

Introduction

Adam Graycar and Peter Grabosky

Violence and theft have been part of human interaction for all of recorded history. Measuring, understanding, and analysing these activities, with a view to their prevention or mitigation, have been the task of criminologists. This handbook brings together a number of original articles that explore, describe, and explain phenomena of wrongdoing, hurt, and harm and their prevention or mitigation.

It was Santayana (1905) who said, 'Those who cannot remember the past are condemned to repeat it'. One might also suggest that those who ignore the future are destined for a rude shock when it arrives. To understand in the most comprehensive way, we need to look back as well as look forward.

The old adage is that crime follows opportunity, and in a world of significant and monumental change there are certainly new criminal opportunities created by new technologies, new forms of organisation, and new markets. This creates a situation in which there are both new offenders and new victims. Modern technology and globalisation have made some forms of criminal activity more common, more lucrative, easier to commit, and harder to detect.

Sometimes leading and sometimes lagging behind these changes in criminal opportunities, significant changes have also occurred in the operations of the Australian criminal justice system. Although there are aspects of contemporary Australian policing that have their roots in the model of law enforcement developed by Robert Peel in nineteenth-century Britain, much has changed. Not least of these are the growing presence of women in police ranks and the proliferation of law enforcement agencies. Although Supreme Court judges wear wigs and gowns as their predecessors have for hundreds of years, they now hear arguments relating to DNA testing and electronic surveillance which their forebears would have found unintelligible. Prison walls are still forbidding and life 'inside' is still somewhat austere, but correctional services are now extremely diverse and many are provided by non-profit or private organisations.

Changes arguably more significant are occurring in Australian public administration. Across a number of policy domains, driven by chronic fiscal constraint, by ideology, by electoral pressure, or by some combination of the three, governments have been urging the public to assume greater responsibility for their affairs. In Australia, retirement income and health insurance are but two domains in which governments of both sides of politics have consciously sought

to shift the burden back to the private individual. It is no longer realistic to suggest that criminal justice is immune to this trend. The apposite if awkward term 'responsibilisation' has been used by Garland (1994) in the context of devolving responsibility for crime prevention to local communities and to individuals. Thus one sees Australian governments encouraging the public to take reasonable precautions as they go about their lives. As a consequence, one sees increasing investment in residential alarm systems, motor vehicle engine immobilisers, and a burgeoning private security industry.

Our task in this volume is to provide a basis for understanding the changing nature and context of crime and its control in Australia. Since its founding by Sir John Barry and Norval Morris over half a century ago, Australian criminology has flourished. The growth has not been consistent; the maturity of the discipline (if one may use that word) is only very recent. More than two decades elapsed between the establishment of the Melbourne University Department of Criminology in 1951 and the opening of the Australian Institute of Criminology (AIC). At that time (1973) there were very few practising criminologists in Australia. Most were at universities, but a small bureau of crime statistics and research existed within the NSW Attorney-General's Department. The pace of progress quickened in the early 1980s as new institutions sprang up in universities and under the auspices of various departments of the public sector. Australian criminology in the new millennium is as diverse as its practitioners are numerous.

The reasons for this growth are obscure. The intrinsic fascination of matters criminal may hold one explanation. The fact that criminology is very much an interdisciplinary enterprise means that it contains something for just about everyone – psychologists, sociologists, philosophers, statisticians, lawyers, scholars of public administration, economists, and policy analysts. The fact that the criminal justice system is expensive may have led governments to invest in research that has the potential to improve efficiency and effectiveness in crime control.

It is unlikely that the growth of Australian criminology can be attributed to Australia's having experienced profound crime problems, although many forms of theft and non-lethal violence have increased significantly since the end of World War II. Although some would argue that crime is no greater today than it was a century ago, there is certainly more of it today than at the time the University of Melbourne established its Department of Criminology in 1951.

When one of the editors (Peter Grabosky) first arrived in Sydney in October 1972, he introduced himself as someone who had come from Chicago to begin research on the history of crime in New South Wales. The most common response, 'Why come here? Haven't you got enough crime in Chicago?', reflected the dramatic differential in crime rates between the two jurisdictions, rather than the newcomer's personality defects or a lack of Australian hospitality. With the noticeable exception of homicide, where Chicago's rates continue to dwarf those of Australia, our crime rates are now among the highest in the industrialised world and are the focus of a great deal of public attention. Unfortunately, the prevailing level of public concern is not always matched by appropriate data and knowledge.

About this Handbook

Like the enterprise of criminology itself, collections of readings in Australian criminology and criminal justice are numerous and diverse, yet we contend that this collection is unique.

We commissioned original essays on the basic institutions of Australian criminal justice:

police, courts, and corrections. In addition, we have selected a number of topical issues that are of public policy importance or general interest, as well as an authoritative statistics chapter taken from the Australian Bureau of Statistics' (ABS) *Yearbook Australia*. As such, the current volume should make a valuable reference resource, as well as a basic text in criminology and criminal justice courses. We hope this book will become the single most important resource for Australian criminology and criminal justice.

It differs from the 'garden variety' anthology in a number of important respects. The combination of in-depth analysis, institutional description, and statistics is unique. The contributors are among the most distinguished in Australian criminology. The substantive chapters report standard institutional processes as well as topical issues of current interest. Designed for biennial publication, it combines specially commissioned essays on the basic institutions of Australian criminal justice with special items on issues of current interest. It also contains a contemporary and historical statistical profile of crime and of criminal justice institutions in Australia. Nowhere else are these three elements available in the same volume.

The contributions are written in a widely accessible style. Because it goes beyond the standard set of readings, and contains current facts and statistics, the book should have great appeal to students of introductory criminology. We hope that its value as a reference book will make it a welcome acquisition by libraries.

The general theme of this collection is 'past, present, future'. Individual chapters begin with a discussion of institutional origins, review current arrangements at the beginning of the twenty-first century, and then map out alternative futures, with particular emphasis on the identification of knowledge gaps and policy opportunities.

Plan of the book

In Chapter 1, Adam Graycar and Peter Grabosky compile some long-term trends of major crimes in Australia. This chapter discusses the changes over time in the reported incidence of crime and in the responses of the criminal justice system, and changes in public policy. It makes the interesting observation that some behaviours (such as public drunkenness) that were of very great concern to the criminal justice system for the first half of the twentieth century are now 'not the law's business', while others, such as child pornography and violence against women, have become matters of high priority. Still other types of crime, such as distributed denial of service attacks against computer systems, were not even foreseeable until the last decade of the twentieth century.

This is followed by an authoritative chapter from the ABS (reprinted from *Yearbook Australia* with minimal editing to house style), which provides contemporary data on crime and justice in Australia. This contains a basic descriptive overview of the criminal justice system and focuses on particular components: police, courts, prisons, and corrective services. It also contains the latest national crime statistics, based on selected crimes recorded by police as well as estimates of incidence and prevalence derived from national crime surveys. Among the more interesting observations of this chapter is that the risk of becoming the victim of crime is very unevenly distributed across Australian society, and that repeat victimisation is a serious problem. Less than 1 per cent of those who experienced residential break-ins accounted for 16 per cent of all reported residential break-in incidents.

Chapter 3 provides an overview of law enforcement and private security. It begins with a brief discussion of the historical foundation of police in Australia, from the convict era to the transplantation of the traditional British model. Themes discussed are the integration of policing in the Australian federal system, the professionalisation of Australian law enforcement, and the rise of private security and its interrelationship with sworn police. Most noteworthy here is the authors' description of what Bayley and Shearing (2001) have called the 'multilateralisation' of policing, the proliferation of organisational forms in both public and private security sectors. Tim Prenzler and Rick Sarre raise some interesting questions about the implications of these developments for accountability.

Chapter 4, by Gregor Urbas and Simon Bronitt, provides an overview of the law and the judicial system as they relate to criminal matters. It discusses emerging trends towards harmonisation through the Model Criminal Code, the changing structure of the criminal courts, and key legal issues such as those relating to undercover investigations, telecommunications interception, and mandatory sentencing. The authors note the progressive expansion of the use of telecommunications interception and listening devices in criminal investigations. The 'normalisation of extraordinary powers' to which they refer seems likely to persist in the climate of global insecurity prevailing as this collection went to press.

In Chapter 5, John Dawes and Anna Grant raise a number of issues that confront contemporary corrections. These include deaths in custody, the management of growing prison populations, the increasing role of the private sector, and issues relating to drug rehabilitation and the delivery of mental health services. They also address the feminisation of prison administration and the impact of industrial relations on the management of Australian prisons, particularly its implications for privatisation. Dawes and Grant note the prevailing mood of 'populist punitiveness' in Australia today and speculate on its implications for prison policy.

An examination of two important social problems – illicit drugs and crime – and the nature of the relationship between the two in the Australian context is undertaken in Chapter 6 by Toni Makkai. The chapter describes the prevalence of these two problems in Australia and the theoretical models that have been proposed to explain the association. An overview of the more significant methodological and data problems in this area is also given. The chapter reports significant empirical data on illicit drugs and crime. It demonstrates the heterogeneity of offenders, their drug-using patterns, and their engagement in criminal activity. The lack of quality data and ongoing investment in long-term research programs is highlighted. Nevertheless, Makkai concludes that criminality often *precedes* drug use. One may infer that drug control, important a policy objective as it may be in its own right, is not a substitute for crime control.

Chapter 7, by Russell G. Smith, looks at white-collar crime. It begins with a historical review of financial crime in Australia, from its earliest manifestations during the convict era to the forms that have begun to emerge in the digital age. It then discusses the regulatory and enforcement mechanisms that have been introduced in the aftermath of major financial scandals, the role and occasional failure of professional advisers in the prevention, detection, and disclosure of white-collar crime, and the newest institutional arrangements involving technology and private sector involvement in fraud control. The effective control of white-collar crime will depend on an informed public, and on the development of productive partnerships between state authorities and non-government institutions. The challenge of providing enough economic freedom to allow legitimate business to flourish, while at the same time discouraging illicit commercial activity, is as old as capitalism itself.

The AIC has conducted the National Homicide Monitoring Program (NHMP) since 1989. This program monitors every homicide in the country, and Chapter 8, by Jenny Mouzos, provides comprehensive data on homicide from that program. It describes the long-term decline in Australian homicide and then discusses patterns that have been identified in a decade-long study of four issues in homicide: incidents, victims, offenders, and relationships between victims and offenders. The material also covers gender relations, as well as weapon use, including firearms. Patterns and trends in Australian homicide have been remarkably stable over the past two decades. The risk of becoming the victim and/or the offender of homicide is distributed very unevenly across Australian society: both victims and perpetrators tend to be males from disadvantaged backgrounds. The rate of homicide among Indigenous people is more than six times that of non-Indigenous Australians.

In Chapter 9, Emma Ogilvie and Mark Lynch examine the relationship between gender and crime in Australia. One of the most important features of Australian studies of gender and crime is the critical role of race, class, and sexuality in the relationship between gender and offending and gender and victimisation. This chapter outlines some of the most recent Australian contributions to the study of femininity, masculinity, and criminality, with particular regard to domestic violence, sexual assault, physical assault, and hate crime. The importance of economic disadvantage and social marginalisation in understanding crime against women is starkly evident.

Most young Australians have no contact with the justice system. Of those who do, most never reoffend. A small minority of young offenders, however, progress to a career of serious repeat offending. Chapter 10, by Ian O'Connor and Margaret Cameron, reviews data and policies on young people and the criminal justice system. It explains early intervention strategies and crime prevention approaches. Implicit in this chapter is a call for rigorous evaluation and cost-benefit analyses of those initiatives that are implemented.

The 'greying' of Australia's population has significant implications for a wide range of policy domains, not the least of which is public safety. In Chapter 11, Marianne James and Adam Graycar examine victimisation and crime prevention as it relates to Australia's ageing population. While fear of crime among older people exists, official crime statistics show that people over the age of 65 are the least likely to be victimised, and that the prevalence of victimisation declines progressively from the early twenties. But older people, like most others, are at risk from four main sources: family members, friends, and acquaintances, who may assault them or steal from them; strangers who may assault them or steal from them; commercial organisations or white-collar criminals who would defraud them; and carers with whom they are in a 'duty of care' relationship and who may neglect or abuse them. James and Graycar examine victimisation and crime prevention as it relates to Australia's ageing population. They urge continuing attention to those programs that would reduce unwarranted fear on the part of older Australians, and to programs that would reduce the vulnerability of those who are at greater risk because of their isolation, frailty, or other disadvantage.

Indigenous Australians have always been over-represented in the Australian criminal justice system. Chapter 12, by Roderic Broadhurst, re-examines theories on crime applied to explain this over-representation in terms of three approaches to Indigenous-governmental relations in post-colonial Australia: Aboriginalism, Welfare Colonialism, and Institutionalism. He notes the high levels of culture conflict and stress generated by the response of the criminal justice system to Indigenous offending.

Concern for victims of crime emerged fairly recently, with programs of monetary compensation in the 1960s, to community-based lobbying and grassroots provision of services by feminists

in the 1970s. Chapter 13, by Anna Grant, Fiona David, and Bree Cook, reviews these initiatives and charts a course for the future as Australian governments seek more cost-effective means of meeting victims' needs. The authors provide an overview of risk factors for victimisation, discuss the physical, psychological, and financial impacts of crime on its victims, and describe how social support and information remain high among victims' greatest needs. The authors also note the felt need on the part of some victims for greater participation in the criminal justice process. Their brief discussion of victims and restorative justice paves the way for the following chapter.

One of the more significant developments in Australian criminal justice is the rise of the restorative justice movement. Chapter 14, by Kathleen Daly and Hennessey Hayes, discusses the philosophical foundations of restorative justice, its emergence and development during the 1990s, and the varied forms it has taken in State and Territory jurisdictions. The chapter explores the potentials and limits of restorative justice, and reviews research that has been undertaken in Australia and New Zealand.

Crime prevention, once a marginal backwater of criminology, began to come of age in Australia in the 1980s, though it had been on the agenda of the Australian Institute of Criminology since its inception in 1973. The final chapter in this collection reviews developments in crime prevention across the Australian federal system, including situational, developmental, and community-based initiatives. It emphasises the importance of rigorous evaluation of crime prevention programs. The fact that crime prevention entrepreneurs are rarely called on to demonstrate a return on their investment suggests a growing role for scientific evaluation and economic analysis of crime prevention initiatives. The authors, Margaret Cameron and Gloria Laycock, note that bureaucratic inertia, and preference for short-term symbolic display rather than long-term planning and investment, continue to thwart the promise of crime prevention.

While every attempt has been made to provide the latest data, it should be noted that official crime data often appear long after the events they record and that the publication of crime data is an ongoing activity, which means that data are often superseded. Governments win and lose office, and change their justice policies and priorities. While every effort is made to describe programs in place, it should be noted that some of the programs or program details described in this volume may no longer be in operation. Such changes, and emerging issues, will be incorporated in future editions of this Handbook.

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Trends in Australian Crime and Criminal Justice

Adam Graycar and Peter Grabosky

This chapter compiles some long-term trends of major crimes in Australia. It discusses the changes over time in the reported incidence of crime, the responses of the criminal justice system, and changes in public policy. Readers may note some minor variations in data presented in Chapters 1 and 2. Sources from which tables are derived (listed beneath each table) sometimes vary, and sometimes use different reference points (e.g. end of year, mid-year, calendar year, financial year, as well as different counting rules).

Crimes that have existed across the span of modern Australian history such as homicide, burglary, assault, theft, robbery, rape, and kidnapping have seen variations in definition in legislation and varying levels of attention from police and courts. Crimes such as motor vehicle theft were inconsequential 100 years ago but are now significant, while crimes that involve child abuse or domestic violence, likely to be regarded as private matters at the start of the century, are now firmly within the criminal justice sphere.

Crimes such as superannuation fraud, health insurance fraud, theft of telecommunications services, electronic vandalism and varieties of computer hacking, credit card fraud, Internet child pornography, electronic funds transfer (EFT) crime, and electronic money laundering were not on the criminal horizon at the start of the twentieth century. But nude or even topless bathing, or homosexual acts between consenting adults, brought criminal sanctions, and public drunkenness comprised more than half of all offences brought before the magistrates' courts in the early years of the twentieth century, and this persisted until the 1950s.

Explaining crime in contemporary Australia

Australia was a less violent society at the end of the twentieth century than it was at the end of the nineteenth or eighteenth centuries, though today's rates of property crime appear significantly higher. Every crime requires three ingredients: a motivated offender, a suitable target, and the absence of capable guardians. This Handbook is designed to provide contemporary knowledge to help develop policies to deal with each of these ingredients. These policies aim at developing partnerships to attain four main objectives:

1. reducing the supply of motivated offenders
2. making crime more difficult to commit
3. looking to the future to anticipate new crimes, new forms of criminality, new conditions that might foster crime, and finding the means to prevent these new crimes from occurring
4. making sure that our regulatory controls operate efficiently and effectively in preventing and deterring criminality.

One might endeavour to explain variations in twentieth-century crime and criminal justice by Routine Activity Theory (Cohen and Felson 1979). In other words, the amount of crime in a society is influenced by prevailing patterns of social interaction. In particular, the key elements include 1) a supply of motivated offenders, 2) the availability of suitable targets or prospective victims, and 3) the absence of a 'capable guardian' – someone in a position to exercise surveillance over a place or situation. As we have observed, a great deal of crime is committed by young males. All else equal, the greater the proportion of the population comprised of males between the ages of 15 and 24, the higher the crime rate.

The decline in Australia's birthrate, which became the subject of a royal commission report in 1904, would have contributed to a reduction in the crime-prone age cohort during the first decade of the twentieth century. The Great War, as it was then known, saw a significant proportion of Australian males of reproductive age go overseas. Many did not return. The offspring of those who did came of age just in time for World War II. It is therefore not surprising that the most significant increases in Australian crime rates during the past 100 years occurred as a result of the post-World War II baby boom.

But it would be simplistic to attribute increases in crime entirely to the adage 'demography is destiny'. The second pillar of crime is the availability of suitable targets. In Australia, as in the rest of the industrialised world, opportunities for crime are without precedent. As a relatively affluent nation, Australia has been awash with easily transportable consumer products. The nature of social life is such that entertainment and recreational opportunities for young urban dwellers, and the availability of alcohol to them, create unprecedented opportunities for social, and antisocial, interaction.

The third pillar is the absence of capable guardianship. Women's workforce participation means that a greater proportion of dwellings are left unattended during the day. The increased residential mobility of Australians means that 'strangers' are less conspicuous than ever. And resource constraints mean that governments cannot afford to deploy a police officer on every street corner.

Looking to the future, there are four sets of changes that create new opportunities for crime and identify new and emerging victims and perpetrators. Opportunities for new crimes are created by:

1. demographic change
2. economic reform
3. globalisation
4. technological advancement.

But before examining these phenomena it is instructive to look back.

Crime and justice in the twentieth century

As the twentieth century opened, the yearbooks were describing falls in crime. Four categories only were reported: offences against the person, offences against property, drunkenness, and 'other offences'. Three things stand out. First, there were enormous variations around the States. In 1900, for example, for property offences charges against persons arrested or summonsed, the percentages per 1000 population were: New South Wales, 4.93; Victoria, 2.97; Queensland, 5.21; South Australia, 1.60; Western Australia, 9.86; Tasmania, 3.91. This degree of variation applied across the offence range. The second feature is the steady decline in violent and property crime. The third is that charges of drunkenness in 1900 were three times as many as charges of property crime and five times as many as charges of offences against the person.

What mattered 100 years ago and what happens today are very different. Then there was great concern about drunkenness, gambling, 'Chinese opium dens', whereas today concerns such as cybercrime, the international trafficking of drugs and its consequences in Australia, domestic burglary, family violence, and violence against women are prominent in crime discussions.

While we can focus on significant differences, some similar threads run right through the past 100 years. Alcohol-related crime was a predominant cause of criminal justice involvement in 1900. Today, while it is substance abuse in general, alcohol remains a major factor in criminal activity. As noted later, many of our prison population in 1900 were incarcerated mainly as a result of their mental state (though many of them would have been counted under petty crime or vagrancy), and in 2000 this situation has changed very little. In 1900 young males contributed significantly to criminal activities, and this continues to be the case.

Over the century, the criminal justice system has become much more complex. In 1900 people confronting the system faced one of four types of sanctions: absolute or conditional discharges, fines, imprisonment, or execution. At the beginning of the century executions took place in our prisons (there were fifty-five executions in the first decade of the twentieth century). The last execution in Australia was in 1967. Today there is a multiplicity of sentence types and diversion processes.

In addition, the structure of the system has been given a more cooperative underpinning. In 1900 all criminal justice service delivery was in the hands of the States, and there was hardly any inter-jurisdictional law enforcement or administration. Today there is a significant and growing federal presence in law enforcement (e.g. Australian Federal Police [AFP], National Crime Authority [NCA], Australian Customs Service [ACS]) and in some aspects of justice administration (e.g. legal aid). Substantial cooperation between States and Territories is evidenced by the establishment of CrimTrac and the formation of six National Common Police Services. Furthermore, transnational crime and cybercrime are emerging as two of the most significant issues for this century, and they are not constrained by the borders that were set in place at the beginning of Federation.

In 1900 Australia's Aboriginal population was not counted in official statistics, nor did Aboriginal people feature in crime statistics. A lot of Indigenous justice was 'extra-legal' (administrative, informal, or traditional) and except for the most serious matters did not find its way into police or court statistics. A hundred years later, Indigenous people have high rates of involvement in criminal justice both as victims and offenders, but there is no way of comparing these rates with offender and victimisation rates 100 years ago.

These figures bear no resemblance to figures produced by the ABS at the end of the twentieth century. The only similarity with the 1903 data is that there is still significant variation around the jurisdictions (see Figures 1.1–1.7 below).

TABLE 1.1 Crime in Australia, 1890–1902

Year	Number of charges against persons arrested or summonsed							
	Offence against person		Offence against property		Drunkenness		Other offences	
	Number	Rate per 1000	Number	Rate per 1000	Number	Rate per 1000	Number	Rate per 1000
1890	16 907	5.43	16 795	5.39	48 201	15.48	86 064	27.64
1895	10 450	2.98	14 773	4.22	38 895	11.11	76 982	21.99
1899	10 469	2.85	15 426	4.20	46 983	12.78	80 071	21.78
1900	10 319	2.75	15 764	4.21	52 286	13.96	87 147	23.26
1901	9 975	2.62	15 273	4.01	54 412	14.30	88 031	23.13
1902	9 597	2.49	16 565	4.29	50 618	13.10	87 137	22.57

Source: *Victorian Year-book* 1903: 304–5.

The decline in crime was noted in the first *Commonwealth Year Book*, yet no adequate explanations were found. The *Year Book* commented:

Causes of Decrease in Crime. – The statistics given shew that there has been a considerable decrease in crime throughout Australasia ... The deterrent effect of punishment, in respect of many offences, notably drunkenness, vagrancy, petty larcenies, etc., appears to be almost negligible. In general, punishment has declined in brutality and severity, and has improved in respect of being based to a greater extent upon a scientific [penological] system, though in this latter respect there is yet much to be desired ... Part of the improvement may no doubt be referred also to the general amelioration in social condition that has taken place during the last fifty years. (*Commonwealth Year Book* No. 1, 1908: 760–1)

Reporting on the 1999 Recorded Crime Statistics, the ABS (2000i) noted that robbery was down for the first time in seven years, and the report itself showed declines in most crimes: homicide (including attempted murder), sexual assault, robbery, blackmail, burglary, and motor vehicle theft. There was, however, an increase in assault and ‘other theft’.

The first *Commonwealth Year Book* (1908: 7) lamented the fact that Australia’s statistical collections were not uniform. It noted that ‘without uniformity there is no safety in statistics’ and that since ‘comparisons are valueless unless the data compared are of the same type, it by no

TABLE 1.2 Crime in Australia, 1993–2000

Year	Robbery		Assault		Unlawful entry with intent		Other theft	
	Number	Rate per 100 000	Number	Rate per 100 000	Number	Rate per 100 000	Number	Rate per 100 000
1993	12 765	72.25	n/a	n/a	381 783	2160.98	n/a	n/a
1994	13 967	78.23	n/a	n/a	379 505	2125.51	n/a	n/a
1995	14 564	80.59	101 710	562.81	385 162	2131.29	490 518	2714.28
1996	16 372	89.41	114 156	623.44	402 079	2195.87	519 762	2838.57
1997	21 305	115.01	124 500	672.10	421 569	2275.78	530 881	2865.89
1998	23 801	127.07	130 903	698.88	434 376	2319.10	563 482	3008.39
1999	22 606	119.37	134 271	709.03	415 735	2195.34	612 559	3234.69
2000	23 314	121.70	141 124	736.67	436 865	2280.44	674 813	3522.53