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INSTITUTE OF CRIMINOLOGY

No. 47

**THE OLD AS OFFENDERS AND
VICTIMS OF CRIME**

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**INSTITUTE OF CRIMINOLOGY
SYDNEY UNIVERSITY LAW SCHOOL**

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INSTITUTE OF CRIMINOLOGY
SYDNEY UNIVERSITY LAW SCHOOL

Proceedings of a Seminar on

THE OLD AS OFFENDERS AND VICTIMS OF CRIME

CHAIRMAN:

*The Honourable Sir Laurence Street
Chief Justice, Supreme Court, New South Wales*

11 March 1981

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FOREWORD

The Honourable Mr. Justice D. L. Mahoney
Court of Appeal,
Supreme Court of New South Wales

In the context of the social apparatus for dealing with criminal acts, criminology is concerned with what should be done and why; the criminal law with the doing of it. As befits an Institute of Criminology, this Seminar concentrated upon the "what to do and why" of that part of the criminal law which affects the old.

In order to know what the criminal law should do in respect of the old, it is necessary first to know the facts. This Seminar was concerned basically with the facts. Mr. I.A. Pike, S.M., presented details of the appearances of the old in Petty Sessions Courts in respect of drinking and driving offences and offences concerned with larceny and shop-lifting. He gave an insight into the sentencing of the aged and the extent to which age has been taken into account. Dr. A.J. Sutton concentrated upon the statistics contained in the Bureau of Crimes Statistics and Research Statistical Bulletin No. 6 of June 1979, and, in speaking to his paper, enlarged upon the material appearing in that Bulletin. Mr. S.J. Duncan, Development Officer of the Council of the Aging, drew upon the wealth of his experience with this portion of the community in detail, both to give particular instances, and to suggest generalisations of how the old react to the criminal law and to criminals. Dr. W.E. Lucas presented a series of case studies of homicides committed by older persons and made recommendations as to the changes necessary to facilitate appropriate medical and psychiatric investigations of such offenders. Two discussion papers were presented: Mr. T.S. Davidson, Q.C., referred to the old as Offenders and Victims in Corporate Crime, and Mrs. Ethel Bohnhoff, the Secretary of the Institute of Criminology, referred to the vulnerability of the old in the face of criminal behaviour and the desirability of affording to them some kind of special protection and support.

At the end of the Seminar, there had emerged some picture of the old, as a class of the community, and its relationship to the criminal law.

The material presented dealt with at least four questions: who are the old; what are their proclivities in relation to the criminal law; what needs to be done to them; and what needs to be done for them.

First, who are "the old"? Dr. Sutton, with his usual precision, presented the statistical picture. In Australia, the proportion of the population aged sixty-five years or more has increased from 8% in 1950 to 9.4% in 1979 and by 2000, it is estimated to be 10.5%. They are a substantial section of the community but, it was suggested by several speakers, not a homogeneous one.

The proclivities of the old in relation to criminal law were more difficult to classify and, indeed, some of the speakers denied that it was possible to characterise the old as a special class in this regard. In relation to some

offences, e.g., those related to drink and driving, it was suggested that the old, as such, differ little from other sections of the community; but in relation to Petty Sessions appearances for a more general range of criminal offences, the inference was that the aged were, per head, much less likely to be involved. In the statistics presented by Mr. Pike, S.M., and Dr. Sutton, the old, as offenders, presented few surprises except in relation to shop-lifting and associated offences.

It was suggested or inferred by several of the speakers that the old were peculiarly susceptible to being, and were disproportionately in fact, the victims of crime. Mr. Duncan and Mrs. Bohnhoff tended to support this view. On the other hand, Dr. Sutton suggested that surveys, now "fairly sophisticated, standardised and reliable", "generally showed that for persons sixty-five and over the number of personal victimisations reported is lower than would be expected for their proportion in the overall population". The reluctance of the aged to report crimes or to become involved with the criminal process was referred to by Dr. Sutton and other speakers.

There appeared, in the papers and in the discussion, no great demand for the old, as offenders, to receive special treatment. There was an exception in relation to the old as shop-lifters. Mr. Pike, S.M., made interesting suggestions as to non-criminal alternatives for dealing with these offences. Dr. Lucas, in dealing with the other end of the criminal scale, homicide, referred to the continuing need for psychiatric examination of these offenders, and appropriate treatment of them.

I was somewhat surprised that there was not more discussion than there was as to what needed to be done for the old, as the victims or potential victims of crime and in respect of the impact upon them of the criminal law process. The problem was recognised and Mr. Duncan detailed a number of matters that he and those he was associated with saw as necessary. Others expressed the view that the problems of the old were not peculiar to them as the old but were typical of the problems of those generally in the community who were in need of assistance.

What conclusions should be drawn from the Seminar? There has been an increasing tendency in the law in recent years to find its focus, not in subject matter (contracts, torts, homicide and the like) but in persons or classes of persons. We have become familiar with "Law and the Consumer", "Law and the Family" and no doubt one day we shall see "Law and the Lawyers". This refocussing of the attention of law, and of the lawyers is, in my opinion, an important forward step and helps to concentrate attention, not upon what the individual must do for the law, but what the law can do for the individual. This Seminar has been significant, not merely for the information that it has provided for those who make and administer the criminal law, but also because it has served to focus attention upon what the criminal law should do for this section of the community.

THE OLD AS OFFENDERS

I.H. Pike
Stipendiary Magistrate

It seems to be the popular view that the aged are unlikely to be the perpetrators of crime. So far as my research shows little consideration has been given to the possibility of the aged committing such anti-social behaviour as to require the intervention of the criminal courts.

Perhaps this view is consistent with the image of snowy-haired women and men quietly spending their remaining years in decent inoffensiveness if not in actual saintliness. This might be a comfortable view but it certainly has not always been held. Age for its own sake has never been regarded with that reverence some of us might like to think a civilised society will give it.

Seneca in "*De Tranquillitate*" said "Nothing is less worthy of honor than an old man who has no other evidence of having lived long except his age." Aristotle in "*Rhetoric 11*" said "Old men have more regard for expediency than for honor." Sir Thomas Browne was even more cynical in "*Religio Medici*" when he said "But age doth not rectifie but incurvate our natures, turning bad dispositions into worsor habits and brings on incurable vices; for every day as we grow weaker in age, we grow stronger in sin." It was a thoroughly disillusioned Lord Chesterfield in his "*Letters*" of May 17, 1750, who said "The heart never grows better by age; I fear rather worse; always harder. A young liar will be an old one; and a young knave will only be a greater knave as he grows older." At least George Bernard Shaw was succinct in his "*Maxims for Revolutionists*" when he said "Every man over forty is a scoundrel."

What then is the position today? Do the aged commit criminal offences? If so, what type of offences do they commit? What affect does "age" have on the sentencing for those offences?

For the purposes of this paper I have taken the "old" to mean those persons who have attained 60 years of age. This is a convenient measure for it is the most common age for retirement from active work and is the age at which the State recognises that women at least can obtain the age pension. It is true that men are not eligible for the age pension until 65 years of age although it seems that the majority of superannuation schemes provide for retirement at 60 years of age.

There is, so far as I can ascertain, a complete absence of research in this country, on the subject of offences committed by the old, except for one Statistical Bulletin issued by the N.S.W. Bureau of Crime Statistics and Research (No. 6 of June, 1979). It is therefore necessary to speculate on the possibilities of criminal behaviour among the elderly. In dealing with criminal behaviour I take into account no traffic offences other than drink-driving offences.

One can, I think, safely assume that the elderly will rarely be involved in crimes of physical violence. The weakening processes of age itself would seem to rule out the probability of offences which required physical fitness either for the execution of the crime or escaping from the scene. We should, therefore, not expect to see the elderly being convicted of crimes such as assault, assault and rob, armed hold-up and rape. I exclude murder from this list for it is obvious that the methods used in murder frequently require no physical effort.

It is also a possibility that persons over 60 years would be less likely to be involved in offences of drink driving. I think that generally this group would be less affluent than those still in the work force and would have fewer financial resources to drink alcohol to excess. It might even be a possibility that age brings with it a greater sense of responsibility and that this could cause a decrease in drink driving offences.

I think one could also speculate that if financial need is a motive for offences of dishonesty then there could be a reasonable number of convictions for larceny. The old are generally not very affluent.

Overall I would suggest that the general anticipation of the community would be that there are fewer offences per capita committed by persons of 60 years of age and over. This accords with my personal observations based on in excess of ten years on the bench as a Stipendiary Magistrate.

As already indicated, I have no access to research or statistics for convictions for elderly persons other than Statistical Bulletin No. 6 issued by the N.S.W. Bureau of Crime Statistics and Research in June, 1979, for appearances in N.S.W. Courts of Petty Sessions during 1978. I have no statistics or information concerning appearances before the District Court or Supreme Court. However, the information contained in the Statistical Bulletin already mentioned contains some valuable information and might be the basis for further study and research. The Bulletin is reprinted as an Appendix to Dr. Sutton's paper (pages 23-34) and I would draw special attention to the following tables:

p. 24 **Table 1** Appearances in Petty Sessions by age and offence type in 1978.

The figures in this table are generally consistent with our speculation.

p. 26 **Table 5** Age and Sex of Drink/Drive Offenders 1978.

p. 26 **Table 6** Age and blood Alcohol level for 1978 Drink/Driver appearances.

Is Age a Benefit on Penalty?

When one speculates on the commission of offences by the elderly it is proper to speculate on the possible outcome of such appearances before the court. Are the old dealt with identically with younger offenders? Is age *per se* a matter for mitigation?

The legislature provides that age *per se* is a matter for consideration under s. 556A of the *Crimes Act*, 1900 when considering whether or not to

impose a conviction. I think the general view would be that apart from s. 556A the courts would place some significance on the age of the offender which would be reflected in the penalty. My experience suggests that courts do give weight to age in much the same way as they might to such matters as, say, ill-health.

I would draw attention to the following tables in Bulletin No. 6 of the N.S.W. Bureau of Crime Statistics and Research.

- p. 27 **Table 8** Age and Outcome for Drink/Drive appearance in 1978.
- p. 28 **Table 9** Age and length of license suspension for Drink/Drive Appearances 1978
- p. 28 **Table 10** Age and Legal Representation for Drink/Drive Appearances in 1978.
- p. 29 **Table 11** Age and Offences for Petty Sessions Appearance in 1978.
- p. 30 **Table 12** Sex and Offence for persons over 60 years of age appearing in 1978.
- p. 31 **Table 13** Appearance by persons over 60 years of age for larceny 1975-78.
- p. 31 **Table 14** Age and sex of convicted shoplifting offenders 1978.

I agree with the suggestion "that in the older age group more men spend time shopping due to retirement", but suggest there may be other less obvious causes to which I will refer later.

- p. 31 **Table 15** Previous convictions and sex of shoplifting offenders 1978.
- p. 32 **Table 16** Percentage of shoplifting offenders over 60 years of age with previous convictions. 1975-78.
- p. 32 **Table 17** Age and Outcomes for larceny appearances in 1978.
- p. 34 **Table 19** Offence and Outcome for appearances by persons over 60 years of age 1978.

I would suggest that some serious research might be given to the plight of the elderly shoplifter. It seems to me that a large number of offences fall into categories other than outright dishonesty. While it is true that more males become shop-lifters after 60 years of age (and presumably retirement) and more often attend to shopping, I believe there may be less obvious causes for this phenomena. It would be interesting to know how many shop lifting offences are committed by both males and females shortly after some trauma, e.g. the death of a mate or retirement or the diagnosis of a chronic illness. From explanations given to me over the years, shop lifting offences can arise out of boredom and frustration and is perhaps an "attention-getting device". Some explanations suggest the offence was committed for the deliberate taking of a risk for its own sake rather than obtaining a material advantage. I believe that research into the area of the elderly shop-lifter could prove fruitful indeed and of particular value to the courts.

PRESENTATION OF PAPER

I.H. Pike

I think it is fairly apparent from the circulated papers that this seminar is merely the start of what could be a vast field of research, and I certainly have only scratched the surface in looking at this problem which has attracted very little study or research in the past.

In presenting the paper I only want to make one or two further comments. The paper you will notice is, of course, a commentary on the only available statistics plus a few hypotheses of my own. Those statistics were from the Bureau of Crime Statistics and Research of 1979. Firstly I think it is unfortunate that in a society such as ours, by looking at the problems of the elderly we immediately classify the elderly as a separate group within society. This, of course, can be counter productive and indeed can perhaps accentuate those problems that already exist. Mr Duncan in his paper suggests the elderly should merely be regarded as ongoing members of the community and with that I heartily concur. But, of course, if we have to study the problems, then, of course, we do have to classify the elderly, and we have chosen the age of 60 as the cut-off point. Everyone over that age is apparently elderly and I have to confess that I reach that in 15 years time!

The question of shoplifters is the one that came uppermost out of my paper because the offence of the elderly shoplifter is one that has quite different connotations from many offences, and in the paper (p. 13) I have mentioned why I think the elderly male shoplifter particularly would practise this offence. The elderly male shoplifter is one who is recently retired, he is doing more shopping and as such is more vulnerable to the offence of shoplifting. But it does seem, and from my own experience this is so, that the elderly shoplifter has quite often gone through a period of trauma, either the loss of a mate or the retirement itself might be the trauma. A classic case came before me at Wollongong last week where a lady appeared on a second offence of shoplifting. She appeared unrepresented, would not accept legal aid, she said she had committed the offence and she was prepared to take the consequences. She had stolen an article valued at about \$3.00. She was apprehended immediately after leaving the store and not paying for the item. She said she intended to take the item. When asked why, she said she was so very angry at life in general. Her husband had been in Prince Henry Hospital for bypass surgery and within days of committing the offence she had been advised that her husband's condition was inoperable and accordingly he would not be around for very much longer. She had also received word that her 30 year old son had cancer and the prognosis was not at all good. I said "How long before the offence did you hear about your son having cancer?", and she said "Half an hour before I went shopping". She said "I wanted to lash out at something". I certainly believed her. It was certainly not made up as an excuse. I think that while that might be a fairly strong example certainly this sort of thing can cause persons in this age group to commit this type of offence. She received the benefit of no recording of a conviction.

The most important point I want to make is a suggestion regarding the manner in which we treat shoplifters from the time they are arrested. I have recently been advised that in South Australia the system there is that shoplifters apparently are not generally arrested. To me that seems a very civilised practice and I had the permission of Mr Nick Manos, Acting Chief Stipendiary Magistrate and Supervising Stipendiary Magistrate, from the Adelaide Magistrates Court to read two letters that he had written to the South Australian Attorney General on the treatment of elderly persons. He has told me separately that he confirmed that shoplifters of all ages in South Australia are reported, not arrested and are brought before the court by means of a summons. "It seems to me", says Mr Manos in his covering letter "to arrest old shoplifters with all that arrest entails is close to being barbaric". I confess to not having thought of that before but I agree totally with that proposition, particularly for the elderly shoplifter who can be brought before the court by means other than an arrest and all the trauma that it entails.

To quote in full the letter Mr Manos sent to the Attorney General in South Australia (4 Nov. 1980)

For some years now I have been concerned that some persons over 60 years of age without previous convictions are required to appear in court relating to offences which are not really serious. Invariably the person's mental or physical condition is such that the matter is either dismissed or a very minor penalty is imposed. Unfortunately the very real trauma of going through the whole judicial process, often before a court full of people, must do substantial harm to these elderly defendants. On many occasions I have had the very strong feeling that they ought not to be before a court at all — unless they are pleading not guilty.

I consider that an investigation should be carried out (including the use of statistics) to examine the feasibility of establishing a panel on which there is representation of the police, Attorney-General's Department, Law Society, Department of Health (or Probation and Parole). The panel could assess whether persons of, say, 60 years or over should be prosecuted before the courts for certain kinds of offences.

If such a panel was not established then consideration could be given at least to implementing machinery whereby such persons could be required to attend and be dealt with in a *closed* court with the media entitled to be present but subject to the usual provisions regarding suppression.

I am prepared to present a more detailed and closely reasoned submission if need be. However, I do not wish to spend a lot of time if I do not have much chance of getting to first base as much as I am convinced that something needs to be done.

He received an acknowledgement of that letter and he then added the further information (8 Dec. 1980):

Perhaps the preliminary examination you refer to could include the following matters to which I have given further consideration.

1. A person who has reached 60 years of age without previous conviction and then commits an offence, usually has had something very serious to contend with and has been unable to cope. This is often due to circumstances brought about by advancing years. Sixty years without offending speaks for itself.
2. The offence usually committed by these persons is shoplifting.
3. I appreciate that panels are difficult to set up to cover the State so I think that the courts should continue to deal with these elderly persons, but with certain modifications.
4. Where the person has been arrested (for example D.U.I., P.C.A.) normal procedures to continue to apply.
5. Where the person is reported (for example, shoplifting, minor traffic) and the person has no previous conviction of a similar nature, that person is to be directed *by letter* to appear before the court.
6. If there is no response to the letter then a summons is to issue.
7. The person is to appear before a *closed* court, say at 3.30 pm. The media may be present.
8. The orders which the court may make to remain as they are now.
9. The Legal Services Commission or an official social worker service should be notified of the date of appearance of the person so that the person may be informed of the availability of help. Many of those people are not well and are put under a lot of stress by police serving a summons, waiting for the appearance date, and then appearing before a court full of people.

On occasions I have had my clerk arrange for medical or psychiatric or just social worker support for these people. Some do not want to concede that they are not well. Others cannot cope with the change in life, either in themselves or in their spouse.

These are the matters raised by Mr Manos which he would like me to put to you for consideration. I should state at the outset that I agree with some of the matters he puts, but I do not agree at all that these matters should be taken away from the courts, and I think that the system of panels might be too unwieldy. That is a personal suggestion. You may have different ideas.

CRIME AND THE ELDERLY PERSON: PROBLEMS OF FEAR AND ALIENATION

Dr A.J. Sutton, B.A.(Hons.), Ph.D.,
Director, N.S.W. Bureau of Crime
Statistics and Research

In all Western countries the proportion of the population consisting of elderly people has risen. In Australia the proportion of the population aged 65 years or older has increased from 8% in 1950 to 9.4% in 1979. By the year 2000 it is estimated at 10.5%. In the past 70 years in the United States it has doubled from 4% of the total population 65 or older to 9.8% in 1970. By the year 2000 it could constitute 10-12% of the United States population depending on the birth rate. Hence the sheer increase in numbers of the elderly in the community has prompted increasing attention to their problems. Further they represent a group which is frequently in poverty in Western countries. As affluence has increased a variety of groups on relatively fixed incomes and pensions have been left behind. Poverty is not so much an endemic feature of the working class across the board but concentrated in particular categories of people who live in poverty amongst increasing affluence. Unemployed youth with little educational experience are one such group, single mothers another and, of course, elderly pensioners, particularly those living isolated from their families with no other social or personal support. The increased political awareness of pensioner groups has led to considerable influence on policy over the last ten years.

The elderly are both the perpetrators and victims of crime. But in both cases they are represented at a much lower level than their proportion in the population would lead one to expect. In other words they are less often perpetrators of crime, less often the victims of crime, than expected by their proportion in the population. These results arise from statistics collected in the courts and from victimisation studies which are now widespread throughout the world.

In each year the Bureau of Crime Statistics and Research collects information about appearances before Courts of Petty Sessions in this State. Not all the data available is published and further analyses are carried out for special purposes published in Statistical Bulletins. Number 6 (Appendix A pps 23-34) was one such bulletin analysed and written by Trevor Milne, research statistician of the Bureau. Mr Pike has referred to this Bulletin in his paper (pps 11-13). Analysis of the position of persons aged 60 and over indicate that whereas the rate of offences per 1000 population under 60 years of age is 27.7, for the elderly it is 10.9. The difference is in the same direction for all of the major collections of the Bureau, i.e. drunkenness, drink-driving and drugs, but the discrepancy is less for drunkenness. Indeed, in city courts a higher proportion of persons over the age of 60 appear for drunkenness offences in 1978 than those under 60. Of course, drunkenness is no longer an offence, but subject to the operation of the *Intoxicated Persons Act*. The Bureau is collecting information on this Act at present and should be able to report these results within a few months. This paper and another paper on appearances for drunkenness issued by the Bureau show the existence of an

habitual group of drunkenness offenders, gradually subject to the increasing provision of services associated with the *Intoxicated Persons Act*. For drink driving offences those over 60 were somewhat more likely to be arrested with a medium level of blood alcohol i.e. 0.156-0.225 than a high level 0.226+. Older offenders under this legislation were somewhat more likely to receive a lenient outcome, e.g. s.556A and receive somewhat shorter licence suspension. In other petty sessions offences by far the most common for the elderly was larceny. Of the various categories of larceny, shoplifting was the most frequent. In most age groups there is higher percentage of women appearing before the court for shoplifting than males. The exception is in the 18-20 age group and in the 60+ age group, where males appear slightly more frequently. In the elderly age group it may be due to having more time in retirement and more time to go shopping. Again there is a slightly more lenient approach to older offenders. Finally, it can be noted that in all categories of offence there is somewhat more likelihood of persons over 60 to be legally represented than those under 60.

Another series of studies which are important in considering the impact of crime upon the elderly are the victimisation studies which are now popular in Western countries. Victimisation studies show the number of offences reported by individuals as the result of a survey question asking individuals the number of crime incidences which have occurred to them in the last twelve months. These surveys are by now fairly sophisticated, standardised and reliable. In many cases these have been repeated over several years and there is a standardised technique developed. They generally show that for persons 65 and over the number of personal victimisations reported is lower than would be expected for their proportion in the overall population. To take a single example, in San Francisco 9% of all personal crime were reported by persons 65 and over and yet they represent 16% of the community. In 1975 there was such a study conducted in Australia, in many ways comparable with those done elsewhere. Its results are published in a Bulletin of the Australian Bureau of Statistics in Canberra entitled *General Social Survey, Crime Victims May 1975*. Only selected offences were surveyed and of those the persons aged 60 and over were less often a victim than any other age group. I should note, in passing, except for a category which they called "nuisance calls".

In summary the number of victims per thousand population over the age of 60 was 59. Whereas the highest rate per thousand, that is 174, is for those aged 20-25. The average is 117 victims per thousand. As with the perpetrators of crime we are mostly talking about people of 20-25 years of age and in the case of those committing crimes, males, and in the case of the victim, males and females. The study is too general to come down to particular problems like handbag snatching or other specific matters (which are referred to in a later paper) but the figures do not suggest that there is really a major issue in social policy.

What is more significant in my view is the high fear of crime reported amongst the elderly, particularly elderly women. According to one author, Van Dijk, this is a relatively recent phenomenon. In 1965 American research

revealed that fear of crime amongst the over 60 was no greater than any other age group, but recent studies have shown it to be much greater. Fear of crime, obviously a product of declining physical capacities and isolation, is clearly in contrast with the actual rate of victimisation. Considering that elderly people are often concentrated in particular localities, often in specially designed buildings and flats, their consequent need for immediate local facilities must have a serious impact upon the social welfare of a particular community. In my opinion, fear of crime is one of the most significant issues in present day society, since it has a direct effect on government policies towards crime, a specific effect on particular day to day actions of the police when it is expressed through the newspapers. It has an indirect effect on the rate of crime which is not simply the function of any particular variable like unemployment, recession, affluence, or age ranges, but is a complex product in which the media and fear of crime play a significant part. Of course, the elderly play an important part in that because of their large fear of crime, understandable, and because of the effect that this has on the media and on the behaviour of police in particular localities when this fear of crime is expressed in complaints about behaviour of individuals particularly young individuals in, say, shopping plazas and the like.

In a way I think elderly people might be regarded, because of their vulnerability, in a sense as the barometers of the kind of change in society which is going to affect us all. There is no doubt that for many shoplifting is not exactly a crime like any other. In particular, the case that has just been quoted is an example although it is clearly a case of theft (p. 14). It can be seen in part as a direct response to the enormous pressures in society to define oneself by the possession of consumer goods. With incredibly attractive displays in the shops, the open shelves, the advertisements which pour over the television sets, an activity, incidentally, which must surely be one of the most significant for the elderly, and decreased buying power there is little wonder that some turn to shoplifting. Although as in the case quoted the act may be stimulated by particularly disastrous events. It is a classic alienation from society, said to be one of the most significant problems of this century. One use of the word was initially by Marx and its attempt to describe the attitude of workers to their detachment from the means of production. Another arises from the French word "anomie" indicating a detachment and alienation from society. Later writers used the word alienation to refer to one of the motivations for crime, that is turning to crime because of an inability to meet the expectations of society. It is in this last sense that one might connect the obvious alienation of the elderly from society with their isolation and the prevalence of shoplifting.

Another symptom of that same isolation is the fear of crime. Again a great proportion of the newspapers and television time is devoted to the description of crime, to its romanticisation, to the activities of law enforcement officers in a variety of countries often presented in roles far different from the activities of the police in practice. With increased physical frailties and inability to obtain ready access to services and more importantly and particularly to family and friendship, then the fear of crime is an obvious result. One could, in a general theoretical sense, trace this kind of development. At the beginning of the industrial revolution in the middle of

the last century we have the creation and the idealisation of the nuclear family, a mobile workforce enabled to be shifted from place to place according to the requirement of industrial development. As a consequence we have the breakdown of extended family structures, of the responsibilities for families and communities within a framework of a locality. As science developed and the ability of society to cope through technological change with the difficulties of individuals, professionalisation increases. Everywhere jobs which were done by the family and network are now done by professionals. As the proportion in the workforce devoted to primary and secondary industry declines there are increases in professional services. Nursing homes, doctors, home visitors, community social workers, all now supply activities which were formerly supplied within a network of friends and relatives. This is not to say that much of this has not been an advance. I am a product of such a society, I am a professional, I value the independence from the rigidity from the social and cultural norms of the past, but the crunch is coming. Increased isolation in times of greater economic stress leads to alienation and it can lead to crime, to increased admissions to mental hospitals, suicide, and so on. There is obviously increased drug use. Whatever one's tolerance to the use of drugs or use of them oneself one must surely feel that a whole life ought not to be wasted on such usage. This breakdown increases fear of crime and in some cases crime itself. Crime has been increasing over the last decades, although it should be noted less so in the last decade than in the 60's. It seems more closely associated with rapidly increasing affluence, except that I expect a total breakdown towards a very heavy depression would bring it again.

Fear of crime keeps people off the streets, reduces the sense of community. Perhaps then increases the danger of people who might wish to walk in areas which are more commonly victimised than others and so an endless cycle develops, one which I believe must be broken. Perhaps with some re-creation of community in some form, without wanting to be quite too idealistic about it. The mark of our future development as communities may be in our method of incorporating the elderly into the community. What practical steps can we take? Well, with respect to the elderly as victims of crime we must look generally over the whole problem of crime victimisation, since, of course, victims are more concentrated among younger age groups. There clearly needs to be a compensation scheme. The New South Wales government scheme, the first to be introduced in Australia, has recently been modified and improved. However, it seems hardly likely that anything less than a State or a national compensation scheme soundly based on actuarial principles will be adequate. To depend upon a grant system is to ensure that it will never be fully adequate for some people's problems, so we must look for a broad approach while at the same time obviously developing the current and existing practices. These matters were fairly fully discussed in a recent Institute of Criminology seminar on Victims of Crime and the recommendations appear in the publication.¹

1. See *Syd. Inst. Crim. Proc.* No, 45 Victims of Crime (1980) N.S.W. Government Printer.

The problem of the fear of crime and the relationship to community can also be tackled from the point of view of the police. Primarily the police are an agency for the social control and management of law and order in the community. But various studies of police activities show that when an analysis is made of their behaviour and actions a substantial proportion could be classified as welfare matters. Different police forces have tackled this issue in different ways. Some have clarified the roles of police officers and introduced training in welfare questions as well as investigation, others have divided up the functions of different officers; some have used women police officers for this purpose to deal with social questions, as in Victoria; others have attached social workers to police stations. In South Australia a crisis centre under the Department of Community Welfare has been established to provide that kind of social work service. These issues have been raised in this State in consideration of the treatment of rape victims, and in the handling of domestic violence. There have been various developments. The hospital service for the handling of rape victims is an important one, and within the community the development of women's refuges are particularly significant. However, there needs to be a closer examination of the police welfare role, and this in particular concern to elderly people because if the fear of crime is significant for them there will in many cases be a desire by them to refer to the police for assistance in what is believed to be a dangerous situation. The police therefore need to respond to such elderly people's fear with sympathy and understanding. There will also be an advantage if they have access to and willingness to refer to other agencies. Of course, this occurs nowadays in various police stations, but it is a matter of concern that it is not established yet in the overall training for police and into their overall role. Perhaps the very slow growth in the number of women in the police in New South Wales indicates the previously prevailing attitude which has been at the best neutral to welfare.

Another approach to the problem is the use of the foot patrol. Such patrols were moved from the streets in favour of car patrolling many years ago and the studies show that in the clearing up of crime foot patrol is not as effective as a highly mobile car. Nobody would wish to go backwards to the extent of the removal of cars but in the handling of the fear of crime the presence of policemen on foot, visible, in the locality cannot be underestimated. Experiments have been tried in a number of places right around the world and in other States of Australia. Most recently perhaps in Victoria with some very advantageous results, mostly in terms of public relations, secondly, in terms of reduction of fear of crime, and even in some instance in the reduction of crime itself. It is definitely time for a substantial experiment in the use of foot patrolling in New South Wales, manned by men and women in the police force who see it as part of their function to serve and work with the community, to reduce the fear of crime and to make the public places of these cities a satisfactory place in which to live and enjoy oneself.

All these measures are vital if we are to reduce alienation and fear of crime amongst the population. Not only the elderly who might feel this most but for all who think that the privatisation of our society in its isolation into

individual households, its failure to use the streets, its failure to move into public places, and its failure to support the necessary community activities from within the community is something which we need to deal with.

APPENDIX A

Statistical Bulletin No. 6
June, 1979

ELDERLY CRIME
Appearances in N.S.W. Courts of Petty Sessions
by Persons 60 years of age and over.

Bureau of Crime Statistics and Research
N.S.W. Department of the Attorney-General and of Justice
Box 6, G.P.O., Sydney N.S.W., 2001.

Appearances in N.S.W. Courts of Petty Sessions by persons 60 years of age and over

This bulletin contains information on elderly offenders appearing in N.S.W. courts of Petty Sessions and was instigated by an enquiry from the N.S.W. Council of the Ageing who felt that a disproportionate percentage of elderly offenders were appearing in court for shoplifting offences. The following data indicates this was indeed the case in 1978 in N.S.W., but that these offenders generally receive more lenient sentences than younger offenders.

In 1978 there were 7,142 appearances in N.S.W. Courts of Petty Sessions by persons aged sixty years and over. As is shown in **Table 1** 75.5% of these appearances were for public drunkenness, 7.6% for drink/driving, 16.9% for other offences and only 0.1% for drug offences. In comparing these figures with those for appearances by persons under sixty years of age it is obvious that drunkenness represents a far greater proportion of offences among the older age group. However, as **Table 1** indicates, overall appearances by persons over sixty years of age are about one third the rate of appearances by persons under sixty years of age, the overall appearances by persons over sixty years of age being 10.9/1,000 population compared to 27.7/1,000 population for persons under 60 years of age. Even the offence of drunkenness, which constitutes the bulk of offences for those over 60 yrs. has a slightly lower rate (8.3/1,000 population) than for those under 60 yrs. (10.9/1,000 population).

Table 1 Appearances in Petty Sessions by Age and offence type in 1978

Offence Type	Over 60 yrs.			Under 60 yrs.		
	No.	%	Rate /1,000* population	No.	%	Rate /1,000* population
Drunkenness	5,389	75.5	8.3	44,998	39.3	10.9
Drink Driving	543	7.6	0.8	19,773	16.7	4.6
Drugs	5	0.1	0.01	4,180	3.6	1.0
'Other' offences	1,205	16.9	1.9	46,249	40.4	11.2
Total	7,142	100.0	10.9	114,600	100.0	27.7

*Rates/1,000 population based on 1976 Census data.

Drunkenness

As shown in **Table 2** 96% of appearances for drunkenness by persons over 60 yrs. of age were by males, and this is similar to the percentage of appearances by males under sixty years of age (94.5%).

Table 2 Age and sex of Drunkenness offenders in 1978.

Sex	Over 60 yrs.		Under 60 yrs.	
	No.	%	No.	%
Male	5,176	96.0	42,527	94.5
Female	209	3.9	2,455	5.4
Unknown	4	0.1	16	0.1
Total	5,389	100.0	44,998	100.0

Table 3 shows that the majority (57.5%) of drunkenness offenders over sixty years of age appeared in inner city courts of Sydney, whereas, only 47.5% of younger offenders appeared in these courts. The reason for this larger representation in city courts is probably due to the concentration of older people in city areas and the existence of a "skid row" population of habitual offenders (See Bureau Report *City Drunks* 1972).

Table 3 Age and Court of Appearance for Drunkenness Offenders 1978
Courts

	<i>Over 60 yrs.</i>		<i>Under 60 yrs.</i>	
	No.	%	No.	%
City	3,098	57.5	21,364	47.5
Suburban	793	14.7	7,852	17.4
Country	983	18.2	9,483	21.1
'Aboriginal' towns	515	9.6	6,299	14.0
Total	5,389	100.0	44,998	100.0

The outcomes received for drunkenness offenders in 1978 are shown in Table 4. As can be seen slightly fewer offenders over 60 years of age received "recognizance forfeited" outcomes than younger offenders, 76.8% compared to 80.6%, but more older offenders were "fined, in default sentenced to the rising of the court" than younger offenders, 12.4% compared to 8.4%. This again suggests the presence of a group of older habitual offenders, who unable to pay for bail appeared in court and were sentenced to "the rising of the court."

Table 4 Age and Outcome for Drunkenness Offenders 1978

Outcome	<i>Over 60 yrs.</i>		<i>Under 60 yrs.</i>	
	No.	%	No.	%
Recognizance Forfeited	4,144	76.8	36,294	80.6
Admonished and Discharged	423	7.8	3,243	7.1
Fined in default, sentenced to the rising of the Court	670	12.4	3,830	8.4
Recognizance	1	0.1	5	0.1
Fined and Recognizance	4	0.1	37	0.1
Remanded for inebriate action	3	0.1	8	0.1
Fined, in default, 24 hrs. imprisonment	79	1.5	1,017	2.3
Fined, in default, 48 hrs. imprisonment	65	1.2	564	1.3
Total	5,389	100.0	44,998	100.0

Drink/Driving

As shown in **Table 1**, 7.6% of appearances by persons over 60 yrs. of age were for drink/driving offences. **Table 5** shows the breakdown by sex for this offence and as can be seen, 97.2% of appearances for persons over 60 yrs. of age were by males, which is almost identical with the percentage of male appearances by persons under 60 yrs. of age.

Table 5 Age and Sex of Drink/Drive Offenders 1978

Sex	Over 60 yrs.		Under 60 yrs.	
	No.	%	No.	%
Male	528	97.2	18,656	97.3
Female	15	2.8	517	2.7
Total	543	100.0	19,173	100.0

Table 6 shows the Blood Alcohol Level (B.A.L.) for appearances by persons over 60 yrs. of age where it was known. A slightly smaller percentage (5.7%) of older offenders had high blood alcohol levels than those under 60 yrs. of age, (8.0%), but a larger percentage (40.8%) had medium blood alcohol levels than those under 60 yrs. of age (37.2%) while a similar percentage of both groups had low blood alcohol levels.

Table 6 Age and Blood Alcohol Level for 1978 Drink/Drive appearances

Blood Alcohol Level	Over 60 yrs.		Under 60 yrs.	
	No.	%	No.	%
Low (0.80-0.155)	260	53.1	9,393	53.6
Medium (0.156-0.225)	200	40.8	6,529	37.3
High (0.226 plus)	28	5.7	1,410	8.0
Unknown	2	0.4	190	1.1
Total	490	100.0	17,522	100.0

The percentage of drink/drive appearances by persons over 60 yrs. of age with previous drink/drive convictions is shown in **Table 7**. Only 14.8% had a previous drink/drive conviction compared to 21.7% of offenders under 60 years of age.

Table 7 Age and Previous Drink/Drive Convictions* for Drink/Drive Appearances in 1978.

<i>Previous Drink/Drive Convictions</i>	<i>Over 60 yrs.</i>		<i>Under 60 yrs.</i>	
	No.	%	No.	%
None	75	85.2	2,458	78.3
1 or more	13	14.8	683	21.7
Total	88	100.0	3,141	100.0

* A sample of 1 in 6 cases are checked for previous convictions. Percentages are therefore estimates for the whole years appearances.

Tables 8 and 9 respectively, show the court outcomes and length of licence suspension received by persons appearing on drink/drive charges in 1978. With regard to court outcomes the most dramatic difference between offenders over 60 years of age and the rest is that a significantly larger percentage of older offenders received a s.556A outcome than younger offenders. A s.556A outcome means that although the offence was proven no conviction is entered on the defendants record. 38.5% of appearances by persons over 60 years received a s.556A compared to only 5.9% of younger offenders; while 80.3% of younger offenders, and only 51.0% of those over 60 years were fined. Similarly **Table 9** shows that significantly more older offenders (50.5%) received no license suspension, compared to those under 60 years (8.9%) while 43.6% of the younger offenders and only 25.9% of the older offenders received suspensions in excess of 6 months.

Table 8 Age and Outcome for Drink/Drive Appearances in 1978.

<i>Court outcome</i>	<i>Over 60 yrs.</i>		<i>Under 60 yrs.</i>	
	No.	%	No.	%
Dismissed	5	0.9	299	1.6
Recognizance	2	0.4	189	1.0
forfeited				
Not Guilty	5	0.9	78	0.4
S.556A	209	38.5	1,135	5.9
Rising of the Court	5	0.9	244	1.2
Probation	37	6.8	1,347	7.0
Fine	277	51.0	15,391	80.3
Prison	3	0.6	490	2.6
Total	543	100.0	19,173	100.0

Table 9 Age and length of licence suspension for Drink/Drive Appearances 1978.

<i>Length of License Suspension</i>	<i>Over 60 yrs.</i>		<i>Under 60 yrs.</i>	
	No.	%	No.	%
Rising of the Court	16	2.9	445	2.3
Less than 1 mth.	54	9.9	2,410	12.6
1 mth. to less than 6 mths.	111	20.4	6,127	32.0
6 mths. to less than 1 yr.	26	4.8	1,894	9.8
1 yr. to less than 2 yrs.	74	13.7	4,144	21.6
2 yrs. plus	40	7.4	2,330	12.2
No suspension	220	40.5	1,708	8.9
Unknown	2	0.4	115	0.6
Total	543	100.0	19,173	100.0

Table 10 shows that 81.4% of appearances by persons over 60 years of age had legal representation compared to 74.7% of appearances by persons under 60 years of age. Previous Bureau reports have found that legal representation is correlated with more lenient outcomes, however, the slightly higher percentage of older offenders with legal representation would not seem sufficient to explain the relatively greater frequency of s.556A outcomes for older offenders shown in **Table 8**. Rather, factors such as likelihood to reoffend and previous record probably influence magistrates more.

Table 10 Age and Legal Representation for Drink/Drive Appearances in 1978.

<i>Legal representation</i>	<i>Over 60 yrs.</i>		<i>Under 60 yrs.</i>	
	No.	%	No.	%
Yes	442	81.4	14,316	74.7
No	101	18.6	4,857	25.3
Total	543	100.0	19,173	100.0

Other Petty Sessions Appearances

As indicated in **Table 1** 16.9% of appearances by persons over 60 years of age were for other Petty Sessions offences. The major categories of these offences and their frequency of occurrence are shown in **Table 11**.

Table 11 Age and Offence for Petty Sessions Appearances in 1978.

Offence type	Over 60 yrs.		Under 60 yrs.	
	No.	%	No.	%
Against the person	52	4.3	7,157	15.5
Sexual offences	9	0.7	246	0.5
Prostitution	1	0.1	1,833	4.0
Fraud	19	1.6	1,798	3.9
Break, enter and steal	2	0.2	1,070	2.3
Larceny Unlawful possession	686	56.9	9,792	21.2
Found with intent	17	1.4	1,351	2.9
Driving offences	1	0.1	75	0.2
Betting and Gaming	56	4.6	4,267	9.2
Firearms offences	66	5.5	1,553	3.4
Environmental	13	1.1	1,121	2.4
Damage Property	0	0.0	173	0.4
Vagrancy	19	1.6	2,033	4.4
Offensive behaviour	69	5.7	649	1.4
Other	151	12.5	8,992	19.4
	44	3.7	4,139	8.9
Total	1,205	100.0	46,249	100.0

The most common offences for persons over sixty years of age in 1978 were larceny (56.9%), offensive behaviour (12.5%), vagrancy (5.7%) and Betting and Gaming (5.5%), whereas for defendants under 60 yrs. of age they were larceny (21.2%), offensive behaviour (19.4%), offences against the person (15.5%) and driving offences (9.2%). Although the offences of larceny and offensive behaviour were the most common offences for both age groups the proportion of larceny offences in the over 60's age group is almost three times that of the younger group.

As can be seen from **Table 12** 91.2% of female appearances and 43.3% of male appearances by persons over 60 years of age were for larceny, the bulk of other offences were committed by males, the 862 male appearances representing 71.5% of all appearances by persons over 60 years of age. The overrepresentation of larceny offences amongst the older offenders, particularly females, compared to younger defendants, is the most striking feature of this data.

Table 12 Sex and Offence for persons over 60 yrs. of age appearing in 1978.

<i>Offence Type</i>	<i>Male</i>		<i>Female</i>	
	No.	%	No.	%
Against the Person	49	5.7	3	0.9
Sexual offences	9	1.0	0	0.0
Prostitution	0	0.0	1	0.3
Fraud	16	1.9	3	0.9
Break, enter and steal	2	0.2	0	0.0
Larceny	373	43.3	313	91.2
Unlawful Possession	15	1.7	2	0.6
Found with intent	1	0.1	0	0.0
Driving offences	52	6.0	4	1.1
Betting and Gaming	64	7.4	2	0.6
Firearms offences	13	1.5	0	0.0
Environmental	0	0.0	0	0.0
Damage Property	19	2.2	0	0.0
Vagrancy	66	7.7	3	0.9
Offensive Behaviour	141	16.4	10	2.9
Other	42	4.9	2	0.6
Total	862	100.0	343	100.0

Larceny

The category of larceny includes a number of offences which may conveniently be broken up into simple larceny (eg. theft of goods left in a public place), shoplifting and other larceny (which includes vehicle theft). **Table 13** shows this breakdown of the category of larceny for the years 1975-1978 for persons over 60 years of age. As can be seen the offence of shoplifting has increased dramatically over these years. This increase may in part reflect changes in charging procedures by the police, in that in previous years shoplifters may have been charged with simple larceny, as the drop in simple larceny charges between 1976 and 1977 suggests. However, the fact remains that in 1978 nearly 80% of all persons over 60 years of age charged with larceny were for shoplifting offences, and it appears that there has been a substantial increase in this type of offence since 1975.

Table 13 Appearances by persons over 60 yrs. of age for larceny 1975-1978.

	1975		1976		1977		1978	
	No.	%	No.	%	No.	%	No.	%
Simple larceny	111	22.9	120	23.8	70	11.8	76	11.1
'other' larceny	174	35.9	118	23.5	84	14.1	63	9.2
Shoplifting	200	41.2	265	52.7	440	74.1	547	79.7
Total	485	100.0	503	100.0	594	100.0	686	100.0

As shown in **Table 14**, 50.5% of convicted shoplifting offenders over 60 yrs. of age were male, whereas in all other age groups, except the 18-20 yrs. old group which is similar to the over 60's, the percentage of male offenders was approximately 40%. In the Bureau's 1975 *Court Statistics* a chapter on shoplifting offenders found the same trend and suggested as an explanation that in the older age group more men spend time shopping due to retirement.

Table 14 Age and Sex of convicted shoplifting offenders 1978.

Sex	18-20		21-25		26-30		31-40		41-59		60+		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Male	356	51.6	304	39.8	222	35.8	385	38.3	677	43.2	265	50.5	2732	42.6
Female	334	48.4	460	60.2	398	64.2	619	61.7	889	56.8	260	49.5	3007	57.4
Total	690	100.0	764	100.0	620	100.0	1004	100.0	1566	100.0	525	100.0	5239	100.0

As shown in **Table 15**, for both persons over and under 60 yrs. of age convicted of shoplifting offences, males were more likely to have a previous conviction than females. However, a higher percentage of both males and females in the over 60 age group were more likely to have had a previous conviction (54.3% of males and 31.1% of females) than those defendants under 60 years of age (48.6% of males and 27.6% of females).

Table 15 Previous Convictions* and sex of shoplifting offenders 1978.

Previous convictions	Male		Over 60 years Female		Total		Male		Under 60 years Female		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
None	16	45.7	31	68.9	47	58.8	166	51.4	330	72.4	496	63.7
1 or more	19	54.3	14	31.1	33	41.2	157	48.6	126	27.6	283	36.3
Total	35	100.0	45	100.0	80	100.0	323	100.0	456	100.0	779	100.0

* Criminal records are checked for a sample of 1 in 6 cases. Percentages are therefore estimates for whole years convictions.

Table 16 shows that the percentage of shoplifting offenders over 60 years of age with previous convictions has increased significantly since 1975, from 26.5% to 41.2% in 1978. This suggests that these offenders may be a particular sub-group of people over 60 years of age who appear in court regularly.

Table 16 Percentage of shoplifting offenders over 60 years of age with previous convictions 1975-78.

	<i>Percentage with previous conviction</i>
1975	26.5
1976	32.1
1977	30.0
1978	41.2

As can be seen in **Table 17** the most common outcome for larceny offenders of all ages was a fine, with 50.4% of persons over 60 years of age and 61.3% of younger offenders receiving this outcome. However, the next most common outcome for older offenders was a s.556A (27.3%) which was received by only 7.6% of offenders under 60 years of age. This would seem to indicate a more lenient attitude, by magistrates, to older larceny offenders.

Table 17 Age and Outcome for Larceny Appearances in 1978.

<i>Outcome</i>	<i>Over 60 yrs.</i>		<i>Under 60 yrs.</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Dismissed	10	1.4	242	2.5
Recognizance				
Forfeited	9	1.3	217	2.2
Not Guilty	12	1.8	339	3.5
S.556A	187	27.3	747	7.6
Rising of the Court	8	1.2	81	0.8
Recog. with/without				
Probation/Fine	70	10.2	1,367	13.9
Fine	346	50.4	6,009	61.3
Prison	44	6.4	790	8.1
Total	686	100.0	9,792	100.0

Table 19 shows the outcomes received by persons over 60 years of age for all other petty sessions offences. Imprisonment was greatest for the offences of break enter and steal, fraud and vagrancy. Overall the most common outcomes for persons over 60 years of age were Fines (44%), s.556A (20.6%), Recognizance (8.5%) and imprisonment (7.9%).

Table 18 shows the overall rate of legal representation for petty sessions offences excluding Drunkenness, Drink/Driving and Drug offences for

persons appearing in 1978. The over 60 age group being slightly less likely to have legal representation (48.5%) than those under 60 years of age (53.4%).

Table 18 Age and Legal Representation for 1978 Petty Sessions appearances.

<i>Legal Representation</i>	<i>Over 60 yrs.</i>		<i>Under 60 yrs.</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Yes	585	48.5	24,694	53.4
No	620	51.5	21,555	46.6
Total	1,205	100.0	46,249	100.0

ELDERLY PERSONS: VULNERABILITY AND INVOLVEMENT IN CRIME

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Four Main Aspects

There appears to be four main aspects of the impact of crime on the elderly covering economic, health, isolation and fear. Probably there are many older persons who have adequate financial resources, possess good health and experience no crime problem. On the other hand in many cases the property loss and injuries received by an elderly victim of crime — because they are elderly — are greater and more damaging than statistics suggest. Likewise, the elderly, because they are elderly, are much more vulnerable to certain types of crimes. Of course, not all elderly persons are affected in the same way by the impact of these crimes, mainly because the elderly is more diverse than any other age group.

In general terms the incomes of elderly people are at a lower level and they are especially hit by inflation. Their savings, if any, are halved in value every seven years. Whilst 73% of elderly persons own their own homes this is often the greatest asset they have. They often lack the sort of assets which can be converted to cash to meet emergencies. In these circumstances an unexpected loss such as a robbery or a theft of a pension cheque, a frequent offence, can impose a financial strain on the victim. Sometimes this can considerably affect their standard of living and they may even have to cut down on foodstuffs, whilst waiting for a stolen cheque to be replaced.

Many elderly persons have to either give up their cars or driver's license and mostly have to use public forms of transport or walk intervening distances. Taxis are far too costly. This places the elderly in a very vulnerable position. Experience has shown that whenever the elderly are victims of an assault they are more likely to suffer an injury than younger people and consequently are more likely to be hospitalised to treat their injuries. It is well known that as people grow older they become more fragile, their recovery rate lessens and they are less capable of physically defending themselves. Their visual and aural perceptions weaken and they are less prepared to engage in an encounter. Perhaps too their vulnerability, especially in some areas makes them fear a reprisal should they report the incident to the police. A lot of offences against the elderly go unreported.

Isolation is a problem not only for the poor who are elderly, it seems, but also for those elderly who may be more comfortably situated. It is believed that some 70% of elderly people live alone and in the city areas where crime is higher. Yet fear of victimisation may be of even more concern than crime itself. Elderly people's fear of crime often forces them to make modifications

to their normal way of life. They take additional care when locking up at night, they drive rather than walk if they have a car and they avoid talking to strangers.

American studies have shown a more extreme response to the fear of crime. For some older people it meant storing their rubbish tins inside for days because they were afraid to put them out by themselves. Others have given up their "housie" night, dancing, or the cinema. One such enquiry in Nashville, Tennessee, revealed that one third of the elderly were afraid to go out alone at anytime. They gave the following reasons:

49% not safe, too dangerous;

17% fear of being robbed or beaten up;

33% other forms of deterrence, such as fear of falling, difficulty in seeing, streets under repair, rough footpaths.

Because of these fears, the American study suggests that elderly persons become self-imprisoned and increasingly isolated. If experience is any teacher it seems certain we are following the American pattern if we are not already into the process of doing so.

To meet this developing situation, the N.S.W. Police Force needs to be in a position to deploy additional resources, but they are very hard pressed for manpower and the many demands being made upon them including guarding prisons whilst the staff are on strike. Generally speaking the N.S.W. Police Force is not particularly well informed on crime patterns affecting the elderly. Our present forms of crime analysis seem unlikely to produce the necessary data to enable effective tactical decisions to be made. All police should be given lectures on the problems of the elderly people. This is especially important with our ageing population.

One American police force undertook research amongst elderly victims of crime and amongst their attackers. This particular study disclosed that street crimes such as robberies and handbag snatching were the offences that caused people over sixty the greatest alarm.

Offenders who were interviewed confessed that they stole money in order to buy drugs and rationalised their behaviour by claiming the social system was not taking proper care of them so they took money whenever and wherever they could. We have the same problem in Sydney. The offenders interviewed recommended that elderly persons should not openly carry handbags or purses, should not walk alone and that police should be highly visible around banks on pension days and that police should provide transport for pensioners when they change their cheques.

Clearly established data shows that:

the elderly victim who is attacked is most often a female;
the victim is carrying a handbag;
the victim is generally alone;

the victim is often attacked in her own neighbourhood;
the crime mainly occurs during daylight hours;
the offender is a male in his teens;
the offender deliberately "targets" the elderly.

N.S.W. police should be pursuing this sort of data so they can develop strategies and short term tactics to reduce the attacks against the elderly.

The "Con" Men

The media has been reporting many distressing and harrowing stories in the last six months of how the elderly have lost their life savings to suave, well dressed and well spoken 'con' men. Even allowing for the removal of the sensationalism that occasionally creeps into the media reports there is an underlying and genuine community concern at the increase in this type of crime. Some confidence men and indeed women pose as Social Security officers, County Council, Telecom, Water Board or some other official capacity.

When duped, very few elderly people can give an accurate description of the offender. The Post Office or police should distribute special Description forms for use by elderly people so that they may become educated to carefully observe the offender's age, height, weight, colour of hair and eyes, complexion, physique, dress, speech, movements, type of car and registration number, rings, natural or false teeth, scars or tattoos. Elderly people should also be encouraged to keep an inventory of the list model make, serial number and original cost where known of all their goods and chattels. Far too many elderly people keep large sums of money in their homes. They are still fearful of banks caused through their depression experience when the banks closed. Many place themselves in great danger as a result of keeping so much money around the home. Elderly people are especially vulnerable to this form of crime. Because of loneliness or grief over the loss of a spouse, or depression from feeling unwanted, the elderly can fall easy prey to the proposals of false pretences.

From my experience I would advance that the average age of elderly persons caught by swindlers is about 70; that elderly folk represent 90% of the victims; the average money loss is some \$2,000 or more; that the majority of offenders are rarely caught and most of the money is never recovered. So many elderly people when "caught" are afraid to tell their family for fear they think they can no longer look after themselves. This type of offence has a long lasting effect on many of its elderly victims. The N.S.W. police could well get together with the banks and ask the managers to advise their elderly customers who do not usually draw large sums of money to first discuss the position with them. Large signs on the counters of all banks warning elderly people about the activities of "confidence" men may be a useful safeguard.

Violent Crime

As you get older you become very aware of the fact that you are more likely to become a victim of crime. Is the answer yes or no?

Surprisingly enough the answer to that broad question is NO. Through many years of working as a probation and parole officer before transferring to working amongst the elderly at N.S.W. C.O.T.A. it had always been my observation that teenagers and young adults are much more likely to become victims of violent crime — such as rape, robbery or assault — than are people over 50. So far as I can ascertain this seems to be the pattern also in most other countries. The reason younger people are more exposed is obvious. We older individuals tend to be more cautious and usually, if possible, avoid the late hours and neighbourhoods which nurture crime.

We hear of calls to strengthen the police, the courts and prisons. Whilst all of these things may ease the problem somewhat, the real key to minimising the threat of crime lies with ourselves and our neighbours. Preventing crime requires foresight as well as involvement. You must try to foresee and avoid those situations which would increase your personal risks. Equally important you and your community need to become involved in activities which reduce the collective threat. THE POLICE ALONE CANNOT DO IT.

Three particular Crimes.

It is probably true to say that we can all do something about robbery, burglary and fraud. Most robberies are crimes of opportunity. The location of the crime — a poorly lit street late at night, perhaps, — may have been carefully selected, but the victim may simply be the first person who wandered into the trap. Good common sense should keep you out of these situations.

Less obvious are the situations where you draw attention to yourself without realising it. Statistics show that women over 50 are more likely to have their purses stolen than are younger women. How do these women draw attention to themselves? A probationer who specialised in purse snatching told me they size up potential targets. "If someone is carrying a handbag, hanging down, just with their fingers, the woman likely does not have much cash in there anyway, so the thief is just wasting his time. Look for the person who is holding on to her handbag, either hanging on her arm or holding it in front of her chest or stomach. If a woman knows that somebody is around, and has money in her handbag, she will put it close to her body — that is one of the handbags the thief will hit because he knows there is some cash in there."

Women's Habits.

Carrying a handbag is a lifetime habit for most women and one not easily changed. Women seem to put more things in a handbag than a man can get in a brief case. Yet there is a lot a woman can do to minimise her losses should her handbag be stolen. Make a quick inventory of everything in the handbag. A foolscap sheet of paper should suffice! Ask whether you need to carry all your credit cards and bank books? All your keys? If your handbag is stolen would you know which credit cards and bank books to report missing and where to call? Which locks to change (missing keys)? Are there personal items — photos, mementos — which could not be replaced?

Most handbag snatching seems to take place during the day and especially on pension days when people go to the bank to cash their cheques. Railway stations are also favourite haunts for thieves. Bag snatchers are not all professionals. So many are young boys often truanting from school. The victim is mostly alone and often quite close to their home. Quite often there is an element of assault, with its attendant traumatic experience.

Elderly women would be far better to make a simple detachable inner pocket which could be snapped inside their frock or coat and used to carry a wallet, money or small objects of value. Women who have no one to accompany them when going to the bank or shopping should contact a local Community Aid Bureau and ask them to send a volunteer to accompany them on their errands. A lot of retired people, especially men, could spare this sort of time. Even if a few dollars had to be paid for the service it would dramatically reduce street crimes. Some elderly men leaving clubs and hotels are also often followed and attacked. Elderly people are more likely to suffer an injury in these circumstances and become hospitalised than a younger person.

Burglary

Burglary, like robbery, is also a crime of opportunity. But instead of laying a trap and waiting for a victim, burglars tend to prowl through neighbourhoods looking for signs that a house is unoccupied. Most burglars I have dealt with have told me they will never break into a house with the bathroom light on as that is the one room which is least used and very few people leave a bathroom light on when they finish their ablutions. Burglars size up the target and decide if it will be easy to break into and ensure no curious neighbours are about. Some people go to great lengths to protect their home including deadlocks on doors only to find they have experienced a major burglary and someone has cut the locks out with a portable battery operated saw. Whilst there are all sorts of sophisticated alarm equipment we seem to have our fair share of sophisticated burglars who stop at nothing.

To discourage burglars, you should make your home as unappealing a target as possible. It is a good idea to always appear as though your house is occupied. Burglars want to get in and out of a house quickly; they do not want to confront angry home owners and a lot of elderly people can still stand up for themselves. They do not want to confront nosey neighbours so the one thing they ensure is that no one is at home. Open drapes often allow a burglar to observe for himself if the home is occupied. Even with the drapes closed the same lights burning hour after hour are an advertisement that the house is actually empty. Though such signs constitute an invitation to burglars, they can easily be eliminated. If you leave the home, stop the paper delivery, have the post office hold your mail or ask a neighbour to collect these things and give him the same service later.

It is a good idea to make all doors and windows visible from as many angles as possible. Look at the trees and shrubs around your home and make sure that they do not cover a window or obscure a doorway. Many burglars

take cover behind these things and enable him to break into the home without being seen. At night grounds should be lit with a few outdoor lights off your home. Co-operating with your neighbours and the police pays off. Any out-of-the-ordinary activity noticed in your neighbour's home should be investigated.

The house that appears occupied, has well lighted doors and windows and concerned neighbours around you is less inclined to attract burglars. And despite all this a burglar can still strike. Making it difficult to get through windows and doors is a help. Keeping a rifle is risky, but having an alert dog is comforting. After I was burgled, I bought a Rhodesian Ridgeback from the R.S.P.C.A. I think all elderly people should have a dog if they can, for protection. By comparison, the threat of fraud against the elderly is far more complicated. Its guises are many, but the lure is often the same; the so-called good deal.

Fraud

Home repairs offer a broad range of opportunities for fraud. When I was a young boy I can recall tinkers calling at our Rose Bay home, sharpening knives and scissors and repairing household items. There are still people who perform honest labour in this old-fashioned way but others use the same approach to part the unwitting, often the apprehensive elderly, from their money.

A self-proclaimed roof repairer, tiler, cement contractor or electrician offers to carry out repairs for an attractive low price. So often they were just driving by and noticed that the house needed urgent repairs in some form or the occupant could be in danger . . . He is in a small way . . . He takes your money to buy material. He often fails to return. When you check the address he gave you no one knows him . . . or he uses shoddy material and the job is next to useless. When I was a probation officer I completed many pre-sentence reports on these charlatans who could hardly drive a nail. They trade on the fear and anxiety of the aged. Hard earned savings are lost.

A particularly callous sort of swindler carefully reads the death notices in the Sydney Morning Herald to find his targets. Then he appears on the door step of the bereaved with some goods he claims the deceased ordered just before he died but did not pay for. It is often a seemingly personal gift, such as a Bible or a book with the recipient's name embossed in the fly leaf. The victim, numbed by grief, pays some outrageous price for the allegedly ordered "gift". Even had the deceased legally ordered the gift the recipient would not be obligated to pay for it.

Loneliness on the part of elderly people can be a real target for criminals. So often some of these "introduction" services and organisations become vehicles for almost ruining some people when the "sharpies" move in on people's loneliness. Some newspaper columnists could use a bit more care in referring people to others.

Mail frauds are widespread. Although quite a lot of legitimate goods and services are sold by mail, phony insurance plans, quack medical remedies, dubious investments, real estate land sales and work-at-home schemes to supplement the pension bilk legions of elderly people every day. When a person gets any approach which seems appealing always approach it with caution. If it seems too good to be true it probably is. When looking at the many investment propositions it is wise for retired people to consult a lawyer and make sure that the investment does what it says it will do, before parting with your cash.

Elderly people may find it is easier to keep burglars away from their home than it is to combat fraud. The best protection for the aged is a sceptical head and a tight fist. The aged have to be equally vigilant in permitting officials into their home. Genuine representatives have identification. But far too many elderly people are trusting souls. Checks with Consumer Affairs can often clear up any doubts about the genuineness or otherwise of goods and services which may be offered to the elderly.

The fear of crime varies from one suburb or town to another. There are certain areas of Sydney where criminal activities are rife and the clear-up rate by the police is low. Where there is a high percentage of older people in an area, fraud poses a sizeable problem. Older citizens often have a greater first hand awareness of their area's fears than do the police, yet often feel that there is little they can do about it. In fact the elderly with some organisation can do much about it and protect the total community in the process. A collective response could be as comprehensive as arranging for a male escort when carrying money or encouraging neighbours to watch and report any suspicious activities in the street. The elderly in any community may not be able to eliminate crime but with diligence and organisation they can minimise a lot of threats.

What Causes the Elderly to Turn to Crime?

The tendency towards the segregation and isolation of the aged from the mainstream of social and economic life increases their economic dependency on society. The result could well be large numbers of non-productive people becoming objects of suspicion and even hostility, and, in turn, alienated from their own society. Social unrest accompanies such change and may already be showing in the conflict and turmoil between generations in this country. The aged are part of an on-going society and should be treated as such.

Certainly the strong competitive society in which too much emphasis is given to an individual's productive work and achievement, in which inactivity is suspect and leisure highly commercialised are certainly not the most congenial environments in which to grow old. At the same time this sort of society neglects the vast potential of the growing sector of the aged, even handicapping its physical, psychological and social adjustment.

The older worker is not taking so much part in to-day's industrialised society. As his knowledge and experience of the past is often outmoded, many

older workers become obsolescent vocationally, less likely to be re-trained, sometimes finding himself by-passed by technology at 45 years of age or ending his working career in a lower paid and less prestigious occupation. Some 150,000 unemployed over 55 in Australia — the discouraged group — may never work again. Frustration, emotional deprivation accompany the loss of earning power through job loss, enforced retirement, illness or even the reluctance of so many employers to hire older workers due to high workers' compensation insurance rates for this group.

Both retirement and job loss bring more leisure time, usually without a meaningful way to use it. Because of the change of status from substantive breadwinner to dwindling financial resources in many cases, opportunities for recreation and socialising are less when the need for them has actually increased. Many of the elderly thus find their social life characterised by loneliness and desolation and in greater danger of deterioration.

Stress from drastic changes of situation like sudden loss of a reasonable income, or death of a spouse, can then result in physical, emotional and behavioural disorders, even pre-disposing many to become offenders against the law and engaging in shop lifting or other forms of theft or personal assault. The rates of hospitalisation for mental disorders amongst the elderly are far too high, not necessarily because the aged are seriously mentally ill, but because of a critical lack of help with their problems of adjustment.

Because of the high rate of unemployment amongst the young and the tendency to yield to economic pressure, there is an increasing move for earlier retirement. Psychologically and socially I believe it would be better to raise the compulsory retirement age. I have grave doubts that earlier retirement will mean more jobs for the young — just the reverse.

Modern technology bringing ease of operation and health care have made it possible to extend the productive life of the older worker whose skills and experiences can often make him a better employment prospect than younger men. And the aged can contribute in other ways. In some countries where there are early retirement programmes, opportunities are afforded to enter voluntary community service, particularly in certain vocations, of great economic and social value and often with a tapered retirement system.

There needs to be greater emphasis on universal pre-retirement planning and advice. Perhaps redundant teachers could be used in this area in the future. The aged will become increasingly politically aware and active as their numbers increase. They will cease to be on the receiving end of policies which so far have only maximised their dependency and isolated them from the young.

When we have developed a society which provides pre-retirement counselling and guidance for as much as ten years before retirement and includes information about the vulnerability of the aged in terms of crime and the pre-disposition for some elderly persons to become offenders against the law, possibly we can take steps to at least reduce some of the pressures and prevent them.

Providing adequate training sessions as an on-going process to educate police officers at all levels in understanding the problems of the aged and how to cope with them as individuals could go a long way to improving the safety of the elderly. The "Safety on the Home" section of the police force, which provides lectures to the public at present, could well be expanded. Other States are providing training facilities to the police in learning to cope with the aged.

The aged are often felt to be victimised by the police. When they experience some incident in their life involving a criminal act the elderly often prefer to contact a social worker or a talk back radio announcer for advice, rather than the police. Elderly people who have called in police claim that some police do not treat them very well at times and tend to take advantage of their age, displaying intolerance, lack of understanding and occasionally downright rudeness. A lot of this behaviour stems from the lack of police training in coping with the elderly and a community stereotyping of the aged that they are not important citizens. The police cannot be said to have the whole hearted confidence of the elderly but there are exceptions. It is obviously a community deficiency which needs early correction. I would like to think that a better approach can be developed with training.

Involvement in Crime.

The sudden and dramatic increase in shop lifting offences on the part of those over sixty reveals that there has been a substantial increase since 1975. Acts of dishonesty on the part of the elderly are becoming commonplace. Shopkeepers everywhere are complaining that the elderly are involved in stealing from their shops. An immense amount of leniency is displayed towards elderly offenders. There does seem to be a change in social attitudes on the part of the elderly the reasons for which at this stage seem obscure. From enquiries made, the elderly seem to steal goods to give to their families and friends. Whether this is caused through a need for recognition on a developing "Robin Hood" complex I cannot yet say. Most seem to be first offenders. Very few have a previous record. Where an offender has had previous convictions they are usually organised to the point where they always leave enough bail money in a secret hide-out.

It was almost traditional that aged people prided themselves on their sense of honesty once. All that seems to be changing rapidly.

Self-Organisation.

The important point we should keep in mind is that retired persons can be self organising to achieve their own aims, and objectives. We should all be listening to the elderly and retired so that they can participate in society. VOTE (Voice of the Elderly) local groups just over one year old sponsored by N.S.W. COTA as activist groups are growing groups of elderly people who have refused to wait until someone decides to consult them. They are taking the initiative, have an inbuilt self-help concept for the more active elderly to

keep an eye on those who are frail and need some assistance. VOTE members are taking the initiative — as yet in quite a limited way — by bringing their needs and views to the attention of the decision makers and the public at large, while at the same time trying to provide some useful services and social contact to their elderly fellow citizens. VOTE members have produced their second policy on aged persons' rights and needs in just over a year. All political parties are aware of it.

We should also keep in mind that only about 5% of elderly Australians ever become dependent, some 3% institutionalised; the remainder are active, function very independently and may at times be infinitely "dangerous".

An influential school of thought would have us believe that retirement is almost synonymous with a general desire to "disengage", to withdraw from society and social activity. We are seeing increasing evidence amongst the elderly which helps give the lie to this theory while at the same time enabling us to view with some optimism an alternative view — that the general circumstances of the elderly can and will only really improve when elderly people *organise* themselves to effectively press their *own* interests which are so diverse. Governments cannot do everything.

Australia boasts 1,659,000 people of pensionable age at present. On average, women are living to 76 years and men 70 years. Some 45,000 Australians retire every year. Twenty per cent are voters. One in eleven of our present population is elderly. The elderly spend some \$100,000,000 per week in goods and services around Australia. The elderly have both voting power and purchasing power in the main.

Mark Twain said that everybody complains about the weather but nobody does anything about it. He could well have said the same thing about the problems of old age. For while we may not be able to control the weather we may all well be able to devise methods of adjustment which will tend to make the later years a period of interest, safety, security, satisfaction instead of frustration, comfort instead of fear, and combat boredom, uselessness and resentment. We should be left in no doubt as to the vast potential for effective and useful contribution by the elderly towards the welfare of the total community, and, in particular, of themselves. It is merely a matter of organising social conditions to allow this potential to be exploited.

"Granny Bashing" and Ill Treatment of Elderly Persons in Institutions.

The N.S.W. COTA is always alert to any reports of "granny bashing". Fortunately, we feel it is minimal but complaints have been received that some relatives caring for elderly men and women relatives frequently assault aged relatives when they become annoyed. Quite often the elderly people are afraid to complain. Complaints from nursing homes and institutions caring for the aged about assaults on elderly people have virtually become non-existent since strenuous efforts have been made to ensure proper standards in nursing homes by COTA and the professionals themselves. Intimidation by relatives

to unduly influence frail relatives to leave a will in their favour, transfer property, or give power of attorney under duress occurs just too frequently and there should be some tightening up of an elderly person's rights in this area.

Emergency at Home.

All elderly people should have a telephone installed. Where it can be shown that elderly people cannot afford the rent, the Government should pay for the installation. A telephone would prevent a lot of crime if the police or neighbours could be contacted in an emergency. A new technique "Vitalcall", which can be rented, is slightly expensive but extremely efficient; it is a small piece of equipment worn by a person and activated by pressing a button in an emergency. The Vitalcall unit automatically activates three pre-selected phone numbers of close family, friends or neighbour. It delivers a pre-recorded message and the person taking the call knows the caller needs help. If anyone of those called is not available a unit at Vitalcall headquarters takes over. When the call is received the wearer of the unit receives a buzzing signal to reassure him or her that help is on the way.

Jury Service.

Although a person over 65 years of age has the right to decline jury service because of age, I believe that this should be raised to seventy years of age. This would involve so many more experienced older people in jury service and create a greater awareness about crime in our community, a lot of which does affect them.

Need for a Victims of Crime Service in N.S.W.

Helping those individual persons who have been victims of crime may have to take the form of long range or short range assistance to enable a satisfactory return to normal living. It may include public action in the interests of such victims, and ensuring relief is provided by appropriate agencies. The aged would need very special care. Providing a unifying centre for such victims and developing a public voice for their views seems essential, in New South Wales.

The supporting of official authorities, in particular by providing information and advice to citizens about the actual danger of crime and of ways by which they can counter it has an element of urgency. By discovering the procedures by which the victim's interests can best be brought more fully to the attention of courts and seeking their implementation. By monitoring the effectiveness of the criminal justice system in N.S.W. in providing for the security of all age citizens from attack, and offering comment on how this effectiveness can be improved. The early formation of such a service could, either on its own or with the co-operation with other bodies encourage, at least a more widespread acceptance and greater practice in the community of a social ethical code. With the increasing number of experienced and articulate elderly persons emerging in the community, I would believe retired persons

would offer the best source of volunteers to staff such an office on a daily basis, with an executive officer's home phone providing an after hours contact point. Funding from the N.S.W. Government for such a Centre to commence should not be a problem. I would feel that the N.S.W. Council on the Ageing, 34 Argyle Place, Miller's Point, would be very sympathetic to assisting with this project, since it is concerned about the vulnerability of the elderly by criminals and the possibility of attracting volunteers from amongst its membership would be possible. It is known that there has been some investigative work carried out on this proposed project by Mr. Phillip Wearne at N.S.W. Parliament House but there has not been any formalisation of the Committee. It is fully hoped to see the launching shortly.

Perhaps the Government could impose a surcharge of 5% on all fines imposed on lawbreakers convicted in N.S.W. and from this input the Victims of Crime Service could be operated and sufficient funds would be created to adequately compensate victims of crime. A Victims of Crime Service could also provide a suitable companion for a witness in court proceedings who was a victim of crime, so that they would have someone with them whilst at court and escort them to their home after the proceedings. Experienced workers from the centre could take a victim called as a witness on a pre-trial visit to the appropriate court to familiarise the witness with court lay-out procedure and general explanation of what occurs. Many witnesses who are victims of crime are completely confused by the spectacle of court proceedings for the first time.

Court Watch.

Increasing concern about criminal victimisation of the elderly could perhaps lead some groups of older citizens to organise V O C S. "Court Watch" programmes. Groups of older persons could attend court proceedings whether they be summary or District Courts — to observe elderly victims or elderly witnesses in order to bring about reforms in the court system and alleviate the fears of older persons about testifying against their assailants. Volunteers could attend court, watch, and document such things as the punctuality of magistrates, judges and witnesses, the number of delays, how well the prosecutor prepared the case and whether the final judgment was fair from the older person's point of view. The result of such "Court Watches" by elderly people would be an expectation that the police, court officials, and prosecutors, would prepare their case thoroughly and treat the criminal attack on the elderly with much greater seriousness than might, in some cases, occur.

There seems to be an overdue need for the sponsorship of a community-based N.S.W. seminar surrounding "Crime and the Elderly" and to devise a programme which would involve all the agencies and individuals including the police and corrective services, the legal and medical profession, to make a very close study of the implications crime has on the elderly. Certainly, the elderly would want to be involved in such a project.

Increasingly, we do not appear to be able to pay for all the services we want in the community. Elderly volunteers could surely fill some of the gaps involving crime prevention and perhaps if they were appointed as "special police" in various areas to assist victims and the law enforcement agencies we could improve the effectiveness of our law enforcement agencies. Experience has shown elsewhere that elderly volunteers in the criminal justice system are dependable, conscientious and often possess professional or industrial skills of immense value. Mental acuity and sharpness to observe does not slip that much with age. Could it be that the elderly could be a new source of voluntary or paid manpower to our hardpressed police force? Unlike young volunteers, older people could not be interpreted as an industrial threat to the police union. Under sympathetic police training and supervision a number of elderly men and women could be sworn in as special police to act in emergencies, assist the police in the community in their own area and be proved beneficial in many ways. I see the problem of criminal activity which affects the elderly so much being combated very efficiently by perhaps the aged themselves. It is worth investigation.

PRESENTATION OF PAPER

Stan Duncan

Those who have perused my paper could be pardoned for feeling that perhaps the outlook looks pretty dismal for elderly people in relation to crime and how it may affect them. With the growing and apparent change in social attitudes on the part of the elderly one wonders also whether the aged will be more inclined to become involved in criminal activities to a much greater extent than we have experienced in the past. There are certainly going to be many more aged people in the community. At the moment there is one in 11, by the year 2000 predictably one in 7 in New South Wales.

The answers I believe will rest largely with the aged themselves in the field of self organisation to achieve their aims and objectives and in improved government policies for the aged. I believe in the areas of crime we aged can only see improvements in crime prevention and administration and how it affects our lives by organising ourselves to effectively press our own interests. VOTE (Voice of the Elderly) which is a lobby group of the N.S.W. Council on the Ageing is certainly encouraging this sort of input from its elderly members. They are extremely articulate and are certainly creating an impression on what they see as the issues in our community.

Many of the aged are quite capable of devising methods of adjustment which could make our later years quite secure, safer and comfortable. We should be left in no doubt as to the vast potential for effective and useful contribution by the elderly towards the welfare of the total community and in particular of ourselves. I see great merit in arranging a community-based seminar to look at the whole problem of crime and the elderly, involving all law enforcement agencies and the professions.

Other areas I would like to comment upon in the paper are:— a. The present forms of crime analysis may be unlikely to produce the data to enable effective practical decisions to be made by police to help older people. Very little research has been carried out in Australia on the subject of offences committed by the aged. My initiation in approaching the Bureau of Crime Statistics through an observation that the aged seemed to be becoming more involved in shoplifting proved to be quite accurate. There had been no study of even this problem until I raised the issue. Cooperation of the Bureau of Crime Statistics and Research was excellent. The Retail Traders Association had not been aware of the problem until I alerted their Executive Director.

b. Elderly people need a lot of education about the dangers of keeping large sums of money in their homes and on their person when they go shopping. Many still fear banks as the result of their depression experience when the banks closed. Many do not understand money, investments budgeting, taxation, building societies, credit unions, or like institutions. The Council on the Ageing organised the first ever seminar on the financial status of the elderly last year and created a whole new field of thinking in terms of assisting the aged. In Australia, surprisingly enough, the aged spend

\$100,000,000 per week on goods and services. That is a very, very large market. A large percentage of the elderly have resources despite the fact that we think they are very poor. Seventy three per cent of the aged in Australia at the moment own their own homes — the highest in Australian history.

c. Despite all the publicity elderly people are still being actively exploited by "cōn" men and women who often rob the elderly of their life savings. The widespread anxiety and insecurity of the elderly will continue to be exploited by the smart operators in our society.

d. Far too many elderly who are affected by crime feel they are being victimised by the police. I think the fault lies with the failure of the police department to adequately train police officers in coping with the elderly and understanding their particular problems. I feel that police could well start a campaign to seek the closer cooperation of the elderly in many ways where crime is involved. I would like to see senior police at least receiving training in the problems of the elderly. I do not wish to criticise the police for the present position. Understanding the elderly is a very complex and growing problem. The police will have a lot of elderly people to worry about in the near future. Other States in Australia have commenced training courses in relation to coping with the elderly and are training senior members of the police departments.

e. It was seen that New South Wales could also benefit from a Victims of Crimes Service. Perhaps consideration could be given to supporting such a service by a 5% surcharge on all fines imposed on lawbreakers convicted in this State. I would feel that a lot of experienced retired people would help run such a service as volunteers with a minimum of full time official backing. Groups of older people could also form Court Watch programmes to combat the increasing concern about the criminal victimisation of older people.

Since preparing this paper it has been brought to my attention that pilfering by elderly people attending a workshop in Sydney operated for their benefit has become a great worry. If items such as clocks, batteries, soap, etc., are being packed it is known that by the end of the day a lot of stock has found its way into the part-time workers' bags. Police prevention officers have been called in to assist but the reaction appears to be one of complete indifference to the overtures of the police. If a bag check was imposed there would be an outcry and the elderly would walk off the job. Do the aged deserve such leniency? I think it can be shown that business people and the courts, to their credit on the humane side, display a lot of leniency to the aged offenders. I wonder how many elderly offenders exploit this leniency especially in shoplifting cases?

Sometimes pensioners may earn a little more income than the Department of Social Security permits to have the fringe benefits. Despite our particular views on this aspect pensioners are asked to return their health benefit cards. Many fail to carry out this request and continue to use the card. The abuse goes undetected by the Health Department because of the small expenditures involved. Those who act with integrity on the other hand have to pay for their health care.

Some elderly persons are real bowerbirds. They will often pick up goods without making too many enquiries about ownership and use their age as an excuse for their behaviour. I recall an elderly couple in Kings Cross who specialised in picking up the baggage of travellers leaving hotels and waiting for taxis. Their flat resembled a department store. With the increase in our retired population and the growing tendency to sell the family home and migrate to Surfers Paradise, the Sunshine Coast, Coffs Harbour, Port Macquarie, the Central Coast, and other popular resorts where the majority of the population are elderly one would question whether we may see an upsurge in the incidence of lawbreakers amongst the elderly through sheer boredom. When I meet elderly people in these places I worry about the acceptance of the good fishing, the oysters, the surf, the friendliness in the local bowling or R.S.L. Club and wonder what else there is. I see great danger of eventual boredom setting in and maybe the incursion into criminal activities. Will we be seeing the aged becoming bank robbers or holding up a tourist bus to overcome the monotony in their lives? A lot of elderly people who have been away from the city for a while seem to be drifting back to Sydney.

It is not surprising to find older people feeling bitterness and despair. They tend to feel that the fault lies with someone other than themselves. Often, too, a resentful or bored attitude towards advice is assumed purely as a defence mechanism to hide fear, insecurity, or the natural dislike of admitting ignorance of anything to a younger person and asking advice and help of that younger person. Maybe we could all do something about eliminating any feeling of resentment on the part of the aged if we made a partner of the older person instead of talking down to him or her. It may be better to recognise the older person as a partner in these circumstances rather than a subordinate or a second class citizen, an attitude we unthinkingly impose on many of the older people. Most decisions affecting the aged are made by younger people. Perhaps if the aged were asked to contribute a little bit more to their welfare and in an atmosphere of respect and dignity we may see a happier breed of people.

Quite often, retired people feel their position. They may well have made an important contribution to society in their career only to experience a sense of the lowering of self esteem when they retire. A lot of people in this position, and there are many, build a wall around themselves which can become very hard to penetrate until perhaps we take the trouble to find out that this elderly person has produced a brilliant doctor, a lawyer or professional son, and, in comparison, the elderly person is ashamed of his circumstances and his position in society. There is a tremendous argument for pre-retirement education and possibly the abolition of compulsory retirement age to overcome these type of reactions. Government policies for the aged which end up making elderly people feel ashamed have no place in a country as great as Australia. The aged need rights not handouts. We seem to be creating a number of serious social problems in consequence of inadequate provisions for the elderly. The elderly will become politically active in consequence and, who knows, the future Prime Minister could well come from the ranks of the retired. Instead of growing old gracefully we older people may have to seriously consider growing old disgracefully.

If nothing else old age should be a gutsy, zesty happy period in our lives free from too many worries, pressures and dangers from criminals. Elderly people are still part of the ongoing community and they should be treated in all our measures as just that. Elderly people who become lawbreakers need to be treated in an understanding scientific manner. Their rehabilitation is also important and there should be no discrimination in our preparedness to examine this cause of crime when compared with the help given to the younger offender.

THE OLDER HOMICIDE OFFENDER — CLINICAL PERSPECTIVES

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ABSTRACT

A significant number of homicides are committed by older persons. In this paper six brief case histories are presented to illustrate important features of these offences and to indicate the need for careful assessment of the older offender. As in other homicides, victims tend to be relatives and friends so that interpersonal problems play an important part in causation. Psychiatric disturbance appears to be frequent in these older offenders and is often associated with organic factors. Alcohol abuse may be one of the causes of organic brain disease and acute intoxication of the offender, and at times the victim, may be a vital factor at the time of the offence.

The chosen cases show some of the problems encountered in assessment. Organic psychiatric disorders are more frequently suspected in older than in younger offenders and may be obvious on initial clinical examination. However, coordination of information from a number of sources and the initiation of full investigations is not easy in a prison setting and accused persons remanded in custody may possibly be disadvantaged in this respect.

Consultant psychiatrists reporting to prosecution or defence counsel find themselves in a situation where full information on accused persons is not readily available and special investigations are not easily organised. In New South Wales the Prison Medical Service does not, for historical reasons, carry out complete assessments of persons charged with homicide. Also valuable information frequently contained in its medical records is not always seen by consultant psychiatrists.

The problems encountered in the pretrial assessment of older homicide offenders emphasise the need to facilitate the fullest examination of all homicide offenders. Some solutions to the problems mentioned are suggested including an expanded role for the Prison Medical Service and changes to enable consultant psychiatrists to do earlier and fuller examinations of persons accused of homicide.

Introduction

Older members of the community are involved in the commission of a wide range of offences including offences against the person. The rate for crimes against the person falls with age and one hears very little about homicides committed by older people unless the circumstances are particularly newsworthy. In this paper I have chosen to present six brief case histories of men charged with murder, all of whom, subsequently pleaded guilty to manslaughter, in order to provide a reminder that serious crimes of

violence are not the exclusive preserve of the young or those with criminal records. The histories also illustrate the problem of providing adequate psychiatric assessment of persons charged with serious offences and make obvious the importance of attention being paid to social, psychiatric, and medical factors in the assessment of offenders, not only elderly ones.

The cases chosen do not pretend to be a representative sample as they were all referred to me, with one exception, by the New South Wales Public Solicitor. Also they are cases which came readily to mind when I decided on the subject of this paper. One man at 50 years of age is undoubtedly too young to be included in a paper on older offenders but his offence illustrates very clearly the importance of detailed consideration of the role of depression and the abuse of alcohol in homicide and the need to obtain information from relatives. Another man had no medical or psychiatric abnormality although his wife may have suffered from the latter. Considering what one perceives to be legal attitudes to elderly homicide offenders this lack of personal pathology in his case may have resulted in some heartsearching had the circumstances of the offence been different.

The cases have all been dealt with by the courts so the information contained in the case histories can probably be regarded as being in the public domain. However it would be not too difficult for some people to identify offenders involved so I would appreciate it if details contained in this paper are regarded in a sense as confidential. Some of the offenders are still in custody.

The New South Wales Court statistics available do not provide an indication of the number of homicides committed by older offenders. The category of offenders against the person includes a group who are listed as being aged 45 and over. This group must include many who would hotly contest any suggestion that they were even middle aged. In any case homicide is not a particularly common offence and ones impression is that an important number of homicides are committed by older persons. It should not be expected that the motivations for these offences should be very different in the older offender but there may be causal factors which are perhaps more prominent in this group. In all homicides victims are overwhelmingly relatives, friends and acquaintances, so interpersonal factors are important. In a proportion of homicides in all age groups psychiatric illness is important both as a causal factor and an element in the outcome of legal proceedings. Some psychiatric disturbances, such as delusions of infidelity, are more common after the age of 40. Physical or organic factors leading to psychiatric illness are more common in the older population for many reasons. For example, degenerative disorders increase with age and the complications of many chronic illnesses and of alcohol abuse may not appear until middle or later life.

Alcohol plays an important role in homicide. It may be responsible for psychiatric disorder in the offender, and the intoxication of the offender and possibly the victim is frequently noted. The availability of firearms is important in the commission of four of the offences described. In one the

weapon was discharged although death resulted from the victim being battered with the weapon. No hand guns were used. Because of the circumstances of the offences it is difficult to say whether or not other methods would have been chosen had a gun not been available but one is left with the impression that at the very least victims would have had a better chance to avoid death had a firearm not been the weapon chosen.

The six cases are set out in the following section and points relevant to the difficulties in conducting psychiatric assessments will be discussed in concluding the paper.

Case Histories

Case 1. Mr. B.

Mr. B aged 58 was awakened one morning at 3 am by a noise and on investigation he saw a person he took to be an intruder in the passageway outside his wife's bedroom. He took a rifle from under his bed, loaded it and challenged a man. He did not realise that the man was a drinking acquaintance who with a companion had been sleeping in Mr. B's living room after a party. The man fled, shots were fired and subsequently one man was battered to death with the rifle. Mr. B had been apprehensive about intruders for some weeks because there had been a number of burglaries in the area.

When first interviewed Mr. B was circumstantial, excitable and gave an inaccurate account of events which suggested both poor memory and a reconstruction of the events from accounts given by other people. He gave a history of amateur and professional boxing having had 100 bouts suffering several knockouts, on one occasion having been unconscious for several hours. His consumption of alcohol had been high with recent increased sensitivity to alcohol.

There was evidence of intellectual deterioration which both he and his wife were reluctant to confront. This was of a mild degree involving memory changes, difficulty in concentration and reduced efficiency in his employment. He was an extroverted and popular man.

Psychological testing showed intellectual deterioration particularly in abstract reasoning and memory. He had previously functioned at a superior level. Testing also confirmed his emotional liability and defensive anxiety about his deterioration.

Neurological examination confirmed his intellectual deterioration and revealed a peripheral neuropathy probably associated with his drinking. Alcohol was the prime suspect for his organic brain syndrome but boxing and pre-senile dementia were also possibilities.

The main factors responsible for his offence were his intellectual deterioration, alcohol intake on the night, his apprehension about intruders,

and his confusion on rising in response to a noise in the small hours of the morning. A defence under the M'Naghten Rules was not available to him but he pleaded guilty to a charge of manslaughter.

Case 2. Mr. D

Mr. D was 64 when he shot a woman friend of some years standing. He had wanted a closer relationship. Although she wanted to continue the friendship she wished to maintain her independence.

When interviewed Mr. D gave, despite memory difficulties particularly for the offence, a history which clearly indicated a depressive illness pre-dating the shooting by at least one year. He had been sleepless, gloomy, and had lost 12 kilogrammes in weight. In addition he complained of forgetfulness, symptoms suggesting impaired intellectual capacity, difficulties in balance and walking, transient visual changes, and difficulties in performing his work. His employer said that Mr. D's sleep difficulties and his haggard appearance had been noted. A close friend had suspected senility. The initial clinical impression was of depression and dementia probably associated with a neurological disorder.

When first seen by a neurologist the dementia was confirmed and a vascular disorder affecting the posterior regions of the brain suspected. Later a brain scan raised the suspicion of a cerebral tumour, possibly an acoustic neuroma, in the right cerebellar-pontine angle. A neuro-surgeon was unwilling to explore the region because of the risks involved.

Mr. D had been a quiet, well liked and stable man of normal interests and activities. Because of his depression and the progressive dementia brought on by his neurological deterioration he was unable to cope with the difficulties in his personal relationship and shot his friend. It was considered that the defence of diminished responsibility was available to him. He pleaded guilty to manslaughter.

Case 3. Mr. V

Mr. V, a man of 74, shot and killed a friend during a drunken argument the reason for which is not known. He had had previous arguments with his friend and he did not admire some aspects of this man's behaviour. Mr. V stated that he was not normally a heavy drinker but did use alcohol to alleviate the breathlessness he suffered because of his medical condition.

He had entered Australia by jumping ship in the early 1920's and had done bush work for most of his time here. For a period of 50 years he had done some mineral mining and his activities in this industry had increased over the years. He gave a history of respiratory and cardiac symptoms for at least a decade and said that he had emphysema, cardiomegaly, ischaemic heart disease and congestive cardiac failure. Silicosis from his mining activities was an important cause of his illness. On reception into prison he was quite ill and

required a considerable period in hospital. His usual medical advisers had been most concerned about his health before the offence.

There was a history of intellectual deterioration particularly in the areas of memory, concentration and ability to do simple arithmetic and handle money. The changes may have been due to senility but it is likely that his cardio-respiratory disease was important. When he suffered from breathlessness he said he became irritable, unsociable and muddled in his thinking. He had used small amounts of alcohol to relieve his breathlessness but he said that he became quick tempered when he drank more and could be easily provoked. He denied habitual heavy drinking.

He had led a stable and happy life during his time in Australia but was widowed at the age of 61 after 22 years of marriage. Independent information about him, other than on his medical problems, was not available. Time did not permit psychological or neurological investigation but there was more than sufficient evidence to support the opinion that he had the defence of diminished responsibility available to him on the basis of a chronic organic brain syndrome which, together with his intoxication at the time of the offence, was important in its causation. A plea to manslaughter was accepted.

Case 4. Mr. O

Mr. O a married man of 50 shot and killed his mistress of two years and wounded one of his business associates who had just started a relationship with her. All were heavily intoxicated at the time.

When interviewed Mr. O gave a history of having been depressed for more than six months. He had previously been a social drinker but an abnormal pattern emerged with his depression and he started drinking late at night and before going to work in the mornings. At all times when interviewed he was careful to give a fair and thoughtful account of everyone involved in the situation that led to the shooting. His marriage had been under strain for some years as his wife had had some psychiatric difficulties and her behaviour had changed after an hysterectomy. He planned to leave his wife for his mistress in the near future and felt extremely guilty about it. At work he was under considerable stress because of new managerial responsibilities and very long hours of work. He felt his wife did not appreciate the efforts he was making to secure their financial security. There is no history of previous psychiatric disorder or of significant medical problems. His family confirmed the history he gave especially in respect of his depression and drinking.

He had scarcely slept for days before the offence and on that day he had held a meeting with business associates in his home. There was heavy drinking at this meeting, some problems with his wife, and one of his associates met Mr. O's mistress and after the meeting was found by him in her flat. Despite several visits to see them he was unable to get any explanation for conduct he considered distressing and provoking. He returned with a shotgun and was in a condition which he described as completely out of control. He shot the lock off the door and the final and fatal confrontation took place at a car outside the building.

Defence counsel obtained two psychiatric opinions which coincided. The opinions were that Mr. O's depressive illness amounted to an abnormality of mind and that the defence of diminished responsibility was available to him. His intoxication at the time and the extremely provoking circumstances were major contributing factors in the commission of the offence.

Case 5. Mr. X

Mr. X aged 69 strangled his third wife after an argument. They had been married for ten years and she was more than 15 years his junior.

At interview he gave a detailed and conscientious history. His first marriage had been a youthful one and had failed largely for that reason. He regretted the fact that he had not accepted his second wife's offer of a reconciliation but had proceeded to his third marriage. This last marriage had not been happy as he found his wife was extremely jealous and that she lost no opportunity of accusing him of interest in and sexual contact with other women even in situations where this was quite impossible. It is likely that her jealousy reached pathological levels and because of it she had been referred to a psychiatrist. The result of the consultation is not known. One of her relatives gave some information that suggested that marked jealousy was not an uncommon trait in female members of her family. Mr. X gave a detailed history of her accusations and denied giving her grounds for them although he said he did not pretend that he had been perfect in his behaviour before this marriage.

He had always been a hard working man much attached to his trade and to a regular daily routine. This was disrupted after a back injury at work when he has in his early sixties prevented further employment. There was no significant history of other medical illness nor was there any history of psychiatric disturbance.

During interview he showed no signs of intellectual deterioration and formal testing revealed none. He was mentally active, had a good memory, and had been assisting a relative with a high school mathematics course.

On the day that he killed his wife he said she initiated an argument and made some provocative sexual allusions. He tried to get her to resolve the argument but she entered a room and closed the door in his face. When he pushed open the door he was sprayed in the face with an aerosol and he lost control of himself and strangled her. Afterwards he called the police. His memory for the actual attack was not complete although he could recall initiating it. His memory for the events leading up to it was detailed.

His wife's behaviour had been provoking for very many years and the separation planned at one point ended when she initiated a reconciliation at the last moment. The circumstances leading to the attack were provoking. A plea to manslaughter was accepted.

Case 6. Mr. P

Mr. P, a pensioner aged 69, battered to death in a flat the woman from whom he had been renting a room for several months. There had been previous arguments and shortly before the killing he had found that she had dumped all his clothes in a bath full of water and thrown his dentures out the window. Apparently she was given to unbecoming behaviour when drunk and they had been drinking together in a club before the argument. He described himself as not a heavy drinker. After he killed her he left the premises but returned periodically obtaining her invalid pension cheques and cashing them locally.

At the initial interview the account he gave was very circumstantial and it was apparent that he had memory difficulties which were variable in degree. He gave only a very brief account of his personal history. He had been married on two occasions and had spent much of his life at sea. The story he gave of the offence to two psychiatrists was consistent with the record of interview given to the police. One psychiatrist, while accepting his mild dementia, thought he may be dissembling to some extent.

Mr. P gave an interesting medical history. He had had syphilis many years before but this had been treated. For an uncertain number of years he had suffered from diabetes which had been treated by oral medication although it was found that insulin was necessary when he was received into gaol. He was obese and his diet had been uncontrolled. He complained about poor vision.

One psychiatric examiner obtained permission to view his prison medical records. These were most helpful in view of the fact that there had been doubts expressed as to whether he was exaggerating his memory difficulties. An ophthalmologist had examined him in response to his complaints of poor vision and it was found that both his visual fields were markedly constricted. Subsequent to this a brain scan was performed, revealing moderate cerebral atrophy and an area consistent with infarction in the left occipital pole. There was confirmation that a serological test for syphilis (V.D.R.L.) had been weakly positive in 1970 but that none of the usual tests was positive when he was received into gaol. The records confirmed the medical history he had given and provided ample support for the contention that his memory difficulties were due to organic causes.

Of the two psychiatrists who examined him for the defence one expressed in his report the opinion that Mr. P's responsibility would be reduced if the intellectual deterioration could be proven and suggested that a clinical psychologist might be able to decide this issue. It was also remarked that a charge of manslaughter seemed appropriate in all the circumstances. The second psychiatrist who examined for the defence expressed the opinion that medical investigations confirmed the physical basis for his dementia and that the defence of diminished responsibility was available to him. A plea to manslaughter was accepted.

Conclusion

In the cases presented psychiatric assessments adequate to the legal situation were obtained although not without difficulty in all cases. The law seems favourably inclined to sympathetic consideration of older homicide offenders and one has the impression that had a few of the offenders been younger more detailed assessment and investigations may have been necessary to obtain the same outcome. Certainly one would not like to predict how a number of the men would have fared had they been 30 years younger and faced a jury trial.

There is much at stake for persons charged with murder and all deserve the most careful assessment by their legal advisers and by consultant psychiatrists. In the case of some persons a very brief assessment by a psychiatrist may satisfactorily exclude any defence based on psychiatric grounds although the degree of certainty is likely to be higher in younger rather than older offenders. In the latter group there may be a lingering suspicion that an organic disorder has been overlooked. Brief assessments however fail to do justice the situation as the facts and opinions in a psychiatric report may be of considerable assistance to the defence in the preparation of the case and particularly in having the charge reduced to manslaughter. It is important therefore that every case be given as thorough a psychiatric and medical assessment as is necessary.

There are a number of important problems in providing psychiatric assessments. In New South Wales psychiatric assessments for the Crown are carried out by a consultant psychiatrist to the Department of the Attorney General and of Justice and those for the defence by consultant psychiatrists called in by the accused's solicitors. As the Public Solicitor appears to handle the majority of murder trials in New South Wales most of these consultants come from a list of practitioners provided by the Legal Services Commission. The Prison Medical Service of the Health Commission of New South Wales is responsible for medical and psychiatric services to the prison system. The psychiatrists, both full time and those working on a sessional basis, who work for the Prison Medical Service do not, for historical reasons, do full assessments of persons charged with murder except in rare instances.

Consultants called to see an accused frequently do not have an opportunity to see him until the time for his trial approaches. He may have been in prison for months during which time many things including his mental state, his attitude to the offence and his recollection of it, may have changed. A variety of physical investigations and other observations may be recorded in his prison medical service file but there is no procedure which makes this information easily available to consultants called by the defence. In two of the cases described Mr. P and Mr. D, this information was very important. This was particularly so in the case of P where it was viewed by only one of three psychiatrists who examined him. In the case of Mr. D investigations were initiated by the defence psychiatrist and then pursued by a sessional psychiatrist of the Prison Medical Service. Because the Prison Medical Service does not normally do a psychiatric assessment of those accused of

murder some of this man's problems could have been overlooked until after sentence. There were no problems in having the necessary investigations carried out in the case of Mr. C and after sentence he was referred to a psychiatrist with the Prison Medical Service.

It should be noted that it would have been most helpful in those cases where organic factors were present if investigations had been initiated before outside consultants saw the accused.

Psychiatric assessments of persons charged with any offence are only as good as the information which the psychiatrist can obtain. It is essential that the psychiatrist be well informed before he conducts his initial interview and that his requests for further information be met quickly and completely. The quality of referrals to psychiatrists varies a great deal. Fortunately a high proportion of homicide cases are handled by the Public Solicitor whose staff normally provide detailed information and who will follow up other matters as requested. It is most useful in the case of elderly people if information can be obtained from relatives and friends who can fill in gaps in the history and describe changes in mental state and behaviour.

Consultant psychiatrists assessing the types of cases being discussed face considerable problems in initiating and following through investigations. As a rule these must be arranged through the Prison Medical Service and done at hospitals with considerable waiting lists for specialized investigations. Most people readily give consent for the obtaining of information and the carrying out of investigations but lack of time and easy access to services may make things difficult. It is frustrating to have to try and conclude an assessment at the last moment when a person has already been in custody for six months before referral. And it is an educational experience to insist on a last minute brain scan, based on a very slight suspicion of organicity, in a youngish man, and to receive evidence of cerebral atrophy which provides grounds for a defence of diminished responsibility.

From the remarks made and from the nature of the cases it should be clear that the medical, psychiatric and social investigation of persons charged with homicide would benefit from a better coordination of services so that counsel and courts can be provided with evaluations of the standard that both the accused and the criminal justice system deserve.

A number of changes would facilitate for the provision of better medical and psychiatric evaluations. Firstly, the Prison Medical Service should begin to undertake complete evaluations of persons accused of murder. This will be easier for the Service to do when the planned hospital in the Malabar complex of prisons is completed and properly staffed. At the present time the shortage of full-time psychiatrists and the heavy case loads carried by sessional psychiatrists would make this difficult. Perhaps some consideration could be given to screening of selected remand prisoners to see if investigation should be initiated for organic mental disorder. With proper authorisation results of Prison Medical Service assessments could be made available to counsel for the prosecution and the defence.

Secondly, consideration should be given to instituting a system enabling persons charged with homicide to be seen by consultant psychiatrists reporting to the defence early in their period on remand. As so many cases are handled by the Public Solicitor it should not be impossible to provide some system for early examination. There should be no great difficulties if the case initially represented by the Public Solicitor is later taken over by other representatives chosen by the accused. Presently, one occasionally has the opportunity to examine an accused before the committal proceedings and this is a great advantage in many of the cases. Psychiatrists in forensic practice would welcome the chance to do this more often. It is important to note that persons should be fully informed by their legal representatives of the reason for psychiatric examination and the use to which its results will be put *before* they are seen by any psychiatrist.

Thirdly, the courts should maintain an interest in the quality and relevancy of the psychiatric assessments placed before them. The factual basis of reports, the extent of the enquiries and investigations carried out, and the time and effort put into the assessment, as well as any difficulties encountered by the psychiatrist in performing his evaluation are matters which should be of vital concern to courts.

Summary

Homicides committed by older persons have many of the features of homicide in general. Psychiatric disorder either caused by or accompanied by other medical and psychiatric factors in the causation of offences requires careful evaluation by psychiatrists and other consultants. It appears that many older offenders are given the opportunity to plead guilty to manslaughter. In some of the cases discussed the defence of diminished responsibility could appropriately have been raised had the accused gone on trial for murder.

Some recommendations are made about changes which would facilitate the carrying out of full and adequate medical and psychiatric investigations of homicide offenders. The case of older offenders provide excellent illustrations of the need for a high standard of medical and psychiatric investigation and reporting.

PRESENTATION OF PAPER

Dr. W.E. Lucas

What I have done in the paper is first of all give a reminder, if one is needed, that older offenders do commit serious crimes of violence. I say that we do not really know how many because although I looked at some statistics I understand they have since been updated. In the Bureau of Crime Statistics and Research Bulletin (No 6) there are 52 persons over the age of 60 in 1978 who committed offences against the person. However, there is no breakdown of what those offences were, but Dr. Sutton says that can be remedied quite easily.

Also, I wanted to indicate that homicide by elderly people is not all that different to homicide by younger ones. Usual motivations apply and people kill relatives, friends and acquaintances, usually during arguments. Also I indicate very briefly that firearms are used by old men just as they are used by young ones. Perhaps I should add a little more there, because this morning I was listening to the radio and Caroline Jones had a long interview with Professor Richard Harding and a couple of representatives of sporting shooters and the gun trade, and much of the argument was about registration and the use of firearms.

In my paper I do question as to what might have happened in the cases if firearms had not been readily available. Killings by firearms are overwhelmingly done by persons who have no prior criminal record.

I emphasised in the paper the role of social, medical, and psychiatric factors in the causation of homicide by elderly offenders. Alcohol, of course, played an important role in the cases I used to illustrate my point and perhaps we do not need much reminding that old men also drink. Someone once said that a man was a fool to drink before the age of 40 and a fool not to drink after it!

I made quite an effort in the paper to stress the importance of good psychiatric assessment of these offenders. All homicide offenders deserve a good assessment, but the elderly do illustrate the interaction of factors I mentioned before: social, medical, and psychiatric, and at the end of the paper I suggest a few things that may facilitate the carrying out of such assessments.

The offenders, whose case histories I have given, are a very select group. They were people who were referred to me and they were selected out of a large number of referrals, and so are not representative although they do illustrate my points. I have not included names in the case histories, and the initials are my invention, but I have not made significant changes to the facts. I would not want the case histories reproduced in the media.

In the paper I have not discussed other aspects of the contact of the elderly with crime and this contact may take many forms, some of which has been referred to by the speakers. One that comes to mind is that many elderly

people must, on looking back, realise that they showed an unusual talent for rearing criminals — sometimes they must wonder just what are the causes of lawless behaviour. I remember a patient of mine, who was not a lawbreaker, when speaking of her father who was a very staid, upright and successful businessman in a large country town saying "I wonder what he thinks when he realises he has raised a communist, a hippy, and a drag queen".

Another point is that many elderly people refuse to take a bystander role when crime is committed. I can think of two examples, both of them English ones. When I was studying criminology over there, there was a news item about some unfortunate young man who had robbed some government agency but had chosen pension day to do it. When he escaped and ran into the street he was set upon by five old age pensioners, two men and three women, who beat him to the ground and then sat on him until he was rescued by police. Shortly after that a 77 year old London motorist noticing a professional smash and grab gang at work leapt from his car clutching an enormous piece of timber which he kept there, just in case, and belabored their car to great effect as they made a rather staggering get-a-way. The whole regrettable incident was filmed by a Canadian tourist.

Elderly people are victims of crime and often unpleasant crime. However, there are a few old people I have known of who are not willing victims and who are not easily defeated. A 65 year old Russian man of my acquaintance of some years ago, of short stature, was taking his evening stroll in a park in Balmain when he was set upon by two young men in rather a savage fashion. He was an ex wrestler and built like a heavy duty 18 gallon keg (or its metric equivalent) and he raised both gentlemen from the ground brought them together with a ringing crash and deposited them unconscious under a bush and resumed his stroll muttering. "That's the last time they will pick on an old man".

But there are, of course, sadder occasions. I see very few victims, but a couple of years ago I did interview for the purposes of the assessment for compensation two women who had been the subject of sexual attacks. These were contrasting cases in a way and I will just give them brief mention. The first was 19 years of age and the second 55 years. Both received \$5000 by an administrative decision because no offender had been arrested.

The 19 year old girl had been attacked in a side street off a main street in a suburb in the evening and a man attempted to rape her. She handled the situation rather well and escaped without any physical injury of note. She came from a good family, she was a student. After the incident she had a lot of fears about moving around by herself and was very uncertain of herself socially. She restricted her social life and had very considerable worries about her future relations with men. Although a very stable and sensible young girl she was unable to talk to people in any detail about what had happened to her and about her fears. Her family were supportive, but she could not tell them very much. It was a very nasty experience but I think the long term outlook in her case was good. She was really quite an impressive young lady.

The 55 years old widow was in rather a different situation. She had had a long and happy married life, had a number of children and shortly before her husband died they had acquired a block of land on the coast. They had lived in the country and they were to build their dream retirement home. After he died tragically in an accident she felt that she would like to live there and she really wanted to complete their dream. By hard physical work and by a great financial struggle she did manage to build a place there, very isolated, very beautiful. She had some problems though. She was harassed by one of the tradesman she had employed or she thought that the tradesman harassed her. Somebody did anyway. The place was burgled and she lost some things precious to her and she felt insecure after this. Some time later, however, she arrived home one night to find someone there and he raped her, not particularly violently, but he raped her. From that time she was very depressed and insecure, and she was forced to surrender a lot of the independence she had recently gained, and also seek, or accept, the companionship of a male who was a nice fellow but in whom she was not really interested. She found that her women friends, some of them very old friends, were no longer supportive and, of course, they thought she was mad to live there in the first place. She was unable to get any real assistance from them. When I saw her she was very much alone, rather shattered, and, of course, her very important dream and independence had gone down the drain. Her new lifestyle had gone. She received \$5000 and a referral to see if some assistance could be given to her by social workers and psychiatrists, but I could see that no compensation would really do anything for what she had lost. I will leave it at that and take up any points that you wish in the discussion.

DISCUSSION PAPER

THE OLD AS OFFENDERS AND VICTIMS IN CORPORATE CRIME

T.S. Davidson, Q.C.
Deputy Senior Crown Prosecutor (Companies)

I have been asked to comment briefly on any special problems which may arise in relation to the aged in the context of Corporate Crime.

Victims in Corporate Crime.

As to the aged as victims few, if any, special problems arise which are not common to other sections of the community who are commercially uninformed or who, for one reason or another, are incapable of protecting themselves against fraudulent activities. There is included among the aged, however, many who have received a relatively substantial sum in the form of superannuation and other benefits which they will wish to invest in one way or another. If they consider investing in company shares, debentures or notes then information about these prospective investments, contained in prospectuses and other published corporate documents.

One of the basic principles of company law is that of disclosure, the theory being that the prospective investor, and creditor, of a company should have information about its financial strengths and weaknesses so as to enable him to assess for himself whether he should invest or not. To be forewarned is to be forearmed, so the theory runs.

It is debatable however whether this policy has given investors and creditors the protection which they need. For one thing the policy is to some extent self-defeating. To the extent that it requires more, and more detailed, information to be disclosed the less is it likely that laymen will be able to absorb and analyse it. So whilst the professional analyst and the institutional investor may be protected by the policy of disclosure, and appreciate its limitations, it tends to break down as a protection of the inexperienced.

Again, one aspect of corporate crime is that some of its victims appear to place a good deal of trust in information that is disseminated by a corporation simply on the basis of its source. There seems to be a vague idea that somehow the authorities have the power to, and do, prevent false or misleading information being given as to the financial affairs of corporations. Many people do not appear to know that "limited" or "proprietary limited" signifies protection for the entrepreneur and is a warning sign for the potential investor and creditor rather than being any seal or guarantee of propriety. Certainly there are statutory provisions designed to prevent abuse, but the legislative approach has to be balanced against the need to ensure that commercial enterprise is not stifled by over-regulation. So there is always room for the less than scrupulous.

If, therefore, the aged are to be counselled on the steps which they may take to avoid victimization by criminal activities then perhaps some attention might be given to the desirability of advising them to seek independent and competent advice before becoming an investor in, or a substantial creditor of, a company.

Offenders in Corporate Crime.

The aged as offenders are not unknown in corporate crime. This creates problems which are common to the administration of criminal justice generally e.g. in relation to disposition after conviction, and the extent to which age may properly be considered as a factor in the exercise by a prosecuting authority of its discretion to prosecute.

The corporate criminal, however, is usually a person in a position of trust with power of control and disposition over cash and other assets which are not his. This raises the question of the exercise of the discretion to prosecute in perhaps a more acute form than normally arises in relation to offences generally: To what extent should a person who voluntarily undertakes a position of trust be allowed to escape prosecution for dishonest abuse of his position? No doubt there would be few to assert that age is not a strong factor in relation to sentence after conviction but should this natural sympathy for the aged outweigh the public interest in exposing dishonest conduct of this kind in a prosecution?

Even where the company officer's honesty is not in question, the diminution of energy and powers which many of us assume to be inevitably incidental to the ageing process (balanced in part, no doubt, by increased experience) may create difficulties. For instance a company's board may consist of both executive and non-executive directors, the executive directors controlling the day to day management of the corporation and accountable to the board as a whole.

If the non-executive members of the board are not alert and energetic in supervising their executive colleagues, serious frauds may thereby be facilitated and go undetected. Although a company director is required to "use reasonable diligence" in the discharge of the duties of his office (s.124 *Companies Act*; c/f clause 229 *Companies Bill 1980*) the tendency has been to adopt a subjective test of liability for this provision which may not catch the director who has failed to exercise diligence simply because he is too old for the job.

This poses the question of whether there should be a compulsory retiring age for company directors and perhaps other corporate officers and, if so, how widely framed it should be. The question has in some part been answered by provisions such as s.121 of the *Companies Act* (see also clause 226 of the *Commonwealth Bill*) which selects 72 as the retiring age for directors of public companies and their subsidiaries. But apart from being limited to public companies, the provision is of such limited scope as to leave open for debate the question whether the law should not be more stringent in this regard.

COMMENTARY

T.S. Davidson, Q.C.

Having read the other papers I can appreciate that the comments which I make are very much at the periphery of this subject. However, I wish to make two points. The first is in relation to "victims". I noted in one of the papers that some work is being done in counselling our elders as to how they might escape victimisation in criminal activity. It occurred to me that if it is not already being done by bodies other than, for example, superannuation funds and so on, the elderly might well be counselled at the end of their working lives on the importance of seeking sound and appropriate advice before parting with their superannuation and long service leave entitlement. Although one has not got figures, and in the nature of things one could not expect to have figures, as to the number of people who are defrauded by fraudulent activities carried on through corporations one can assume, fairly safely, that a goodly proportion of them would be elderly people. Of course, these are the people who among all members of the community would find it the most difficult to make up losses of that sort.

The other point has, as I have written, been answered to a large extent by the legislature; it is the question should the community expect people who are directors and holding other executive offices in corporations to retire at an earlier age than the Act presently envisages, i.e. 72 for a public company and its subsidiaries. I think there is real room for debate in that area. Another debatable matter is that people say that the statutory retiring age ought to be limited to public companies because directors of proprietary companies are really there simply to represent the shareholders, and if the shareholders like to appoint people who are late in life to the Board of their company then that is a matter for them. But I do not think, and it may be there is some support for this view, that that is the end of the matter because proprietary companies have duties to others than their shareholders. It is more and more becoming to be recognised within the law that they have a very extensive duty to creditors as part of the privilege which they get in the way of limited liability under the law. It is also becoming recognised that proprietary companies, some of them being substantial employers, have duties towards their employees. I think it is a question for debate as to whether the law ought not to be amended so as to insist that people who are obviously by age not completely fitted for the task of looking after the affairs of proprietary companies ought not also be subject to some sort of statutory limitation.

DISCUSSION PAPER

Ethel Bohnhoff, J.P.
Secretary, Institute of Criminology

I should like to mention part of what appeared in Australian Law Reform publication *Reform* (1980) p127 as follows:

The NSW Legal Services Commission recommended in mid June a greatly expanded system of legal aid for children. It proposed that local committees should be established to offer a 24 hour advisory service. It also proposed that social workers should be engaged and rosters established to ensure that children arrested by police could always have prompt advice and support.

I suggest for consideration at this seminar that a far more comprehensive system of legal aid on a 24 hour basis including legal personnel be made available to older persons not only in arrest situations but of general scope. Courts are familiar with taking evidence on commission and with this precedent in mind the personnel engaged should have no difficulty in visiting the older person seeking their aid.

For maximum protection of older people ideally a legal aid service on a 24 hour basis with visiting personnel, a citizens police force, prepared to "walk the beat", and a victim of crime service would be ideal.

The reason for making this submission is that the papers presented here tonight make reference to declining health which cannot be avoided by older persons as a class making them particularly vulnerable to the reckless indifference to their resultant death or injury caused by another's aggressive conduct. Whether it be mugging in the streets, daytime excessive noise, "granny bashing", loss of possessions by theft or burglary etc. Actual death caused will assuredly bring the criminal justice system into full play. I seriously doubt the projected statistics to the year 2000 referred to by speakers coming to pass.

I have heard it said in reference to the naked exposure of such a vulnerable class more likely to die than not from aggressive behaviour "So what. They have had their time. What difference does it make". As a class older persons, I submit, deserve something better than an untimely death and ought not to be discriminated against because of failing health. Any conduct however trivial it may appear under current law which brings a person nearer to death and further from life ought not to go unnoticed, and ought to be the subject of criminal sanction.

DISCUSSION

*John Oxley-Oxland, Senior Lecturer in Criminal Law and Criminology,
Sydney University Law School.*

I would like to talk briefly about something which I regard as a practical answer to the problem of the aged as victim of crime. Some of the speakers have made the point that one way in which one could prevent victimisation would be to increase patrols by the police, both motor vehicle patrols and foot patrols. Of course, the trouble is that that is difficult to achieve, given the present financial circumstances. The fact of the matter is that not only are the aged being increasingly victimised, but others as well.

I live in the suburb of Turrumurra, and I know that it is not a peculiar suburb in this respect; but it is the one that I know something about. In the local newspapers there have been ongoing reports about such victimisation. For example, I have a newspaper cutting here from the North Shore Advocate Courier dated June 4th, 1980, reporting about vandalism in Turrumurra and what people wished to do about it. Briefly what people wished to do about it, of course, was to get the police in a more protective role; but, realising that this would be difficult, they were talking about forming vigilante groups. That type of thing is to be deplored because it would lead ultimately to some sort of localised anarchy.

Given the fact that we cannot really rely upon increased police patrols, what sort of practical solution could there be? I am a South African, and, although I know it is not accepted these days to introduce anything from that country into Australia except scientific achievements such as heart transplantation or the lowly dung beetle to fight the fly population, I would suggest that it might be a good idea to at least introduce one other practical solution which has been put into effect in that country, and that is the police reserve. It is not only a South African phenomenon, of course, it is used extensively in the United States of America; and it involves people like myself — still reasonably young and tough enough to do this type of thing — going on patrol voluntarily as an extension of the police force. That is not going to cost anything except the additional few uniforms and appropriate training, and I think it would be highly effective in preventing crime of exactly the type of nature we are talking about, crime involving victimisation of the elderly. At the same time it would help to protect other members of the community from the same type of victimisation.

Dr A.J. Sutton

When I referred to throwing the responsibility to the community I was meaning the necessity to create a sense of community in which people played a part. I would be reluctant to think that that involved the militarisation of the community. What we have to look for is not solutions which involve increased divisions between people but rather ones in which there are closer connections. We cannot simply take complex problems like the victimisation of people and increased fear of crime and expect a single solution. That is like

saying we want Armalite rifles instead of 303's and that they will solve all our security problems. These are one dimensional solutions. We live in an interacting, combining society and the symptoms which lead to fear of crime in Turrumurra (which probably on a statistical basis is somewhat unwarranted) are the same kinds of fears and circumstance which lead to fears in Darlinghurst (which are quite important and on a statistical basis) and I do not think we ought to really encourage single minded solutions which split society rather than cement it.

Chairman

Would anyone wish to start a discussion about the range of employment activities or other community activities open to the ageing? If people are to retire earlier we are going to have an ever increasing group within the community who are still active, still requiring some form of constructive occupation as Mr. Duncan put it to us. The industrial overtones of that have to be given some thought. Are there any comments on what society might do to provide a means for elderly people to participate in community work either in an employed sense or in a voluntary sense?

Dr. L.J. Mykyta Health Commission of N.S.W.

I would like to make a couple of comments (but not on the above topic) and ask Dr Lucas a question. My first comment is that I agree with Stan Duncan that we may not have the right data to redetermine to what extent the elderly are victims of crime. In my clinical experience it becomes very obvious that the elderly are great under reporters of all their problems, and on the few occasions when I have seriously suspected "granny bashing" I have not been able to prove it, because the victim has often been very reluctant to get involved in the legal process and make complaints against a relative etc. I expect that these types of crime are much more prevalent than we are currently aware of, and that this apparently high prevalence of crime in the young may be that the young seem to be the victims of more spectacular crimes.

At the present time I am becoming somewhat concerned about something that is possibly not a crime, but may well be akin to the corporate crime referred to by Mr. Davidson. The elderly are being attracted to a variety of schemes, particularly accommodation schemes, which are being provided by various fairly reputable organisations which do not adequately explain their rights to the elderly and, in fact, the rights of the situation are generally on the side of the organisation only.

The question I would like to ask Dr. Lucas is "What happens to the elderly psychopaths?" I am aware that some of the psychopaths that I have known and who survive middle age must have become elderly and I wonder whether they have become shining examples of citizenship?

Dr. W.E. Lucas

I prefer to speak about people with personality disorders with a pronounced anti-social flavour rather than psychopaths. But the nice thing about them is that some burn out sometime in their 30's and after that I am not quite certain what they are supposed to be.

I suppose in old age they become crabby old men. But certainly you would see few elderly offenders that you would think of in terms of being anti-social personality disorders or psychopaths or whatever term you would like to use. It is, I think, fairly well known that a lot of people you worry about earlier in their criminal careers disappear from view and perhaps they become private rather than public nuisances.

The Honourable Mr. Justice D.L. Mahoney, A Justice of the Court of Appeal, Supreme Court of New South Wales

This is after all an Institute of Criminology and it is therefore concerned, not so much with the black letter of the law, but with the way it is (or ought to be) administered and what it ought to do. With that in mind, may I speak on that group of the aged who are not the offenders but the victims of crime. After all, they are the majority of the aged who come into contact with the law, and who will be the majority before not too long of the community as whole.

I think the two reactions which the aged have towards the criminal law can be stated in two words, fear and irrelevance.

As far as the aged have come into the criminal law are concerned, I think their reaction ranges from a significant degree of apprehension to a great deal of worry and fear. I am not speaking of the person who is a victim of a crime as such: little need be said in that regard. I am speaking about those who come into contact with the criminal law procedures. For example, I had recently the experience of an elderly relative who had received a summons to attend jury service at one of the criminal courts. The degree of real apprehension that was caused to her was very considerable. I have seen witnesses who come before the courts. I am not often, these days, in the criminal courts, but in earlier days I saw a good deal of them and their coming to the court. Their apprehension and fear was something that was very real. Those of you who are more concerned with the medical care of the aged will be able to speak more directly about this than I. But if this is the result of the operation of the criminal law and its administration upon the aged, then it is, I think, reasonable to suggest that we ought to do something about it.

We spend a good deal of our time dealing with the impact of the criminal law upon those who are offenders. It would, I think, be reasonable that we spend a little more time these days on its impact on those who come into contact with the administration of it, as victims, witnesses, and the like.

This is not a new suggestion. In some of the courts that I have visited overseas, there are, for example, facilities provided to help those, particularly the aged, who do not quite understand what happens when they become involved with the processes of the law: there were, for example, in one court those who telephoned a witness who might be called in a criminal case, to speak to him about his coming to court, to arrange transport to the court, transport from the court, and so on. This is not a great deal to ask of our own courts in this day and age. We in the Supreme Court have been concerned, and very successfully concerned in recent years, with the provision of conveniences for classes of witnesses such as doctors and the like. I must confess that my own reaction is that people of these classes, though they are very worthy people to be the subject of our consideration, are rather more able to look after themselves. I think that there are others, such as the aged, who also have a call upon us, to help lessen the abrasion of their particular contacts with the law.

May I mention the second aspect, what I have called "irrelevance"? As I understand the objects of criminal law, one of its functions and not the least of them, is to maintain and (let it be hoped) build up a feeling in the community that the criminal law is a good thing and that it is to be obeyed. Thus, one of the functions of punishment is, as I understand it, to vindicate the law, to maintain the consensus in the community that law ought to be obeyed, and that it will be obeyed. By punishing offenders we help to achieve this. But I would hardly have thought that the best way to build up a consensus in favour of the criminal law is to put somebody down. I would have thought that a better way to achieve such a consensus would be to take those who may be upset or disillusioned by what they have seen of the criminal law and who may therefore not see it as being something which is of assistance to them, and to reassure them that in fact the criminal law works for them.

We seem to do very little in this regard. There is, of course, the growing interest in "restitution" in the criminal law: I was moved to speak today by the article in the *Australian and New Zealand Journal of Criminology*, volume 13, p.227, in which Mr. Duckworth summarises a good deal of the work that has been done in this regard. Mr. Whitrod spoke at an earlier seminar on this subject: see *Sydney Institute of Criminology Proceedings*, No. 45 (1980) "Victims of Crime" pp.37-50. But there seems to have been distressingly little done in this regard in relation to the aged and those of them who, either themselves or the members of their immediate family, have been the victims of crime. We seem to do very little to build up in them and their families reassurance that the law is there for their benefit and that it is something which will take care of them, help to redress the wrongs that they have suffered, and so on.

I do not think that this approach to the criminal law is "pie in the sky". It is being thought about, and something is being done about it, in other places: Mr. Duckworth's article refers to instances of this. The Chairman of the Correctives Services Commission, Dr. Vinson, has problems enough in dealing with those convicted of crime and I would not want to add to them. But let me make one suggestion. The aged are particularly sensitive about the

criminal law and the role it plays in the community. Their feeling as to the role of the criminal law and the success of it would be greatly improved if they had the assurance that those who committed offences, in relation to themselves or those dear to them, were made by the criminal law to contribute to the good of the community and in particular the aged section of it. For example (and I am not unappreciative of the difficulties that are involved), if those who are on parole or in the low security prisons were required to assist the aged and infirm in the community, I think that the face of the criminal law would, to this section of the community, be a very different one.

I have spoken rather longer than I intended in relation to this matter but I have had one or two recent experiences which have highlighted what I had said. I think that if we are going to make the criminal law an effective instrument in the community for the achieving of purposes it sets out to achieve, and to make it appear to be an effective instrument to that portion of the community which is particularly vulnerable, then we ought to make it be, and appear to be, more relevant to the aged.

Dr. A.J. Sutton

These comments raise the inevitable conflict in the law between its concern for the welfare of individuals and its need to inculcate that respect for the law which supports the stability of social organisation in society, and there is no way of that conflict. Over recent years there has been some movement towards increasing the communicability of the courts, increasing their concern for welfare and individualisation in respect of sentencing.

Clearly such measures do not apply only to the aged, other vulnerable groups include migrant people and people who do not speak English very well; the young, particularly the unemployed young, and those that come within the ambit of the law and then find it difficult to escape from it. These groups all have the same problems. How do you increase the communication of the court, how do you explain how it works, how do you show it is just, how do you provide for individual requirements and differences? Despite the existence of many police officers, magistrates, and judges with a great deal of concern for the individual, there are many others who have a concern only for the legalities and for applying rules and measures across all individuals.

At the moment there are changes in the design of courts. This is slow, and many are not designed adequately, but there must be some regarded as at least a step ahead e.g. the changing design of the courts of Petty Sessions in Castlereagh Street. We have been involved in the Bureau in the preparation of a seminar for magistrates to be held at Mitchell College where we are looking at some of these issues. The Law Foundation is looking to direct a lot of its activity to access to the courts and the law, and that is potentially a valuable project. The police are beginning to look at the question of employment of women in the force and their use, at the police treatment of domestic issues and so on and to the broadening of their training. There is now concern for victims of crime through compensation, there is discussion of restitution. In the prisons we see the implementation of the Nagle Report with

many concerns for the individual. Now, these changes are perceived by many in the community as weaknesses. One approach which may appeal to those who emphasize firmness *and* those who wish to see more social concern in the law is the development of Community Service Orders. They might provide some of the work which the Judge just spoke of which is visible in the community and also be seen to have an element of "just deserts" that some regard as being essential to the administration of the law. What I would like to see is a change to show that integral to the law is its communicability and its concern for the welfare of the individual, just as integral as the necessity to provide justness and firmness in the control of society.

Penny Nelson, N.S.W. Anti-Discrimination Board

I only want to ask a question. I am disturbed that no one has taken up the question asked by the Chief Justice about what the society intends to do about the increasing years of active life for the elderly that the community will face if the proportion of ageing people is to continue increasing towards the end of the century. Our Board has just released a report "Discrimination and Age" which does point out the great vulnerability of older people to unemployment, the fact that the greater unemployment in that sector does not lead to greater availability of jobs for younger people, and the fact that because of the poverty of older people they are also the disadvantaged in accommodation.

But I would like to turn the Chief Justice's question back to Stan Duncan and ask what people in the Council on the Ageing see as a positive answer to the occupation and contribution of older people in the community?

Stan Duncan

I have been quite vocal lately both in the media and personally in trying to advocate that there should be employment opportunities for the aged, and it is a very significant thing the number of elderly people up to 75 years who phone me wanting jobs who are simply bored with retirement. It is very, very true that this compulsory retirement is something that we have got to look at. We are doing a lot of work on it at the moment.

One of the things we advise people is that pre-retirement education is just as important as any other education in your life. I think it should be available for the whole community. People should be able to plan and think about how they are constructively going to spend perhaps a third of their life in retirement. This is what is happening at the moment. People are retiring and they do not know how to cope. They tear off to the various glamorous places. The sensible thing to do is to go away and find out what it is all about first, before making a positive step of moving. Particularly should it be noted the sad and serious situation of the people in Surfers Paradise when one spouse dies and the other person is left in a high state of depression in these high rise buildings. The suicide rate up there is particularly high.

I return to the point that pre-retirement education, and certainly part time work, for elderly people is a "must" in this community. I think this has got to be related to Commonwealth government regulations which allow people to earn an income even if they have to pay taxation instead of restricting the productivity of people through stupid government regulations which are quite archaic.

Chairman

Another topic that has been touched upon once or twice in what has been said is the effect of fear on the elderly people who are victims of crime. I tend to think that there is a great lack of awareness in the community at large on the effect of crime upon the victims. A recent Four Corners programme had a segment on Crime and the Aged. It showed very graphically the destruction brought about to the whole lifestyle of two groups of elderly crime victims and brought into sharp contrast one of the offenders, a young man who had obviously given no thought at all to what he was really doing to the victims of one of those particular crimes. It was a straight break enter and steal but he had destroyed their lifestyle, destroyed their sense of security. They lived in fear. The contrast came through very strongly between the tragedy of the elderly people whose life is translated into a life of fear and the total lack of awareness or appreciation by the young offender of what he was doing when he broke and entered. I think there could be a greater community education, not just related to the elderly, but a greater community awareness could be fostered through the media of the horrors undergone by the victims of crime.

Dr. Lucas has told us of two rape victims a 19 year old and a 55 year old. We see them in the courts all the time. In fact from a judicial point of view one sees the horror of what has happened to the victim of crime, and one sees also the powerful subjective situation of the criminal who is in court to face the solemn administration of criminal justice upon him. It is the balancing of those two things which is really at the heart of the judicial process when it comes to sentencing. But the community at large does not see much of the victim.

We read a great deal about the sensational crimes — the bank robberies, how much money is taken away and so on — but I do not think the community is presented with a balanced picture such as to generate a sense of community awareness of what crime does to the aged, a sense of community abhorrence of those who prey upon the aged. I feel that perhaps something could be done by way of encouraging the media to follow the lead given by Four Corners television segment of pointing up the tragic effects upon old people who are the victims of crime.

Mary Elliott, Senior Research Assistant, Institute of Criminology

Chief Justice, I saw the programme on Four Corners and am very interested in your comment on it. Actually I was quite horrified by this

programme. I felt that it was a very highly over emotional treatment by a serious programme, Four Corners, that usually does a very restrained and thoughtful comment on a situation. I do not question for a moment the fact that the elderly are in fear and we have had many examples given at this seminar about fear that the elderly feel, particularly of the young. I think that this is endemic in society anyway, and also the other way round. There were segments in the programme in which there were scenes of glass being smashed interposed with comments of the old lady in bed and so on. I happened to have a number of people there with me to observe this programme, and when asked to comment about the young man or whoever does all these things naturally said "Put 'em in prison for life." "Bring back the death sentence." That was the emotional response to that programme of a number of people who are not experienced in subjects of crime and justice, and who are not in the courts every day like many people who come to these seminars. I think that if we are going to get the fear out of society and the fear of crime out of people, and by that means diminish the incidence of crime, then we do not enable the media to do that kind of thing, and to put headlines on the billboards every day about the incidence of crime to whatever group it is. It can be babies, it can be women. I do not think it is usually young men that they say are suffering from heavy input as victims of crime. I did feel quite upset by that programme in view of all the work that is being done in the Institute and elsewhere to try to diminish the emotional content of crime and to look at it objectively.

My final comment concerns the reaction I had when I rang up the media about this seminar. Number one — they are not terribly interested in the old. This is an empirical fact even though it is Senior Citizens' Week. Mr. Stan Duncan and I have been trying to do this publicity, and perhaps he will confirm for me (or he might disagree) that it is difficult. When I was trying to explain that the title of the seminar was "The Old as Offenders and Victims of Crime" in reply to the queries when I said "*Offenders*", the reporters said "You must be joking!" I just add that as a social comment.

Let us not make people of any kind into a group. I think we have had intimations from the platform that the old are not a group. Some of them are as tough as nails, others are very fragile, some of them like all of us, men, women and children, old and young, need protection. Do not let us make sects in our society so that we ignore the real total and whole problems.

Chairman

Perhaps we should be encouraging exposés through the media such as were dealt with through the television programme. I accept readily the weight of the other point of view.

J. M. Callaghan, Stipendiary Magistrate, N.S.W.

In regard to the *Criminal Injuries Compensation Act* I wonder if Dr Sutton can tell me if the number of payouts is increasing and is it becoming more used? I find I can make an order for compensation but then there has

been no action taken to collect, or if there has been action taken to collect, the offender has either gone into gaol or managed somehow or other not to have received it. Would the victim under those circumstances then qualify for the *Criminal Injuries Compensation Act*? I feel from talking with our clerk and others that there are not as many applications under that particular Act for compensation as there should be or there could be. For many people where it is a matter of a few hundred dollars only, they may not consider it worth the trouble.

The second question is to Dr. Lucas and it concerns people being upset by some crime which has been committed against them. For instance a woman has lost her bag. There is not only the loss of the dollars, credit cards and other contents of the bag, there is this residual fear of not wanting to go alone to the shopping centre and return. I want to know is there effective community aid that can be given to a semi-isolated individual — one who has probably a daughter in Victoria, somebody else somewhere and who tends to basically look after herself and has not immediate family back up — to overcome those particular fears?

The third question that is a particular worry to me is whether or not in the case of a woman with a number of problems one should use the resources of the Probation and Parole Service as a backup rather than suggest a local community welfare service that might be able to assist. You nearly always find that people under those circumstances are not *semi*-isolated, they are really isolated. This can still be within a family situation but with a husband who is not particularly understanding because he may have his own problems such as recent retirement and not much money but still expecting to be able to do all the things that he used to do when he had money. The wife is not able to manage on less and there is always that temptation to actually take something. It is cheaper that way. There is an isolation within the family. It has always been quite a problem to know whether you involve the family, whether you try to get the thing resolved, or whether you fine what you think the shoplifter can afford, or put the women on a "no condition" bond, and hope to goodness that the fright will be sufficient to stop any further offences — I suppose this is so 99 times out of 100. It is sufficient to achieve the immediate objective.

But then, what do you do about all the residual fears — the guilt, the unresolved family conflicts? Should the law become involved or is it just a community worry or a social worry?

Stan Duncan

First to answer the question "What do you do about getting immediate supportive help for somebody with a problem?" As you know the Health Commission has Community Health Centres spread throughout the State and they are staffed with very competent social workers ever ready to support anybody with these sorts of difficulties. They do a tremendous job, and although being cut down on funds they will still try and help. I find they are a very effective source of supportive help in an unofficial way. There is none

of the authoritative aspect, and having been a Probation and Parole officer I know how people can react unless there is a court order. I agree with you that where you have some family problem whereby the woman says "Don't tell my husband". I think the cooperation of the family is a must. I know it creates problems and I know magistrates have great difficulties in making these decisions. I remember having to complete pre-sentence reports without any consultative effort with the husband at all. I do not feel that these were effective reports, and I think that the whole family should be involved in offering support to anyone in any difficulty.

Dr. W. E. Lucas

On the question of the fearfulness of someone who has been a victim Mr. Duncan has largely directed your attention to services provided by the Health Commission which are readily accessible. Certainly investigation by social work staff may enable someone who is fearful after an offence to assess the actual risk realistically, make changes in their lifestyle if necessary and the agency can provide support while they readjust.

On the other question of mobilising the families, I have always been very impressed by the high degree of guilt by particularly middle aged or elderly female shoplifters (first offenders) and to the extraordinary lengths they go to, successfully as a rule, to avoid letting the family know. They go to court, see psychiatrists and Probation and Parole Officers, and somehow the family never notices this change in their routine. In many cases I think the family should be involved but some offenders make what I think is a realistic assessment of the situation, i.e. if you are going to get a bond for shoplifting there is no need to get marital disharmony and possibly a divorce as well. I think you have to be flexible about this, but certainly family problems are often at the root of these cases, and if you can involve the family so much the better.

Mr. Pike brought up the information from South Australia about proposals to deal with older offenders in a slightly different way. I think some discussion on that might be of some interest. I do not want to contribute to it myself at the moment but certainly the problems older people have facing court for relative minor offences is important.

Another thing I did not mention in my paper is that of the six men charged with murder only one was on bail. He happened to be the chap who did not have any medical or psychiatric pathology, and he caught the train down from where he was living and had a chat with me and his solicitor and went home again. All the others were in custody, and at least two of them would have been better placed in a general hospital rather than in prison, and could quite easily have been on bail. It is much easier to do assessments of people who have freedom of movement on bail and who have a wider choice of medical consultants and medical institutions.

Dr. A.J. Sutton

Let me put a more concrete picture on to what you might do about fear of crime with the elderly. Let us propose what might be a suitable environment in which elderly people could live. After all, most of us in the community live in comparatively isolated circumstances with respect to relatives and so on. The day of the extended family is gone. Perhaps that is good, but the point is that we do live in a community and one would hope that people as they grew older could continue to live in a community in the same way as they did before, but perhaps with some of the supports that they had from children extended from other members of their community. There are places in Sydney where churches and councils and other organisations have built flats rented or owned by older people which are close to shopping centres which contain plazas where it is seen as safe to walk and where there are nearby community aid centres. These probably do not open long enough but could be induced to do so or provide a phone-in service where volunteer services are provided by the younger members of the community who can go to the aid of such people. One could imagine that this could be backed up by some federal government support through telecom, through the provision of telephones at a much cheaper rental and rate to elderly people, so that everybody who was older had access to a telephone either in their house or flat or in the immediate vicinity. Similarly, in such areas buses could travel regularly and frequently from well lit bus stops to the city, and subsidies could be available for travel so that the poorer people could travel on them. Again, our hopes for a community where the provisions for transfer payments to elderly people are such that people who are in particular bad circumstances did not suffer; and where there is a service available for people to explain and help those who suffer victimisation of crime. This might help to reduce the anxiety of those who have seen crimes about them and of those who have seen crime horrifically represented in the paper but in fact have very little bearing on what they do, e.g. the murder of a person through a domestic dispute which appears then to be likely to threaten everybody in the community when in fact it obviously does not.

All those things could be built into our existing social structures and in many cases the basis of them is there. They need support and they need development and they need to be supported locally on a community basis. That sort of atmosphere reduces fear of crime: you can walk around the streets and feel secure; this is your place; there are people you know who live nearby; there are telephone numbers that you can ring up and get instant support; there are sufficient and adequate public services to back up that support. Those are the practical steps that need to be taken. You cannot pick them off one by one and say do that and it will all be right, and do this and it will be right, it all has to be locked together. For the elderly that is particularly important because their mobility is less, their freedom of movement is less and their economic circumstances are more difficult.

Don Weatherburn, Lecturer, Department of Social Science, Mitchell College of Advanced Education

I would just like to return to the question of separating the aged out as a group. Mr. Pike mentioned earlier that there were certain mitigating circumstances which might make us treat the aged somewhat differently in sentencing compared with the young. I think that if you look at those circumstances in a strictly causal sense, i.e. certain social circumstances contributed to their committing of the crime, you would find that exactly the same was true although the circumstances might be different in respect of younger people committing crimes. It is therefore arbitrary to allow the people who are, say, older, on those grounds alone the benefits of not having the full application of the law in the strict sense. All I am trying to argue for is that it would serve our purposes better to be more consistent in the application of the law in that regard.

I.H. Pike

Of course, one advantage which the aged have and the young do not have, and that is a long life time generally free of convictions. In sentencing the elderly that is one matter that can be taken into consideration, only for them, and not for those who are younger.

Sue Schreiner, Stipendiary Magistrate and Coroner, N.S.W.

I think the point is relevant that perhaps the legal system is not the only solution. A lot of the problem is an abdication of responsibility, for whatever reasons, by families. Sometimes there are very good reasons, but sometimes there are not. There are many cases that we have seen, for example, where there have been widowers or widows who live alone. They have families who are married and their sons and daughters have children, but one has the sad circumstance, for example, of an old person who lives alone, has the telephone, has neighbours and friends, and dies and whose body perhaps is not discovered for some three weeks. In a recent case the body was lying for three weeks in the house, and it was not until after that time that the body was found. That person did have a family. There have also been other cases where people do not have close relatives and are dependent on friends and neighbours, and there are some people who die and no one knows them. They are old, they are unidentified. I think that no matter how many community services are available they will never be able to fill the gap that a loving person can provide, and I think to try and look at the problem solely as a legal problem or as a social problem is not the answer. One has to come back to basic family situations.

Chairman

In regard to Mr. Callaghan's question on the availability of statistics in respect of orders for compensation, I do not think any of the main speakers has those statistics, and I am not sure if anybody else at the meeting has them.

I was intrigued to note in Dr. Lucas's paper that in respect of each of those case histories he did not actually say what the sentence was. Having read each one I wondered what the man or woman involved got, but I suppose that might have been risking identifying the particular case and could have had consequences elsewhere.

Dr. W.E. Lucas

The sentences fitted the cases and were fairly kind.

Steven Davidson, Department of Attorney-General and of Justice, N.S.W.

Efforts are constantly made to publicise the Criminal Injuries Compensation schemes and we are meeting with success. We have a 40% increase in the number of claims per annum at the moment, and this year we will pay out in excess of \$2,000,000. Last year we paid out \$1,000,000, so there is a big increase in the number of applications and also in the payments.

Also we constantly distribute brochures. We sent out 15,000 brochures to court houses, police stations, hospitals, legal aid agencies, etc., and some of these we hope will get through to the aged. We have not any statistics on the aged unfortunately, but I would think that, as with all other studies, there are less percentage of aged victims who are claiming compensation than who are actually in the community and who are probably entitled to claim.

Professor Gordon Hawkins

One of the interesting things about this seminar from my point of view is that last year rather unwillingly I came into the category of an aged person myself. I attained the age of 60 which by Mr. Pike's definition puts me there with the "old folks". So I am not just one of the people who helped to organise this seminar but I am part of the problem. Mary Elliott said quite rightly, of course, that it is very dangerous to generalise about old people — some of them are tough and some of them are fragile. I am a bit of both. I tend to be fairly tough around this time of the evening but early in the morning I am frequently pretty fragile. I am also both a potential elderly offender and a potential elderly victim. I do not know which category I am most likely to come into; maybe both.

There was a case I remember many years ago when I was in the United Kingdom. An elderly man who was about 68 was charged with rape and he said he did not know how to explain this "terrible moment of lust". Actually I may say that these terrible moments of lust are less frequent as you get older. Perhaps he was lucky in some respects. Anyway he came before Mr. Justice Thessinger. Thessinger, J., said to him "There has been evidence that you suffer from a heart condition and I think I ought to warn you that you should be careful about indulging in this kind of conduct as you could be liable to die in very unfortunate circumstances." He gave him a two year suspended prison sentence. I hope not to come into that particular category but it does add a certain amount of interest to a seminar of this kind when you are in a sense part of the subject matter.

I was particularly interested in Mr. Duncan's excellent I thought very comprehensive, very compassionate and quite moving paper and what I want to do is to ask him a couple of questions. He says on page 1 of his paper that a lot of the offences against the elderly go unreported. Now what I want to ask him in that connection is this. It is of course true that a lot of offences of every kind go unreported. I think Professor Radzinowicz estimated that no more than about 15% of actual criminal offences ever get processed through the criminal justice system and we know that under reporting of crime is widespread. But there is also over reporting in certain sectors and in certain circumstances, and some of us elderly people I may say, are not at all reluctant to complain to the police. In fact we do not always wait to be victimised before we get down to the police station and some of us become quite well known as complainants to the police. I wonder whether in any of the victimisation studies that have been done there is any break down in respect of age? Whether there is some evidence from the victimisation studies that crimes against the elderly are under reported to a greater degree than crimes against other people in other age groups? I have not come across that sort of evidence myself.

Secondly, Stan Duncan says "I have grave doubts that early retirement will mean more jobs for the young. Just the reverse". I do not know whether that is true or not. I would like to believe it is true, but I think that Mr. Duncan could have a good deal more to say about that than he has said in his paper and I would like to hear it.

Dr. A. J. Sutton

In the Australian Bureau of Statistics Survey which was fairly comprehensive they did ask people whether they reported the offence or not to the police and the result was as follows. Men were 1.4 times as likely to report an incident to the police as were women, and persons aged 20-59 years were more likely to report an incident to the police than either younger or older persons. Persons aged between 20-59 years reported 36% of incidents to the police. While those aged under 20 and over 59 reported 24.6 and 25.9% respectively. It is true, therefore, that older people do report less to the police than persons between 20 and 59, and in general people on the average report in the region of 30% of the incidents which they claimed in the survey. Mostly their reasons for not reporting are that they are too trivial, or that the police could not do anything about it.

That seemed to be more or less constant over the age ranges. One might also ask about the survey, since it was a sample survey, whether the people who reported an incident were all those people who they picked in the sample who actually suffered incidents and I suppose there is a certain percentage of non-response to the survey of incidents. But it was fairly carefully done, as is characteristic of the Australian Bureau of Statistics, and it was a large sample and the results are so consistent with studies in other places. I think we can take it that these are reasonable figures.

Chairman

The other aspect Professor Hawkins raised was the significance of early retirement on the job situation and perhaps that might open up the topic which I just gently trailed my coat on earlier — that is the significance of the return of some of the elderly to the workforce on a part time or less than a fully remunerated basis — a matter that has some delicate political overtones.

Stan Duncan

I have done a fair bit of study on the discouraged group of workers in our community, those over 55 who have been made redundant through no fault of their own but through mergers, bankruptcy and technological changes. It has been my experience in interviewing these gentlemen who have come to see me to help them get work, that because they have had to leave through redundancy a young person did not take their place nor was a young person promoted to replace them.

I do not think there is a shred of evidence to indicate in this community that early retirement creates one more job for a younger person. If I may I would like to ask an officer from the Anti-Discrimination Board to speak on the excellent report called "Discrimination and Age" produced by the Anti-Discrimination Board.

M/s. M. Roberts, Anti-Discrimination Board

We did not do any fresh research on the workforce participation rates of older people. We relied on the A.B.S. figures. It is probably very difficult to say whether the lowering of the retirement age will have a significant impact on the employment opportunities of younger people. What we said in the report was that the sort of jobs that older people would be leaving, if you forced them all out of the workforce, are probably not the sort of jobs which teenagers in particular are qualified for. Generally speaking older people would be in jobs requiring more experience. You would expect that.

The A.B.S. figures show that there has been a very dramatic drop in workforce participation for men particularly between 60 and 65, and also over 55, and at the same time there has been an increase in unemployment amongst the rest of the population, particularly teenagers. This suggests that there has already been a drop in retirement age and that has not seemed to have any effect on unemployment amongst the kids. But the most important point is that if you are going to, say, solve the problem of youth unemployment by dropping retirement age, you are really just transferring the problem of unemployment between one group of people i.e. teenagers, to another group of people i.e. old people. Particularly for men under 65 and women under 60 when there is no age pension available. Even where the age pension is available, I think it is difficult to say that that is adequate compensation for loss of employment opportunities. I just think it is the wrong approach to try and play one age group off against another age group.

Glenn Bartley, Barrister-at-Law

I would just like to comment on the compensation aspect of the comparative justice question raised by Dr. Lucas's two examples, namely, the 19 year old attempted rape victim who was awarded \$5000 under the Department of Attorney-General and of Justice *ex gratia* scheme and the 55 year old rape victim who was awarded again \$5000 under the *ex gratia* scheme. It appeared from what Dr. Lucas said that the injuries of the 19 year old were less severe in all the circumstances than those of the 55 year old, and whether or not justice was done it cannot really be seen. The problem in that regard is that payments are made under the *ex gratia* scheme by anonymous departmental officials operating behind closed doors on the basis of information which is not known. The reasoning by which they come to their decisions is not known, the considerations they take into account are not known, the considerations which they reject are not known. Many victims send submissions along with their statutory declarations, and which of those submissions are accepted or rejected and for what reasons are not known.

It might perhaps be desirable to resolve those questions of comparative justice so that justice will be seen to be done, and for determinations of the quantum of compensation to be made in open court or before a Tribunal where the victim can see what is going on. The *Justice Act* is complied with at present when applications are made to courts by victims, but I would submit the *ex gratia* scheme should be abolished and the functions of these anonymous departmental officials should be transferred to a District Court judge who could make determinations, or perhaps to a Tribunal which would take over the compensation functions of all courts. It should be brought out into the open, in my submission, and the secondary benefit would be that victims would be able to get their experiences off their chest. Not just victims whose assailants are at court, but victims whose assailants have escaped or are dead. I found that victims come out of court after a compensation application relieved because someone finally has listened to what they went through. That would be a secondary benefit of giving the *ex gratia* victims the opportunity to say what happened to them, but the main reason, I submit, is that justice can be done and seen to be done.

As has been mentioned the amount of compensation paid each year is increasing, but I would suspect that that would be partly due to the recent increase in quantum from \$4000 to \$10,000 in 1979. Whether or not a victim in court is entitled to compensation is often a very haphazard matter and these questions were raised in much greater depth at the last seminar (see *Syd. Inst. Crim. Proc.* No 45 "Victims of Crime") I will not go into detail, but while more victims are being paid more compensation and while the aged would be among the recipients, whether or not a victim receives compensation depends on whether various technical hurdles are jumped over, which have nothing to do with the extent of the seriousness of the injury. There is still a great need to make the crime compensation schemes in this State adequate and efficient, so that both the aged and members of other age groups can benefit from it. As Dr. Sutton mentioned there is a lot more concern being expressed in recent times, but I would submit that that has not been reflected to any adequate extent in legislation.

A. M. Reidel, Stipendiary Magistrate, N.S.W.

I do not think that there is anyone here tonight who would cavil at the proposition that both the victims and the offenders amongst the aged merit some consideration and assistance in most cases. I have seen both before my court and I think some support could have been available in both instances.

I read Mr. Duncan's paper with considerable interest and I found it most informative and most constructive. With Dr. Sutton I agree that part of our problem stems from the breakdown in the extended family, and the picture which he painted of a sort of group existence, close to shopping plazas, with good transport subsidised and so forth is perhaps ideal but a little unrealistic. Governments today do not have unlimited funds, and any government has to consider the claims of all sorts of groups, not just the aged, but ethnic groups and other disadvantaged groups within the community.

Within the group of the aged is a lot of expertise in various fields; Mr. Duncan is a living example of expertise which he is now applying very constructively and there must be others. There must even be some retired magistrates amongst them who might be able to make some contribution. It was a little surprising to hear Mr. Duncan making a strong point about the means test and the aged working, which seemed to infer that the aged are prepared to work but only on a remunerated basis. I would have thought it might have been sufficient if the aged were prepared to assist in these areas of need without reimbursement. That still would not take care of all of them with all their spare time, but perhaps Mr. Duncan might like to comment further.

The other aspect which a little surprised me in his paper is on page 46 under the heading "Courtwatch". This is a concept which I thought had not been noticed in Australia. In the United States I understand that Courtwatches are a definite phenomena in which the behaviour of those associated with the courts are monitored by interested parties in a way to perhaps make judges, magistrates, court officials and others perhaps behave properly in that situation. I am just wondering if he has any evidence to suggest that courts consciously, or unconsciously perhaps, are "doing the right thing" by the aged, be they offenders or be they victims.

Stan Duncan

I made great play of the fact that I believe the aged want to do productive work mainly to boost their income because inflation has caught up with the aged, probably more than any other section of this community. They still have very heavy expenses. In Sydney you will find hundreds and hundreds of beautiful old homes falling down for the want of repair because people do not have the liquidity to repair those homes, and governments are not doing very much to help. But against that I would make the point that the aged are doing a tremendous amount of voluntary work. The number of older people serving on "Meals on Wheels", in local organisations, and helping out in sporting bodies and local groups would absolutely amaze you. This is the type

of help we are getting at the Council on the Ageing. We could not operate that organisation without the volunteers — I have a 75 year old shorthand typist who would beat anyone in Sydney. She is a brilliant lady who enjoys working and she does not get remuneration. I would make the point that there is a lot of voluntary work being done, and I was not being mercenary, but I would also make the point that I believe a lot of people would still like to work but are stopped by rather ridiculous pension restrictions.

In terms of "Courtwatch" I would suggest I have had a lot of experience in court over the years, and I must say it has been my impression that some elderly people who are involved either as witnesses in courts or perhaps as defendants in courts are sometimes lampooned, and are often treated in a very cavalier fashion. I think this situation should be corrected. I just wonder because a person is old whether he or she is getting the dignity and the treatment they deserve. There is a thing in this community that we are trying to stamp out called "ageism". I think the courts are as guilty of that as any other section of the community, in some cases not paying the proper accord and respect to that older person. I think "Courtwatch" not a bad idea. Quite respectfully I submit that judges, magistrates, court prosecutors, Crown prosecutors and police are all at some time in their life guilty of getting a little bit slack on the job, and I think that we citizens should be doing something about it.

Dr. L. J. Mykyta Health Commission, N.S.W.

I feel obliged to make some slightly controversial comment about the extended family. A number of people have referred to the desirable "good old days" when we had the extended family. I would put it to the meeting that those "good old days" probably never existed. There is very little actual evidence that the extended family, as idealised by people at the present time, was ever a fact. The presence of a large retired group within society is a new phenomenon. Dr. Sutton quoted some figures, and as a society we are facing a new problem, one that society has really never had to face before. The implication of there not being extended families at the moment is that family members do not care for each other. Again, what evidence there is suggests that that is not true. The available evidence suggests that family members do care for each other just as much as they ever did, and that people within our own largely Anglo-Saxon society care for each other just as much as people in the cultures we tend to idealise. There is no use looking to the past for solutions. We have a modern problem and we are going to have to solve it for ourselves.

Stan Duncan

I would like to say that I think one of the misconceptions in our community is that the aged are a dependent group of people. We are not. We are a very independent group of people and we do not depend on our families for support at all, we do not want to. We want to be quite independent. We want to be self starters and we want to do something ourselves. We are quite capable of organising ourselves. It is just a matter of getting organised.

Statistics show in Australia that only 5% of the aged ever become dependent through disabling diseases, only 3% are institutionalised, so the rest of the 95% get by fairly well, possibly with a little bit of support from the community. But we do not want support from our families, we are an independent group and we want to be treated as such.

One of the sad situations I think in our community at the moment is the break down in migrant families in our Australian community. Migrant families are breaking down in their relationships much faster than Australian families, and the aggravating problem here of course is the lack of English language.

I. H. Pike

It seems to me that there has been perhaps more consideration given, probably quite rightly and properly, to the aged as victims rather than as offenders, but I would like to think that all those present did give some consideration to those matters raised by Mr. Manos the Supervisory Stipendiary Magistrate from South Australia. In particular, the fact that in South Australia so far as any shoplifter is concerned arrest is rarely used. Indeed, I can see no reason why if a shoplifter is detected and if there is evidence of identity and address why some means other than the trauma of arrest should not be used. It is, of course, a matter of fact that to arrest a person is a much more efficient way to get a person before the court and, in addition, less paper work is involved. I would not like to think that it was the ease of arrest compared with some other system which forced people to be subjected to this sort of trauma.

I am a little disappointed that apparently my research is not very good so far as the extended family is concerned, as it has been suggested that there is no such thing as the extended family. Just before the seminar started I was speaking to Dr. Sutton about the possibility of a small research programme undertaken to see whether there was any difference in the number of offenders detected from an extended family situation compared to those who are not in an extended family situation. It has been my experience that I have not had many elderly offenders appear from those families which one could call the extended family e.g. Mediterranean families where the elderly people are still living with other generations. Of course, I think it is reasonable to suggest that the extended family, even if it does exist in some pockets of the community, certainly will not exist before very long.

I would, perhaps, to sum up add that a lot has been said at this seminar about whether or not the elderly have been given every consideration and kindness in courts. I am reminded that a very long time ago an elderly gentleman of 75 was sentenced to five years imprisonment by one of our former judges. The elderly gentleman said "Your Honour I won't live five years" and the judge being very kind said "There, there don't worry, just do the best you can".

Dr. A. J. Sutton

We have talked about the elderly as perpetrators and victims of crime. As perpetrators they are not in vast numbers but they do appear in shoplifting cases and they are in some senses a special case as Mr. Pike said. They do get some special treatment, but surely the shoplifting represents the ultimate response to alienation from a consumer society and obviously ought to be thought of from that point of view, not forgetting that it is in fact a crime.

As victims the elderly fear crime because they are more vulnerable and they are less supported in the community. It is not so much a matter of looking back to extended families, whether they did or did not exist, because we are not, dealing with that situation now. Far from being unrealistic about community supports I would have thought I was being super realistic, and those who suggest or implied that the existing social structures of court, police, church, and State could supply us with the kind of identity that we needed in a difficult time were being the unrealistic ones. These major social institutions have never provided services adequately except in times when the population was one tenth of the present size. They are providing them less and less in times when the population is greater and when the economic conditions are more difficult and where governments are providing less financial support. Under those circumstances there is little alternative but to decentralise the provision of services and make individual people more responsible within the community, and to provide the kinds of ad hoc services which are increasingly being supplied. In fact these services are being leapt upon by governments because they are cheaper and, when they are done well, they provide the network of support which will be necessary for elderly people and for all of us in the community in the future. I think that the police could play an important role in that. That was one of the main things that I wanted to emphasise in that supposed idealistic but what I regard as wholly realistic concept that I was putting to you i.e. the police as people who know the community and are a part of it, also ought to play their part.

Dr. W. E. Lucas

Thank you, Chief Justice, for reminding me that I did not mention the sentences. The reason for that was they were not recorded in my files because people do not tell me — I have to ring up and ask or read the newspapers. Most of them I think had minimum sentences with a non-parole period from 1 to 3 or 4 years. One case, Mr. X, after I had interviewed him I did ring his solicitor and say, well, the bad news is that he does not have any defence based on psychiatric grounds, but the good news is that with his health and his family history of longevity he can easily fit in 15 years of a life sentence and have quite a lot left over. He had relatives around the 100 year mark.

I think it is justifiable in some ways to separate the elderly as a group. The same way as we separate other groups in the community who are at special risk for certain problems. If you have had a life free of crime and suddenly offend at 50 or 60 years of age people who see you should be suspicious that something has gone very wrong in your life and perhaps special

attention needs to be paid. That is not really because you are old, but it is because at a certain time in life certain things happen to you and dramatic changes need to be explained.

Finally-at the end of my paper I did make a plea for the courts to take real interest in psychiatric reports, not only in terms of the contents and their recommendations, but as to the quality of the reports, how they were prepared, what difficulties the psychiatrist faced, whether there was not enough time available or enough effort spent, and whether there were particular difficulties that the psychiatrist could not overcome. The comments of courts about these difficulties can often help to overcome them. I think it is important to know if it is a good report and if it is not, to know why.

Stan Duncan

This seminar has been rather appropriately held in the middle of Senior Citizens' Week. We are rather delighted with that idea because it is a very important area. The elderly people in this community are worried about their vulnerability and there is also the sad feature of seeing so many people becoming involved in dishonesty. Up until 1975 that was not a very serious problem, and I think Dr. Sutton would confirm that. But since 1978 shoplifting has dramatically increased. The interesting thing that I have been able to ascertain from my experiences is that the types of goods that are being stolen by the elderly people are goods which they are not using for their own needs but which they are giving away to somebody else in the family as gifts. I am not sure whether this is frustration or loneliness or boredom, or a sense of wanting to be recognised. There is a lot of work to be done here. I see it as an increasing problem in our community, but it is significant that it is not an economic necessity that people are shoplifting. I am quite clear on that.

One of the other comments I make is that we older people cannot expect governments to do everything. We are quite capable of doing a lot ourselves. Maybe we need some leadership in this community to set ourselves up to tackle some of these problems in the community. Already through the Council on the Ageing we have set up a number of V.O.T.E. groups. We have some very articulate groups, some number 200 people, and the debates in those groups would absolutely stagger most people in this room. Highly intelligent, contributing people with a lot of great ideas who want to give something to this community. I think that the concepts that we develop in V.O.T.E. is that we more active, healthier aged should keep an eye on the frailer aged in our community.

I was very pleased to hear Stipendiary Magistrate Schreiner comment on elderly people on their own. As you know 70% of elderly people in this community live alone. This creates quite a significant problem, and we have argued in the Council on the Ageing that people should have a telephone. If they cannot afford it, they should be provided with one free. A very significant technique available today, of which you may have heard, is Vital Call. It is a tiny electronic instrument which is placed around a person's neck and it just needs a button pressure to activate three telephone numbers of relatives or friends. If those numbers do not answer the headquarters of Vital Call

respond, and they speak to the person concerned that help is on the way and within half an hour somebody in a vehicle is there to tackle the problem and find out what the emergency is. It costs about \$7.00 a week, but for people living on their own there would no longer be the tragedy of a delay of two or three weeks before finding them after they have died. I well remember one of our very respected judges being found dead in these circumstances at Vauclose some years ago. Both he and his wife had been dead for some three weeks before they were located. I think it is a very sad indictment in our community of our own social responsibility. I think that we as older people living in the community have the time, and the ability to acquit ourselves and do something effective. We possibly need some leadership. We do not want the government to do everything for us. I think that sort of leadership is overdue, but a lot can be done to help ourselves in this community.

I was very pleased to hear Mr. Davidson talk about investments, because this is one situation where we are absolutely inundated at the Council on the Ageing. You see so many people duped by some of those "shonky" investment companies who are taking people for a ride and making so many untrue promises. Our advice to all elderly people is before they part with their money to go and see a lawyer and to see if the investment does what it says it will do. I feel that the government could well get some leadership on setting up a bureau where people can get this appropriate advice rather than be cheated out of their life long savings. In regard to the older company directors who should stand down, I feel this is discriminatory. If you are going to invoke that type of thing I feel there should be some medical panel who decides rather than some arbitrary rule. If we had always had this discriminatory rule history would have been poorer for the result — I have lately spoken to an 87 year old solicitor who has remarkable mental faculties, a 93 year old estate agent who is still contributing very, very actively to this community.

We aged are not the poor, benign, ineffectual people some think we are. We have got a lot of get up and go in us. Women are living to 76 and men to 70 and once you get to the older age group there are more women than men so that you have a ball! I would like to see a much larger based community conference held on this very subject because I think it is a need we are going to have to face very urgently.

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