

Dear Mr Parsons

Effective police allocations and resourcing appear to depend partly on understanding the effects of court practices on police and related communities. What are they?

As a resident of inner Sydney, I provide this comment on police allocations and resourcing at the open invitation of Lord Mayor Clover Moore, in the light of broader international and national concerns related mainly to control of violence and other harm in regional communities through better understanding and more supportive development. This community management direction is discussed in attachments and includes many more forms of sport and physical fitness training, work, entertainment and education ideally led by police officers in company with schools and many other organizations and communities committed to reducing violence and other harm by also improving community wellbeing.

More cooperative police work with the media is also recommended, as discussed in the attached submission to Fairfax press which also addresses its restructuring. Internationally one now notes the recent initiatives in the British Parliament against the management of the 'News of the World' over phone hacking and bribes perhaps made to police. One wonders what Australian systems to avoid police corruption are and assumes many related problems are ideally now approached by forces acting openly together in what is a new international environment where the UK, US, China, Australia and the media may be positioned to forge relationships between governments and the 'fourth estate' which can serve the interests of the people in truth and development much better than in the past.

Police allocation and resourcing appear likely to be historically tied to many dominating and wrong adversarial practices in courts which are seldom examined and questioned by those who are not lawyers. Discussion of some pre-scientific, anti-democratic assumptions and practices of courts is in the attached article entitled 'A healthier approach to justice and environment development in Australian regional communities and beyond'. Open questions to police are posed later as they appear likely to have the most intimate knowledge of the outcomes of court practices and decisions. Their views of their current and ideal work situation are vital for better, safer policing and to help diverse individuals and communities reduce crime or related disorder. Police should give their views on court practices and their effects honestly and clearly from the perspective of the public interest or from the interests of police – whichever they feel more comfortable in doing.

This submission seeks to assist police allocation and resourcing in better coordinated national and regional directions. The attached discussions suggest management directions in the defense portfolio, to Fairfax media, and in related community management. Ideally, all people have a right and also a duty to speak openly on matters related to protection of the public interest in the pursuit of a better quality of life for all. On the other hand, people ideally also have a right to privacy to avoid public embarrassment, censure or harassment by others. The OECD Guidelines on Privacy were set up to avoid this and to assist better data gathering. In the longer run, openness is seen as the only protection against feudal ignorance, tyranny and all related want and destruction.

The feudally driven encouragement of secrecy by calling it necessary for protection of the weak often silences the truth while providing expensive control over vulnerable communities by lawyers and other professionals whose interests are tied to the legal one. The alternative is to assist community empowerment through encouraging greater public knowledge, discussion and debate of all contentious issues. Police should assist this.

What do police see as being good ways of reducing weapons in their communities?

The Nobel Prize winning economist, Amartya Sen, contrasted the vital aim of 'human security' and the related values of creativity and dignity with traditional notions of national security and defence. 'Human security' is 'the keyword for comprehensively seizing all the menaces that threaten the survival, daily life, and dignity of human beings, and to strengthening efforts to confront these threats'. Sen argues that support for the poor, freedom of speech and transparent management are all essential elements for the effective operation of the market and for equality. This is consistent with holistic, risk management based approaches to welfare and communications – not lawyers and courts.

One assumes the main role of police is to assist achievement of public order and this is harder to do effectively whenever some in a community distrust and/or oppose those they ideally are asked to call upon for help with ordering themselves or their surroundings in the community and broader public interest. More information sharing and more broadly and clearly related management co-operation appear likely to be more effective in reducing many high risk community situations which are linked. In any community, weapons are ideally minimized to prevent deaths, including to police. This is discussed in national and international contexts later and also in the attached discussion of the army.

Parliamentary speeches on the Crimes Amendment (Murder of Police Officers) Bill (2011) address the claim for 'mandatory sentencing', (which popularly appears to mean putting a killer of a member of the police in jail for life). The proposed legislation was driven by the fact that 17 police officers have been killed on duty since 1971. It is wrongly thought the proposed new law will prevent more deaths. The US has by far the highest murder rate in the OECD and murderers can also get the death penalty. Tiffen and Gitten's book 'How Australia Compares' (2004) shows the US had 6.8 homicides per 100,000 of the population in 1999. The next highest OECD rate was Finland with 2.4 murders per 100,000. The Australian murder rate was 1.5 per 100,000 (p. 224). While Japan had the lowest murder rate at 0.6 per 100,000, the French and UK murder rates were second and third lowest at 0.7 and 0.8 respectively. (This is important as it shows that homicides may be effectively reduced in diverse and multicultural societies. An English parliamentary discussion of knife carrying is discussed later in this context.)

Violence is deplorable but the American experience shows the only way Australian police are likely to be more effectively protected is to reduce the number of guns and other weapons in communities. People who like to carry guns are unlikely to be deterred on the spur of the emotional moment, by any sober realization of the likely consequences for themselves after killing a person, should they be caught and convicted. UN and related Australian direction also assumes all lives are ideally of equal value. While 17 police have

been killed since 1971, one also wonders how many victims of domestic violence died during that time period and why their deaths were not prevented, which is discussed later. How many were killed by police or while working in high risk construction or mining?

The US Constitution guarantees a right to bear arms which is demonstrably against the public interest, yet Americans cling to this as a mark of their freedom. Rich Americans export lies increasingly easily to their own and other people through financial services and other powerful channels, which also brought global financial crisis. PM John Howard, Australian governments, police and other communities are to be congratulated on their regional leadership regarding their open and sensitive treatment of the horrific mass murder in Tasmania in 1996 and for their actions to reduce guns in Australia. If such problems are not acted upon regularly, illegal arms seem increasingly likely to enter all communities. What do police and communities think are good ways to reduce arms?

What do police see as the best qualities and related measures of police service and of individual police performance for delivering good results in regional communities?

Most Australian laws have prescriptions instead of aims and key words in them are not defined. It is easier and more important to decide upon appropriate regional action in the light of clear common aims, rather than according to many narrowly specific laws wielded in courts. Clear definitions are essential for understanding and more scientific practice. More clear and open justification assists service delivery and appears the best protection against corruption. Because lawyers lack an administrative practice which would allow them to speak with more scientific and popular authority, they prefer their partial, endlessly rule driven, theoretical realm to testing any judgment in regard to its effects upon communities and individuals. All decision making needs to be conducted in the context of broader, more objective and more historical understanding. How should police assist this?

In a recent issues paper from the Australian Law Reform Commission (ALRC, 2011) Griffith was quoted as observing that classification is different to censorship in that the latter is 'suggestive of public order and idea of the public good whereas classification is associated with the facilitation of informed choice in a community of diverse standards' (p. 19). In a historical context, censorship is often associated with domination and repression and classification is associated with definition and related scientific practices which were adopted during the European Enlightenment, but which courts still ignore. One assumes police should move away from the feudal practices of courts towards more open communication and related data capture designed to improve the quality and range of all community service. Police and armies appear equipped to lead direction to lower risk.

In England a couple of years ago, I watched members of parliament discuss knife and related weapons carrying policies and behaviors. They discussed key issues in each of their electorates, using policing and other data, to get better ways forward for all. The data driven and comparatively objective conduct of this parliamentary discussion impressed me as a way that anybody could get a clear idea of problems and good strategies to reduce violence and fear. I thought about this a few weeks ago, when I caught the only available bus from Broken Hill to Sydney at 3.45 am and so met a young man who was leaving

town because he had just spent weeks in hospital recovering from a near fatal knife attack. One wonders what the relationships are between police data gathering, politicians and research organizations like the Bureau of Crime Research and Statistics. How can the related administration of justice become more like the good service provision it should be?

The development of increasingly informed plain English and related press linked approaches to managing all affairs seems important in many communities besides policing. This is vital for democratic leadership. Its ideally related democratic order is designed for supporting knowledge and pleasure, not increasing censorship. In this context one also supports use of many forms of surveillance technology which people generally know about but which do not generally invade or interfere with their capacity to go about freely. What surveillance technology do police and communities support and why?

The objects of the Radiocommunications Act (1992) may assist more diverse inquiry and development. This is ideally carried out more broadly and effectively in regional contexts which also support information, entertainment and educational media content and related services. The act seeks management of the radiofrequency spectrum to maximise the overall public benefit by efficient allocation and use of spectrum. It seeks provision of the spectrum for use by agencies involved in the defence or national security of Australia, law enforcement, the provision of emergency services, or for use by other public or community services. There is a need for better understanding of classification and its key management, research and development uses. Censorship may play a part within the broader context of assisting individual and community choice and pursuit of knowledge, pleasure and health.

According to an article entitled 'Condom incident threatens papal visit' (Sydney Morning Herald World 26.4.2010, p. 6) a Vatican spokesman, Father Frederico Lombardi, told a meeting of the Italian bishops' conference, *'This is the age of truth, transparency and credibility. Secrecy and discretion, even in their positive aspects, are not values cultivated in contemporary society. We must be in a position to have nothing to hide'*. The development of human understanding is based on judgment and recording outcomes. Many may do so better than lawyers or others schooled and channelled by feudal practice.

For example, Wainright and Totaro's book 'Born or Bred? Martin Bryant: the making of a mass murderer' showed the directions many angry young persons could turn towards if rejected or thwarted in ways or for reasons not clearly grasped. As the authors point out, a number of people tried to help Bryant when he was growing up. The combination of the boy, his circumstances and the system meant failure. With the wisdom of hindsight resulting from historical personal analysis, Bryant's massacre of people seemed far from inevitable. One also admires the work of Helen Garner because of her willingness to engage so clearly and empathetically in unusually honest discussion of those before the court. She wrote about sexual harassment in 'The First Stone' and about the death by administered substance of a law student's fiancée in 'The Consolation of Joe Cinque'.

As a reader, one may feel sorry for Martin Bryant, which may naturally also appear abhorrent to the victims of his actions and to others. On the other hand, one may also see why nations poorer than Australia might logically resist expenditure on jailing major

criminals for life. Killing some murderers could release social security funds for people with disabilities and for others who may see locking away some killers for life as like provision of a guaranteed social safety net only for those who are least deserving.

In spite of the comparatively common occurrence of mass murder in the US, and also the best selling novel 'We have to talk about Kevin', it seems few in that country wish to have many open discussions of mass murderers in real life. Questions about whether actions result from mental illness or exercise of free will appear expensive and pointless if driven by lawyers and health professionals in adversarial contexts. One guesses that doing so more honestly and empathetically would uncover many home truths that those supporting lawyers or the increasing sale of arms or legal and illegal drugs, may not wish to know. There should be more clear and honest reporting on law.

From historical perspectives the existence and use of weapons may appear to constitute the main denial of human rights to communities. Historical understanding has been driven out by legal power and a related market culture which pretends that price and related numbers are what one also needs to pretend to know most about for a successful life or venture. Academics often appear more interested in medication of depression or supposed hyperactivity rather than in canvassing potential reasons for depression and more angry and destructive behaviour. The latter is left to police, courts, and prisons to theorize and manage. Wider communities are ideally involved in new directions.

The community has a right to hear many more opinions from police and others in the community front line, rather than hearing the cacophony driven by lawyers. The latter is boring because of the apparently mindless feudal assumptions and associations which usually underpin the address and because of lack of data produced by legal administration to assist better analysis, crime prevention, rehabilitation of victims or offenders, or cost containment. Health service provision gathers comparatively good data on bodily diagnoses and treatments as a matter of course. Administration of disputes would be better set up with service and data gathering functions, but lawyers like their systems.

How can children and others be best protected from family violence and distress?

Whether or not they produce children, sexual practices have always been of great interest, including in many religious or possibly criminal contexts. The World Health Organization aim and definition of sexual health, according to Nutbeam and Blakely (1990) is:

‘the integration of physical, emotional, intellectual and social aspects of sexuality in a way that positively enriches and promotes personality, communication and love’.

They defined sexual health promotion as ‘the holistic process of enabling individuals and communities to increase control over the determinants of sexual health, and thereby managing and improving it throughout their lifetime’. Apparent relationships between love, sex and violence require more open discussion with the objective of assisting better community management in multicultural societies. This seems unlikely to occur in court.

The no-fault divorce was introduced in Australia in 1975 after much better birth control became available to women. The related rise of feminism and the desire to remove discrimination which prevented women undertaking or remaining in paid work also led to a Royal Commission into Human Relationships. Prior to that, marriage for life was the expected norm and many other realities were socially invisible. Marriage was often also a comparatively forced affair as women became pregnant and were expected by their parents and related communities either to marry the fathers or to have the babies adopted. Later developments included more refuges for women fleeing domestic violence, the introduction of supporting parent benefits and other services set up as a result of recognition that many women had great difficulty in leaving abusive relationships, especially if responsible for the care of children and dependant on male support.

At the time there was concern that many police saw domestic violence as a private matter between partners, in which it was undesirably dangerous for them to intervene. The book 'Family Violence in Australia', which I co-wrote, dealt with related problems and was published in 1982. It seemed to us then, that as the comparatively powerless people in defacto relationships which were typically socially stigmatised, women defactos ideally should have the same or similar legal protections as wives. As there is ideally and in fact more equality of opportunity between most men and women now and both may choose defacto status with the aim of protecting their independence and assets against future risks, it now superficially seems to me to be a mistake to treat defactos as if married. Is this so?

Today in Australia, people have more access to birth control and more government support for raising children, whose welfare is clearly also the responsibility of many others in any community, as well as the responsibility of parents. However, since the Royal Commission into Human Relationships and the advent of anti-discrimination legislation, many legally related perspectives appear to have driven over much broader and potentially better linked historical and cultural analysis, to the detriment of more honestly informed and fairer development. This problem is discussed in international context in the attached submission to the Minister for Defense. There appears to be an urgent need for wider consideration of a range of human relationships and behaviours in order to protect children and treat all more fairly and effectively in the individual, community and public interest.

Besides lawyers, are there others who still view 'public' and 'private' spheres of life as ideally ruled by feudal rights of information control or duties to be silent, as claimed for wives by the Australasian Practical Home Physician at the beginning of the 20th century?

With a true wife a husband's faults should be sacred. A woman forgets what is due to herself when she condescends to that refuge of weakness, 'a female confidante'. A wife's bosom should be the tomb of her husband's failings and his character far more valuable in her estimation than his life.

After Eva Braun and the all wars of the 20th century, only lawyers may not be over it?

What do police and communities experience as a result of related legal privileges?

The first issues paper of the ALRC (2005) review of the uniform Evidence Acts (which are the Evidence Act 1995 (Cwth) and the mirror statutes of New South Wales, Tasmania and Norfolk Island) stated:

‘A privilege is essentially a right to resist disclosing information that would otherwise be ordered to be disclosed..... ‘Client legal privilege is premised on the principle that it is desirable for the administration of justice for clients to make full disclosure to their legal representatives so they can receive the right legal advice’ (ALRC 2005, p. 151).

The paper stated later that:

On balance, this freedom — is considered to outweigh the alternative benefit of having all information available to facilitate the trial process (p. 155)

One wonders whether police agree with this view and what they think its effects are. A central legal assumption seems to be that the lawyer should rightfully conceal or mould what his client believes is true, in order to maximize his interest in revenge or escape from any guilty judgment and its results. This feudal moral framework appears anti-democratic and wrong for any perspective which seeks to develop effectively and fairly in cooperation with others. It seems to promote concealment, lying, ignorance, suspicion and continuing or escalating adversarial responses which seems highly likely to produce further victims.

Some judges have supported the common privilege against self-incrimination as exercisable on the grounds of ‘human rights which protect personal freedom, privacy and human dignity’ (ALRC 2005 p.174). It is wrong to see the privilege of silence on the basis of self-incrimination linked with human rights. Historically, human rights must logically be sought and understood in regional contexts and judgment practices which are linked in more openly scientific and empathetic searches for truth, rather than to narrower adversarial striving for self-interested forms of lawyer and client advantage in the court.

Some judges have found that it is ‘a less than convincing argument that the corporation should enjoy the privilege against self incrimination’ (p. 174). The lawyers’ common view that a corporation is ideally treated as a person seems like the reverse of penis envy to me. However, one sees as usual, that many lawyers disagree. The legal profession normally defends its privileges related to the lawyers’ control of crucial information and all related client privileges to the hilt. This benefits lawyers but their legal practice is an increasingly expensive game and the enemy of justice, good management and compassion.

Court practice often appears to equate ignorance with objectivity. No doctor, for example, ideally draws a veil over the findings of earlier medical or related examinations of a subject, preferring to conduct all investigations about a client’s illness without such information, while regarding this investigative practice as freedom from bias, instead of comparative ignorance. The legally trained mind often equates ignorance or its expected pretence with objectivity, to the detriment of any more historical and broadly informed approaches to treating problems which are often linked in real life, not silently separated in

bed or legislation. Lawyers have many bizarre practices they claim result in protection of the court investigation from outside contamination by lesser mortals. List them for us.

The following discussion first responded to questions in the NSW Ombudsman's issues paper (2007) on the NSW Ombudsman's review of parts 2A and 3 of the Terrorism (Police Powers) Act (2002) on preventative detention and covert search warrants. To obtain fair and consistent decision making and to identify its outcomes, the treatment of people thought possibly to be terrorists and people thought possibly to be criminals of another type should logically be similar, unless another course of action appears to be in the public interest. One wonders about the aftermath of the above inquiry and what police now think.

If I were in the police force, I do not think I would like any legal instrument which did not allow me to question a person brought into temporary detention. Without questioning being allowed, the practice of bringing people into custody seems largely an inflammatory waste of time. For example, if I was brought into custody and questioned, I could at least see the questioners had a purpose. If they brought me into custody and released me without any discussion, I could view the action as a harassing display of enemy power.

People detained by police should be given as much information as possible, consistent with the need to protect national and related regional or local security. Logically, they may gain this through a question and answer process, conducted in a manner consistent with the need to protect security. Detained persons should be allowed as much contact with the outside world as they reasonably seek, consistent with the need to protect security. A way of achieving this may be to have a member of the police (and, if necessary, another independent observer and reporter) present at all detainee encounters with police. On the other hand, a client's lawyer is not independent, so their honesty always appears suspect. Should police be able to listen to communication between a detained person and their lawyer, because lawyers cannot normally be trusted to pursue truth and the public interest rather than their client's interest?

Detainees may hate and distrust the police, for good or bad reasons, from the perspective of the public interest. From the latter perspective, the detained person should have the right to another person being present to protect them from the potential harm which is possible in all situations where power and secrecy prevail. The detained person might, for example, want to have a lawyer, a relative, a member of the Ombudsman's Office or a priest present when questioned by police. They may have some questions of their own. Direct and open communication is preferred because it reduces the chances of secretive wrongdoing and all related suspicion. One could film proceedings for a wider record.

It is not surprising if frightened or resentful people lie or say what any perceived threat to them may wish to hear, whether or not they have anything to hide or be ashamed about, from the perspective of their own or the broader public interest. If police are perceived by some as potential tormentors, it is important that police questioning is open to scrutiny. It is insufficient to state in legislation that a person being taken into custody 'must be treated with humanity and with respect for human dignity and must not be subjected to cruel, inhuman or degrading treatment'. One hopes this is obvious to all, but if it is not, writing

words on paper is no guarantee of execution. Independent scrutiny is vital where there is secrecy and lack of trust. In God or love we trust, all others bring good evidence.

The role of the police is ideally constructed in social contexts which recognize that increasingly open education and speech are what most distinguish scientific and democratic thought and development from typically feudal, tribal or mafia actions, whether typically impoverished or conducted at the highest and richest social levels. Instead of force or the confusion of lawyers, words ideally invite verbal responses which may be interested and/or honest and searching. Police should lead open communication.

What top men who love weapons principally left us with – their courts

From the globally and regionally informed historical perspective, weapons and continuing feudally related leadership make societies unsafe and unstable. This harm often occurs when ruling brotherhoods forge closer relationships between armies, related industries, and jobs. For example, Bismark set up the world's first industrial insurance scheme for workers in Germany when he was Chancellor, plus the first state pensions and industrial accident and health laws. Universal adult suffrage for men was introduced in Germany when most Englishmen had no vote. Bismark said in 1863 that 'the great questions of the day will not be decided by speeches but by iron and blood' (Kirsh 1976) and so they were. This shared development perspective later connected many feudal interests across the world to unleash mass murder on civilians and soldiers in world wars 1 and II as well as driving many related destructive interventions before, between and after these global wars.

We have inherited and are stuck with this lot. Their crap has not gone away. The most protective work police may do for communities and for members of the forces is to engage with communities to reduce weapons, with the related expectation we conduct ourselves better through more open communication and better management of services, rather than under the feudally driven powers we are currently controlled by, principally in courts.

Thank you for the opportunity to make this submission.

Yours truly Carol O'Donnell, St James Court, 10/11 Rosebank St., Glebe, Sydney 2037