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Sydney Institute of Criminology



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High Court ruling on the admissibility of improperly obtained evidence

Kadir v The Queen; Grech v The Queen [2020] HCA 1

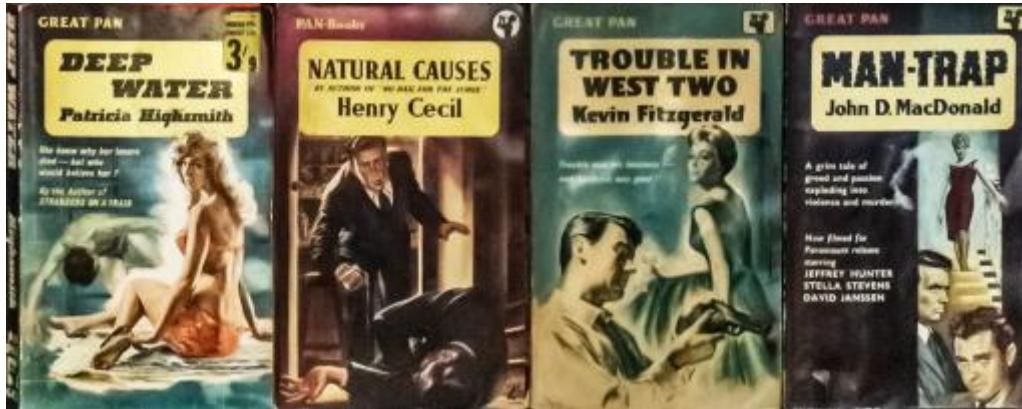
The two appellants were charged with serious animal cruelty offences relating to the use of rabbits as live bait in the training of greyhounds for racing. The prosecution case included (1) video recordings of the use of live rabbits at a property where the greyhounds were trained, (2) evidence (including rabbit remains on a mechanical lure) obtained through the execution of a search warrant by the Royal Society for the Prevention of Cruelty to Animals ('RSPCA') and (3) alleged admissions by one of the appellants, Mr Kadir (that he used live bait), to an animal rights activist posing as a greyhound owner. The recordings had been obtained covertly by an animal rights group in breach of [s.8 of the Surveillance Devices Act 2007](#). The trial judge excluded all three categories of evidence under [s.138 of the Evidence Act 1995](#) (whereby illegally or improperly obtained evidence is not to be admitted into evidence unless the desirability of its admission outweighs the undesirability of admitting evidence that has been obtained in that way). The trial judge's ruling was the subject of a successful appeal by the Crown to the NSW Court of Criminal Appeal under [s.5F\(3A\)](#) of the *Criminal Appeal Act 1912*. The appellants appealed to the High Court.

On 5 February 2020 the High Court delivered a unanimous judgment excluding the surveillance material. The difficulty of lawfully obtaining the evidence weighed against, rather than in favour of, its admission, and the breach of the *Surveillance Devices Act* by the animal rights group was serious.

However, the High Court held that the Crown could present the evidence arising from the execution of the search warrant by the RSPCA and the evidence of Mr Kadir's admissions at the trial. It is not the case that evidence must be excluded simply because it is the 'fruit' of unlawful conduct. The RSPCA had no advance knowledge of the activists' plan to undertake surveillance at the property; it acted lawfully in obtaining and executing the search warrant. The search warrant evidence has significant probative value and the offences are serious. Evidence

of Mr Kadir's admissions to the activist also had high probative value and it was not causally connected to the illegal surveillance activity. In the case of the search warrant evidence and the alleged admissions, the desirability of admitting the evidence outweighed the undesirability of doing so.

[Read the High Court's judgment here.](#)



Lurid: Crime Paperbacks and Pulp Fiction

There has long been a thirst for cheap, mass produced depictions of violence and crime narratives, from eighteenth century crime 'broadsides' sold at public executions to nineteenth century 'penny dreadfuls'. Rare Books and Special Collections at the University of Sydney's Fisher Library holds an extensive collection of detective fiction, encompassing twentieth century crime novels as well as pulp fiction series. Now, for the first time, some of these books will be on display.

Lurid: Crime Paperbacks and Pulp Fiction will showcase works by the likes of Raymond Chandler and Patricia Highsmith – focusing on their cover designs. The exhibit has been curated by [Dr Carolyn McKay](#), Senior Lecturer and Deputy Director, Sydney Institute of Criminology at Sydney Law School, in conjunction with Julie Price, Liaison Librarian Rare Books and Special Collections at the University of Sydney. The mid-century, green-saturated period of Penguin crime literature paperbacks is contrasted with the racy titles and garish, titillating and often misogynistic designs that adorn pulp fiction covers.

The exhibit will be open **from Monday 17 February 2019** at Fisher Library throughout semester one.



Image-Based Sexual Abuse in the UK: Challenges and Lessons

1.00 - 2.00pm, Tuesday 18 February 2020, University of Sydney

This presentation, delivered by [Professor Clare McGlynn](#) (Durham University) will examine the current state of laws and policies across the UK targeting image-based sexual abuse, as well as considering the challenges of engaging in the law reform process.

While there are a variety of criminal laws outlawing some forms of image-based sexual abuse, in general these provisions are piecemeal, inconsistent, out-of-date and unjustifiably discriminate between victim-survivors. Possible reasons for these shortcomings will be examined, including a failure of Government and policy-makers to properly understand the nature and harms of image-based sexual abuse, as well as the paradox of an initial 'rush to legislate' followed by political inertia. Most recently, political attention has turned to regulating social media and porn companies regarding their role in the distribution of image-based sexual abuse, with proposals to introduce a 'duty of care' on such companies, as well as demanding greater enforcement of their own terms and conditions. The term 'image-based sexual abuse' is used here to refer to all forms of the non-consensual taking and/or sharing of private sexual images, including threats and altered images, often known as 'deepfakes' or 'fakeporn'.

This event is hosted by the [Sydney Institute of Criminology](#) at the University of Sydney Law School. A light lunch will be served from 12.45. [Register for this free event here.](#)



Time Served Prison Sentences in Victoria

Victorian Sentencing Advisory Council report

Over a period of 18 years between 2001 and June 2019, the Victorian prison population increased from 3,391 to 8,102, representing a rise from 71 to 123 prisoners per 100,000 Victorians. Prisoners on remand constitute 37% of Victoria's prison population, compared with 19% five years earlier. While the increasing number of prisoners on remand is a significant driver of the growth in Victoria's prison population, there has also been an increase in the number of prison sentences imposed.

The key focus of this report by the Victorian Sentencing Advisory Council is on the number of offenders who are sentenced to 'time served', a term of imprisonment equal to the period already spent in custody prior to the imposition of the sentence. In 2017-2018, 29% of offenders sentenced to a term of imprisonment who had spent time on remand received a time served prison sentence, compared with 11% in 2011-2012. Most of the time served prison sentences were imposed in the Magistrates' Court and 96% were for terms of less than six months. In 2017-2018, time served sentences accounted for 20% of total prison sentences imposed in Victoria, approximately half of which were in the form of combined sentences whereby a prison sentence is combined with a community correction order ('CCO') that is served upon release. One reason for the increase in the number of time served sentences is the expanded availability of combined orders. The increase in the remand population is another factor. As the Sentence Advisory Council points out, '[o]ffenders who *may* have otherwise received a non-custodial sentence might instead receive a time served prison sentence (with or without a CCO) because they have, in effect, already been punished for their offending.'

Additional issues arising from the imposition of time served sentences are whether their increased use serves to inappropriately encourage guilty pleas and the fact that most prisoners who are sentenced to time served (without a CCO) receive almost no post-release supervision to assist reintegration into the community and reduce the risk of re-offending.

[Read the Sentencing Advisory Council's report here.](#)



Female perpetrated domestic violence: prevalence of self-defensive and retaliatory violence

Australian Institute of Criminology Trends & Issues Paper

Domestic violence is a gendered crime, overwhelmingly perpetrated by men against women. However, with increasing rates of arrest for domestic violence offences over recent decades, women now account for up to one in five domestic violence offenders charged by police.

This Australian Institute of Criminology (AIC) *Trends and Issues* study, by Hayley Boxall, Christopher Dowling and Anthony Morgan, involved an examination of 200 randomly selected episodes of domestic violence reported to the NSW Police Force in 2016 where a woman was identified as the person of interest (POI) and the male victim was her former or current partner. The POIs were not necessarily charged, detained or convicted of any offence.

One of the key aims of the study was to estimate the prevalence of self-defensive and retaliatory violence in episodes involving female offenders. Due to the difficulty in distinguishing between self-defensive and retaliatory violence, these two categories were combined under the description 'violent resistance'. The study found that almost half the domestic violence episodes perpetrated by women involved violent resistance. This was most likely an underestimate, given the figure was based on recorded violence and information provided to police during an investigation. Furthermore, incidents involving 'dual arrests' of both females and males were excluded from the sample. In 20% of cases, the woman appeared to have become violent in direct response to her partner's aggression or verbal or emotional abuse. A significant proportion of women had experienced violence as a victim of violence from their current partner (33%) or in a previous relationship (75%). The study also found that Indigenous women engaged in violent resistance at a higher rate than their non-Indigenous counterparts.

[Read the AIC Trends & Issues Paper here.](#)

Events, seminars and conferences

Seminar Building Safer Communities - Current and Future Trends

5.00 – 6.30 pm, Monday, 24 February 2020, University of Sydney

This seminar will focus on current and future trends impacting efforts to build safe communities and brings together an exciting array of experienced speakers.

Organised and hosted by the [Sydney Institute of Criminology](#) and the [Australian Safe Communities Foundation](#), this seminar will draw together practitioners, policymakers and academics interested in creating safe communities.

Speakers will include:

- Dr Stan Salagaras, Chair of the Australian Safe Communities Foundation (ASCF).
- Associate Professor Carolyn Day, a public health researcher in drug and alcohol, with a focus on illicit drug use.
- Dr Christopher Hunt, a clinical psychologist and senior supervisor at the Gambling Treatment and Research Clinic at the University of Sydney.
- John Maynard, a community safety and crime prevention specialist who has been working in the field for over twenty years.

[Register here for this free event.](#)

Seminar Queer Law in Emotional Times

6.00pm, Wednesday 4 March 2020, University of Sydney

The Sydney Institute of Criminology will host a conversation between [Dr Senthurun Raj](#) (Keele University) and readers of his new book, [*Feeling Queer Jurisprudence: Injury, Intimacy, Identity*](#) (Routledge, 2020).

Drawing on emotions, queer theory, and case law, *Feeling Queer Jurisprudence* explores how LGBT rights have been made possible, and also circumscribed, by progressive legal interventions. This book catalogues a range of cases from Australia, the United States, and the United Kingdom to unpack how emotion shapes the decriminalisation of homosexuality, hate crime interventions, anti-discrimination measures, refugee protection, and marriage equality. This book shows that reading jurisprudence through emotions can make space in law to affirm, rather than disavow, intimacies and identities that queer conventional ideas about 'LGBT progress', without having to abandon legal pursuits to protect LGBT people.

Speakers include [**Professor Kane Race**](#) (University of Sydney), [**Dr Renata Grossi**](#) (UTS), and [**Somali Cerise**](#) (UN Women).

[Register here for this free event.](#)

Lecture Strangling Accountability: Silencing Dissent and Undermining Integrity

6.00-7.30pm, Tuesday, 19 March 2020, University of Sydney

The inaugural annual lecture of The Centre for Public Integrity will be delivered by The Honourable Stephen Pendrill Charles AO. Mr Charles is a retired Australian judge who served on the Supreme Court of Victoria Court of Appeal between 1995 and 2006.

Mr Charles has long held an interest in matters of accountability and integrity. He was Counsel for ASIC during the Combe Royal Commission, and Counsel Assisting the Parliamentary Commission into conduct of Justice Lionel Murphy. In 2011 Mr Charles chaired the panel advising the Victorian Premier on the design of the Independent Broad-based Commission Against Corruption. He has been advocating for the establishment of a strong and independent National Integrity Commission for many years.

In 2017 Mr Charles was appointed an Officer of the Order of Australia for distinguished service to the law and to the judiciary, particularly in the areas of commercial arbitration and mediation, to judicial administration, and to legal professional organisations. In 2019 Mr Charles became a founding Director of The Centre for Public Integrity.

This lecture is co-hosted by [The Centre for Public Integrity](#) and the [University of Sydney Law School](#).

[Register here for this free event.](#)

Conference ANROWS Conference: Evidence in Action

28 – 30 April 2020, Adelaide

Australia's National Research Organisation for Women's Safety (ANROWS) welcomes registrations for the National Research Conference on Violence against Women and their Children.

This conference will open up opportunities to explore ideas of impact, including what works for whom and in what circumstances, and how we know an initiative has been effective. Involving policy-makers, practitioners and survivor-advocates, the conference will discuss the ways evidence is being applied in policy and practice to reduce violence against women and their children. The conference will be structured around thematic conversational panels, each including facilitators with diverse backgrounds and expertise. This format will offer unique opportunities for conference participants to engage in discussion and to contribute to our understanding of "what works".

As part of the conference, ANROWS will be hosting a poster exhibition of non-ANROWS funded research projects related to violence against women and their children with a focus on evidence in action. The aim is to present current research outcomes and emerging developments, focusing on the six National Outcomes of [The National Plan to Reduce Violence against Women and their Children 2010–2022](#):

1. Communities are safe and free from violence.
2. Relationships are respectful.
3. Indigenous communities are strengthened.
4. Services meet the needs of women and their children experiencing violence.
5. Justice responses are effective.
6. Perpetrators stop their violence and are held to account for their actions.

Poster submissions close **6 March 2020** and may be sent to conference@anrows.org.au

[For more information and to register, visit the website here.](#)

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New publications

Article The case for a second safe injecting facility in Sydney

George Christopher Dertadian and Stephen Tomsen (2019) **Current Issues in Criminal Justice**

Sydney's Medically Supervised Injecting Centre in Kings Cross has been a major national and global example of successful harm reduction in relation to illicit drug use since it opened its doors in May 2001 following the 1999 Drug Summit. The facility contains three stages: a reception area, injecting bays and a relaxation space. There is strong evidence that the MSIC has been effective in reducing overdose deaths without criminogenic effects and with solid levels of community and political support.

However, Sydney has since undergone significant transformations as a city, including gentrification of the inner Sydney suburbs where the injecting centre operates and expansions to its Western and South Western suburbs where many of its injecting drug-using population reside. Furthermore, Australia is seeing steady increases in overdose deaths relating to opioids, now the highest of all identifiable drug types detected in fatal cases of drug toxicity. Fatal drug overdoses most often occur in or around the suburb in which the deceased usually resides, making it imperative to consider the establishment of a second injecting facility in South Western Sydney, which has a profile of disadvantage and is rapidly becoming more densely populated.

[Read the full article here.](#)

AIC Trends & Issues Recruitment into organised criminal groups: A systematic review

Australian Institute of Criminology

Recruitment into organised crime often has grave repercussions for the individual,

with increased risk of arrest, conviction, injury, unemployment and social isolation. However, despite its serious individual and societal consequences, there is a dearth of research on recruitment into organised criminal groups. Data is difficult to obtain due to the largely secretive nature of organised crime.

This Australian Institute of Criminology ('AIC') *Trends and Issues* study comprised a systematic review of 47 empirical studies assessing the factors leading to recruitment into organised crime. The studies covered 16 countries and were published between 1969 and 2017, the highest number being published in the 2010-2017 period, reflecting a growing interest in this area of crime.

The most frequently reported category of factors leading to recruitment into organised crime was social ties, including relationships with family members, friends and colleagues. Consistent with the high level of trust demanded in organised crime, those with existing connections to members were found to have a higher tendency to be recruited. Other significant risk factors are a pre-existing criminal career, an ability to demonstrate loyalty and low prospects of obtaining legitimate employment.

Very few qualitative studies directly examined factors leading to recruitment into organised crime, making it difficult to clearly identify causal or temporal relationships between factors and recruitment. The results of the study suggest the need to develop policies to address the extended social networks of organised crime members to prevent recruitment of new members. For example, children and other relatives of organised crime members could be targeted by welfare, educational and employment programs before they are initiated into organised crime.

[Read the AIC *Trends and Issues* study here.](#)

AIC Report Female perpetrated intimate partner homicide: Indigenous and non-Indigenous offenders

Australian Institute of Criminology Statistical Report

The vast majority of intimate partner homicides in Australia are committed by men against women. This Australian Institute of Criminology (AIC) Statistical Report examines intimate partner homicides committed by women, based on 115 offenders charged with murder between 2004 and 2014. Women charged with manslaughter were excluded from the study.

The largest proportion of homicides considered in the study perpetrated by women are against a male intimate partner (36%), followed by other family members (30%) and non-family members (27%). The overwhelming majority (90%) of intimate partner homicides involved a current – as opposed to former – partner. Twenty-three percent of female homicide offenders were Indigenous and they had a significantly higher rate of intimate partner homicide (60%) than their non-Indigenous counterparts. Many of the cases were characterised by a history of domestic violence, most often where the female homicide offender was the primary victim of abuse, although there were also cases where lethal violence was utilised for other reasons.

[Read the AIC Statistical Report here.](#)

Jobs and opportunities

Job Assistant Commissioner, Community Corrections, Corrective Services NSW

Corrective Services NSW (CSNSW) delivers professional correctional services and programs to reduce the risk of re-offending and enhance public safety. This role is responsible for providing executive leadership across the Community Corrections function within CSNSW. The main focus areas of the role include:

- leading the implementation of a coordinated, systematic and ongoing approach to managing the offender population in the community using a 'Throughcare' management methodology
- overseeing the Compulsory Drug Treatment Correctional Centre as well as a number of Residential Facilities as part of the Community Corrections strategy
- developing and reviewing diversionary programs in the community, ensuring such programs enhance community safety and reduce reoffending.
- managing the Community Corrections budget, ensuring resources are effectively allocated
- driving culture change and continuous improvement within Community Corrections, ensuring the branch continues to achieve its key priorities.

The closing date is **16 February 2020**. [For more information and to apply, visit the 'I work for NSW' website here.](#)

Job Part-Time Members, Mental Health Review Tribunal

The NSW Mental Health Review Tribunal (MHRT) is seeking part-time members in the following three categories:

- (1) Australian Legal Practitioners (minimum of 7 years' experience)
- (2) Psychiatrists
- (3) Other suitably qualified persons (with qualifications or experience rendering them suitable to be appointed as members of the Tribunal).

Part time members are required to sit on MHRT panels and review the situation of persons with a mental illness within the framework of the *NSW Mental Health Act 2007* and the *Mental Health (Forensic Provisions) Act 1990* and make appropriate determinations and orders.

Applicants are required to complete the [Expression of Interest form](#) and attach a covering letter (of no more than 2 pages) stating their claim for appointment along with an up to date Curriculum Vitae (of no more than 3 pages). Applications close midnight on Sunday **23 February 2020**.

[For more information visit the website here.](#)

Job University of Sheffield, UK

Lecturers/Senior Lecturers in Criminology

The School of Law is looking to make two appointments, at either Lecturer and or Senior Lecturer level. Both posts are open, but the School is particularly keen to attract applicants with expertise in one or more of the following areas: criminology and gender; criminology and race; cultural criminology; global criminology; green criminology; technology and criminology; and/or quantitative methods. The successful applicants will carry out excellent research, deliver research-led teaching at both undergraduate and postgraduate level, and supervise master's dissertations, and PhD theses in one or more of these areas.

Applications close on **10 March 2020**. [For more information visit the website here.](#)

Course Postgraduate Certificate Program in art crime and cultural heritage protection

29 May – 14 August 2020, Umbria, Italy

The [Association for Research into Crimes against Art](#) (ARCA) is a research and outreach organisation that works to promote the study and research of art crime and cultural heritage protection.

Applications are now being accepted to its 2020 postgraduate certificate program in the study of art crime and cultural heritage protection, which will be held from 29 May to 14 August in the heart of Umbria in Amelia, Italy. In its 12th year, this academically-challenging, eleven course postgraduate professional development program will provide in-depth instruction in important theoretical and practical elements related to art and heritage crime. The program's courses will include comprehensive, multidisciplinary lectures, classroom-based discussions and presentations, and field classes that serve as the backdrop for exploring art crime, its nature, and its impact. At the conclusion of the program, participants will have a solid mastery of a broad array of concepts pertaining to provenance, art market due diligence, illicit trafficking, cultural property protection, and cultural security.

The application deadline is **15 April 2020**, subject to availability. As spaces on the program are limited, candidates are strongly advised to submit their application materials as soon as possible. Completed application files are reviewed on a rolling basis until census is achieved, after which candidates will be placed on the waiting list. The full prospectus and application materials may be obtained by emailing education@artcrimeresearch.org. [For more information visit the ARCA website here.](#)

Volunteers Justice Volunteer Mentoring Service – Australian Red Cross

The Red Cross is seeking volunteers for its Volunteer Mentoring Service, which links people in custody with mentors who can assist them with building community networks, developing pro-social skills and supporting the achievement of self-determined goals. The Volunteer Mentor role is to provide valuable support to adult men and women who are preparing for their release from prison.

Volunteer Mentors will help their mentees to gain confidence, resources and a sense of connection to their community, all of which can make their release a smoother process and reduce their chances of returning to custody. This might involve taking participants on excursions outside prison, taking them to appointments, teaching them living skills, or introducing them to services, as well as social activities such as sharing a meal or spending time outdoors.

Applications close on **3 March 2020**. [Visit the website here for more information.](#)

Call for abstracts British Society of Criminology

Annual Conference: Liverpool (UK) 8-10 July 2020

The British Society of Criminology is calling for abstracts for its Annual Conference, hosted by the University of Liverpool on 8 -10 July 2020. The overarching conference theme is ‘Criminology in an Age of Global Injustice(s)’. The conference will seek to address the formidable challenges, consolidating injustices and deepening inequalities that characterise the modern world and to consider the purpose/s of criminology/ies within such contexts.

The closing date for the submission of abstracts is **Monday, 16 March 2020**. [For more information visit the website here.](#)

Call for abstracts Asian Criminological Society Conference

12th Annual Conference: 2 - 5 October 2020

The Asian Criminological Society is calling for abstracts for its 12th Annual Conference on 2 – 5 October 2020 in Kyoto, Japan. Individual paper presentations and thematic panel sessions are being considered. The closing date for the submission of abstracts is **31 May 2020**. [For more information visit the website here.](#)

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