeks to examine the social consequences of public housing policies within the broad context of a concern for crime prevention. In order to do this it is appropriate to first identify separately the issues of public housing policies and their consequences on the one hand, and on the other, the nature and incidence of deviant behaviour and the extent to which it varies throughout the city. However, it is the interface of these two areas that this paper seeks to explore. Two basic questions can be posed which encapsulate the nature of the relationship between housing policies, planning and social

behaviour. The first is the extent to which broad planning strategies associated with public housing policies create environments which encourage deviant behaviour. The second question is whether modifications of the environment, through planning agencies, can have an effect on the behaviour of individuals. It is argued here that the causes of deviance are complex, and that explanations which seek to reduce deviant behaviour merely through the manipulation of the physical environment by planning agencies may be diverting attention away from more fundamental social questions which need to be addressed.

Public Housing Policies

The role the state should play in housing is a function of political and social philosophy. Extreme views range from those which state that the responsibility for shelter lies with the individual or household and there should be no public involvement. A slightly modified stance, but still at the same end of the spectrum as the above view, is that public housing should only be provided for a very small minority, often referred to as the 'deserving poor'. At the other end of the spectrum are those views which regard shelter as a basic commodity to which all should have equal access, and which

* Paper presented to the Australian Crime Prevention Council, Tenth National Conference, Hobart, Tasmania, 13-17 August 1979.

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