



CrimNet

Sydney Institute of Criminology



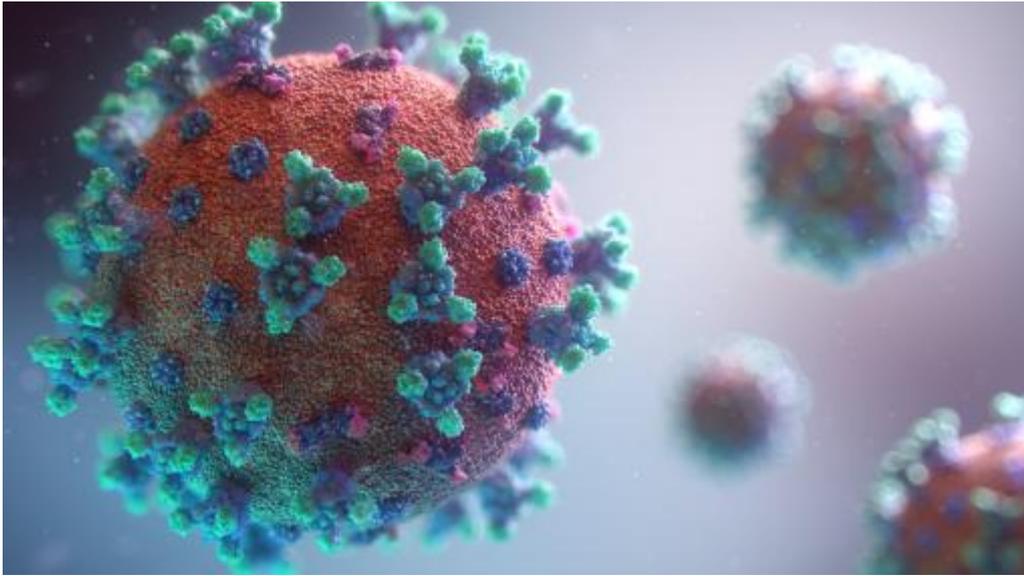
CrimNet is a criminal justice information network sponsored by the Sydney Institute of Criminology. CrimNet provides regular communication between criminal justice professionals, practitioners, academics and students in Australia and overseas. Share CrimNet with your peers and help grow the network.

In this issue

- [COVID-19 Criminology Update](#) →
- [Current Issues in Criminal Justice: Special COVID-19 Issue](#) →
- [High Court declares search and seizure unlawful](#) →
- [Review of penalties for assaults on emergency workers](#) →
- [New publications](#) →
- [Jobs and opportunities](#) →
- [Events, seminars and conferences](#) →
- [Would you like us to feature information for you?](#) →

Share





COVID-19 Criminology Update

DOMESTIC VIOLENCE IN THE TIME OF COVID-19

Are rates increasing?

The introduction of social distancing measures and enforced isolation in response to the COVID-19 pandemic has led to concerns about an increase in the incidence of domestic violence and the creation of additional hurdles for those experiencing domestic violence in seeking assistance.

In a Brief titled, [‘Monitoring changes in domestic violence in the wake of COVID-19 social isolation measures’](#), the NSW Bureau of Crime Statistics and Research (‘BOCSAR’) examined data on domestic violence incidents reported to police between January 2019 and March 2020. BOCSAR reports that there is no evidence of an increase in domestic violence reported to police since the implementation of social distancing and enforced isolation measures. Recorded incidents of domestic violence-related assault for the month of March 2020 are similar to those for March 2019 (2,678 in March 2020 versus 2,632 in March 2019). BOCSAR noted it is possible the figures are stable because isolation strategies have affected the willingness or ability of people experiencing domestic violence to seek assistance from police, but even the most serious forms of physical domestic violence (ie. murder and assault resulting in grievous bodily harm) did not increase markedly in March 2020. There was, however, an increase in breaches of Apprehended Domestic Violence Orders in March 2020 (1,493) compared to March 2019 (1,388), although this pattern was already apparent in January and February 2020. Social distancing measures only commenced in NSW in mid-March 2020 and BOCSAR will continue to monitor this data over time.

By contrast, [a report prepared by the NSW Government](#) in response to a request received from Women’s Safety NSW revealed an increase in the number of domestic and family violence referrals received through the Safer Pathway program during March 2020: 9,809 referrals received for female victims, an increase in referrals of 978 (11%) referrals compared to the same period in 2019 (8,831).

Further updates and material about domestic violence in the time of COVID-19 are available through [Women's Safety NSW](#) and [ANROWS](#) (Australia's National Research Organisation on Women's Safety).

COVID-19 TAKEN INTO ACCOUNT ON RE-SENTENCING

Susceptibility to complications and suspension of prison visits

The applicant in *Scott v R* [2020] NSWCCA 81 was convicted after trial of three counts of aggravated indecent assault under [s.61M\(2\)](#) (repealed) and one count of sexual intercourse with a child under the age of 10 years, contrary to [s.66A\(1\)](#) of the *Crimes Act 1900*. The victim was his eight-year-old granddaughter. Each offence occurred while the victim and her younger brother were staying overnight at their grandparents' home in the months following the birth of another sibling. The s.66A(1) offence involved cunnilingus. The applicant was sentenced to an aggregate term of 6 years with a non-parole period of 3 years and 6 months. He appealed to the Court of Criminal Appeal ('CCA') against his conviction and sentence. The conviction appeal was dismissed but the appeal against sentence was allowed.

The CCA found that the sentence was manifestly excessive on the basis that the offences fell substantially below the mid-range of objective seriousness for offences of their kind. Furthermore, the applicant had a compelling subjective case. Having found that the sentence was manifestly excessive, the CCA took into account material submitted by the applicant relating to COVID-19. Hamill J noted that the [new legislation](#) enabling the Corrective Services Commissioner to grant early parole during the COVID-19 pandemic does not apply to those prisoners, such as the applicant, convicted of a serious sex offence. The appellant's age (71 years old at the time of the appeal) and the fact that he had asthma and other medical conditions that made him more susceptible to complications should he contract COVID-19 in custody were particularly relevant. Hamill J also took into account the fact that the Department of Corrective Services had suspended visits as part of its strategy to minimise the risk of transmission, 'a matter that makes the conditions of incarceration of most inmates more onerous': [166]. Brereton JA and Fagan J agreed and the applicant was re-sentenced to an aggregate term of 5 years with a non-parole period of 2 years and 6 months. [Read the CCA judgment here.](#)

NSW PUBLIC HEALTH ORDER AMENDED

Limited visits permitted

The NSW Health Minister issued [Public Health \(COVID-19 Restrictions on Gathering and Movement\) Amendment Order \(No 2\) 2020](#) to amend the [Public Health \(COVID-19 Restrictions on Gathering and Movement\) Order 2020](#), effective from 1 May 2020. New clause 5(2A) provides that it is a 'reasonable excuse' for a person to leave their home if they are visiting another person to provide care or support, as long as no more than one other visitor is present. People who are part of the household of the person being visited and visitor's children under the age of 18 years are not to be counted as visitors for the purposes of this provision: cl.5(2B). 'Providing care or support' includes providing care or support for the mental, physical or emotional health or well-being of the person being visited: cl.5(6).

COVID-19 AND SOCIAL NORMS

What motivates people to comply with lockdown measures?

Are people complying with COVID-19 lockdown requirements, and if so, why? One preliminary study - conducted by University of Sydney Law School Honorary Professor Jonathan Jackson and colleagues from the London School of Economics and University College London - involved a convenience sample of 1,200 people in ten cities across the United Kingdom. Participants were surveyed on 21 April 2020 about their experiences and attitudes concerning the lockdown requirements. The study found that, rather than being motivated by deterrence (fear of being caught breaking the law and punished) or legitimacy (the moral obligation to obey the law), those who complied with the requirements were often motivated by a desire to adhere to social norms. Framing the call for collective action to rally behind the National Health Service was effective in fostering a national 'we're all in this together' sentiment. [Read the article here.](#)

COVID-19 POLICING

New Australian monitoring project

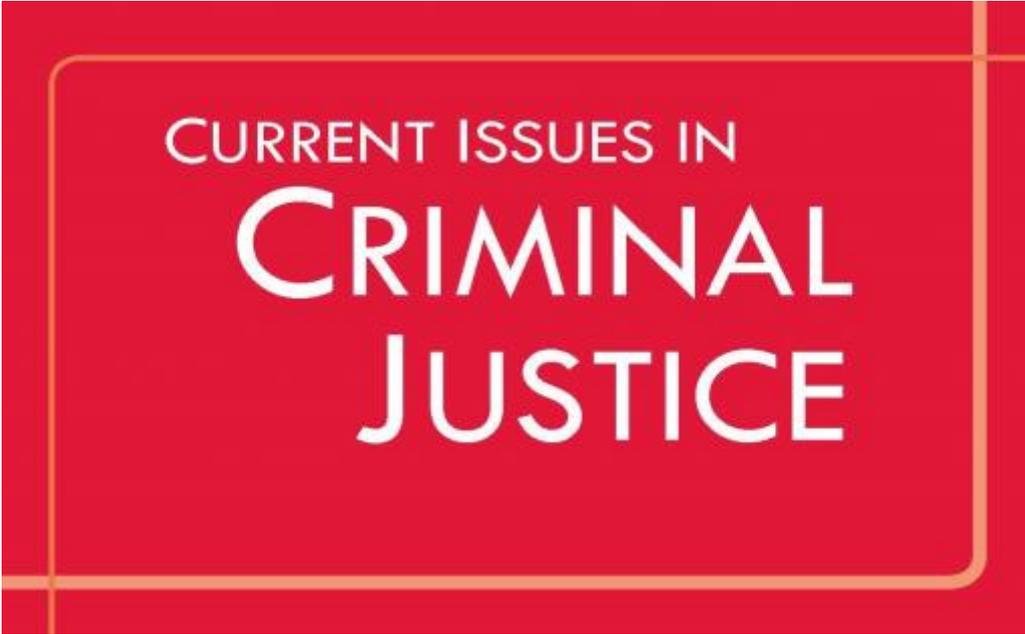
While it is vital that public health restrictions are observed to help slow the spread of the COVID-19 virus, many people are deeply concerned about how police are enforcing new public health laws. Police are required to use their new powers responsibly, fairly, and without bias and prejudice.

A [new website](#) has been created to monitor the everyday impact of new police powers in Australia. This collaborative project is run by legal and human rights advocacy organisations, backed up by a network of policing academics. This project is collecting reports and examples from members of the public for monitoring, legal advocacy and reporting. It is interested in how people from different communities across Australia are experiencing the new police powers. People who make a report are provided contacts for legal support options in their State or Territory and reports can be anonymous. The website also provides weekly roundups and links to resources.

[Visit the website here to find out more or to make a report.](#)

COVID-19 CRIMINAL LAW RESOURCES

Criminal law-related COVID-19 resources have been compiled by several organisations, including the [NSW Public Defenders](#), [Legal Aid NSW](#) and the [Judicial College of Victoria](#). The NSW Public Defenders has also published a new chapter in the *Bugmy Bar Book* titled [COVID-19 Risks and Impacts on Prisoners and Communities](#).



CURRENT ISSUES IN CRIMINAL JUSTICE

Current Issues in Criminal Justice: Special COVID-19 Issue

COVID-19, Criminal Justice & Carceralism: Critical Reflections & Change

Contributions are sought for a special issue of the Institute's Journal, [Current Issues in Criminal Justice](#). COVID-19 has had a dramatic effect on social control and the criminal justice system. It has broadened police powers and executive decision-making in relation to criminal laws and orders. Yet criminal justice measures responding to the pandemic have been Janus-faced: penalising people with tough policing, penalty regimes for violating emergency orders and restricting custodial environments and at the same time revealing the capacity for the criminal justice system to make decisions on bail, sentencing and parole with the humanity and health needs of the people most impacted at the forefront.

COVID-19 reveals both the health problems facing prisoners and the limited capacity of prisons to respond, although the rapid spread of infections in prisons is not in itself novel. Internationally, there have been widespread infections and deaths in custody from COVID-19. Alongside the problematic strategies of prison lockdowns and segregation, COVID-19 has led to radical change to protect people in prisons, including releasing over 300,000 people from prisons around the world. The release of people from prisons offers longer-term lessons for decarceration. This historical juncture presents an opportunity for envisioning solutions grounded in decarceration and abolition.

This special edition calls for papers internationally that critically reflect on changes to the criminal justice system and rethink more human practices into the future, including opportunities for decarceration and abolition. Reflections are sought on:

- The expanding scope of crimes and penalties
- Intensification of policing practices
- Changes to court operations
- Prison and youth detention measures to prevent and control COVID-19 in custody
- Differential impacts of criminal justice changes and the rise of particular crimes on particular cohorts (eg. women, children and young people, the

elderly and those with chronic health issues)

- Legacy issues, such as public policing of space, surveillance creep, the provision of alternatives to prison (e.g. public and private housing) and enhanced understanding of poor health conditions in prisons.

Contributions from academics, advocates and people with lived experience of the criminal justice system internationally are sought on the implications of COVID-19 for the criminal justice system and carceralism. The word limit for articles is 6000 - 8000 words. The word limit for contemporary comments is 2000 - 4000 words. Papers will be subject to review by two experts in the field.

Expressions of interest for abstracts (200 words) are due on **1 June 2020** and should be submitted to Guest Editors [Professor Thalia Anthony](mailto:thalia.anthony@uts.edu.au) at thalia.anthony@uts.edu.au and [Professor Lorana Bartels](mailto:lorana.bartels@anu.edu.au) at lorana.bartels@anu.edu.au. Notifications of the acceptance of abstracts will occur by 15 June 2020. The closing date for the submission of papers is 14 September 2020, with the completion of the peer review process (16 October 2020) and finalisation of papers (16 November 2020) prior to publication in December 2020.



High Court declares search and seizure unlawful

***Smethurst v Commissioner of Police* [2020] HCA 14**

On 4 June 2019 members of the Australian Federal Police ('AFP') executed a search warrant issued under s.3E of the [Crimes Act 1914](#) (Cth) at the residential premises of a journalist, Annika Smethurst, the author of articles published by Nationwide News on 29 April 2018 alleging that the Department of Home Affairs and the Department of Defence were secretly discussing a proposal to expand powers to covertly access data in Australia. The AFP also executed an order under s.3LA of the *Crimes Act 1914* (Cth) requiring Ms Smethurst to assist the AFP to access and copy data located during the search. The offence described in the warrant was that Ms Smethurst 'communicated a document or article to a person, that was not in the interest of the Commonwealth, and permitted that person to have access to the document, contrary to s 79(3) of the Crimes Act 1914, Official Secrets.' Section 79(3) (since repealed) made it an offence for a person to communicate a prescribed document, article or information other than to a person to whom he or she is authorised or obliged to communicate. A document, article or information was 'prescribed' if it had been obtained in one or more specified ways and the person had 'a duty to treat it as secret': s.79(1) (repealed). The AFP copied data from Ms Smethurst's mobile telephone onto a USB device. The Commissioner of Police undertook not to access or use any of the material obtained during the execution of the search warrant until the legal

challenge by Ms Smethurst and Nationwide News to the validity of the search and seizure was resolved.

The High Court unanimously held that the warrant and the order were invalid, rendering the search and the seizure of Ms Smethurst's data unlawful (Kiefel CJ, Bell and Keane JJ in a joint judgment, Gageler, Nettle, Gordon and Edelman JJ in separate judgments). The power to search 'has always been regarded as an exceptional power, to be exercised only under certain justifying conditions', one essential condition being 'that the object of the search be specified by reference to a particular offence': Kiefel CJ, Bell and Keane JJ at [23]. To be valid, a warrant under s.3E must state the offence to which it relates in a way that can be understood by the 'ordinary reader': [42]; see also Edelman J at [225]. Not only did the warrant in this case fail to do this; it substantially misstated the offence said to arise under s.79(3): [21], [33]-[35], [43].

The Court divided on the question of what relief should be granted to Ms Smethurst. By majority (Kiefel CJ, Bell, Keane and Nettle JJ), the Court granted an order quashing the search warrant but refused to grant a mandatory injunction requiring the return or destruction of the seized material. There was a public interest in the investigation and prosecution of crime; the prospect that criminal conduct may be disclosed by the material is a sufficient reason to decline the injunction sought: [101], [104]. The court in any prosecution has a discretion under s.138 of the Uniform Evidence Act to exclude unlawfully obtained evidence: [103], [162].

In the minority on the issue of the appropriate remedy, Gageler, Gordon and Edelman JJ would have granted a mandatory injunction in order to restore Ms Smethurst to the position she was in prior to the execution of the search warrant, although each recognised that this relief would not prevent the AFP from lawfully exercising a power of search and seizure in the future: [139], [188], [270].

[Read the High Court decision here.](#)



Review of penalties for assaults on emergency workers

Queensland Sentencing Advisory Council

The Queensland Sentencing Advisory Council is conducting a review of penalties for assaults on police and other frontline emergency service workers, corrective

services officers and other public officers in response to [Terms of Reference](#) issued to the Council by the Attorney-General and Minister for Justice in December 2019.

The Council has published an [Issues Paper](#) that explores the themes raised in preliminary submissions and is supported by the Council's analysis of sentencing trends and reforms introduced in other Australian and overseas jurisdictions. A high-level [summary of the Issues Paper](#) is provided and includes questions of particular interest to the Council. These questions can also be found in the full report. A separate [literature review](#) commissioned by the Council and prepared by the Griffith Criminology Institute has informed the Council's work.

The closing date for written submissions in response to the questions and options presented in the Issues Paper and any issues arising from the Terms of Reference, is **25 June 2020**. [For more information visit the Council's website here](#).

[Back to top ^](#)

New publications

Trends & Issues The feasibility and utility of using coded ambulance records for a violence surveillance system: A novel pilot study

Australian Institute of Criminology

The acute association between interpersonal violence, alcohol and other drug ('AOD') use, self-harm and mental health issues remains relatively unexplored. This AIC study used ambulance records in Victoria and Tasmania during the 2016-2017 financial year to pilot the use of coded ambulance clinical records to examine the extent to which ambulance attendances were attributable to violence, the types of violence and co-occurrence of AOD use, self-harm and mental illness. The study demonstrates that ambulance records may provide a rich source of data for recording violence in families and the community, including information not captured by police data alone. Routine coding and reporting of these data could be a valuable source of information along with health, police, coronial and survey data to inform policy development and interventions.

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

[Back to top ^](#)

Jobs and opportunities

Volunteer Women's Justice Network

The Women's Justice Network ('WJN') is a grassroots community organisation committed to advancing the prospects and wellbeing of women and female youth affected by the criminal justice system. WJN takes a holistic approach to address the social injustices that exist for women and girls in the criminal justice system and campaigns to raise awareness of the cultural, social, economic and political inequalities that sustain these injustices. WJN operates a voluntary adult and girls mentoring program that seeks to enhance the well-being of women and girls by increasing their social capital, supporting their community reintegration, encouraging their autonomy and learning from their lived experience. Mentors come from diverse cultural and professional backgrounds, spanning a wide age range, with varied skills and interests. Women aged 21 years or over who are interested in becoming adult or youth mentors can submit an [expression of interest](#) and [read more about the program here](#).

The WJN also seeks Virtual Volunteers to assist with [program writing for the Youth Program](#), [grant writing](#), [transitioning training programs to online platforms](#) and the [WJN's 2020 Fundraising Campaign](#). For more information about WJN's Virtual Volunteer opportunities, or to contribute to the campaign to enable WJN to continue to deliver its programs, [visit the website here](#).

Job Policy Officer, Office Of The Commissioner, NSW Police Force (2 Roles)

The NSW Police Force ('NSWPF') is seeking two Policy Officers to be part of its Legislation and Policy team in the Office of the Commissioner. The position holders will work within a small team on policy and legislative issues and reforms in relation to law enforcement relevant to NSWPF. Applications close **17 May 2020**. [To apply, visit the 'I work for NSW' website here](#).

Job Research Associate to the President of the NSW Children's Court

The Research Associate is responsible for undertaking research and drafting submissions and other policy documents on issues of a legal, legislative or administrative nature, as required by the President of the Children's Court and Executive Officer. The role also:

- Assists with the delivery of a range of complex projects and initiatives as directed by the manager to assist with the development and implementation of the President's strategic objectives.
- Provides high-level executive assistance & support to the President of the Children's Court and Executive Officer and manages committees chaired by the President.
- Undertakes legal and social research from a wide range of sources to develop proposals for legislative or policy reform to address issues of judicial, government or community concern.

Tertiary Qualifications in Law and admission to the legal profession (or eligibility for admission) are essential.

Applications close **17 May 2020**. [For more information and to apply visit the 'I](#)

[work for NSW' website here.](#)

Job Editor, Police Practice and Research

[Police Practice and Research](#) ('PPR') is an international, peer-reviewed journal dedicated to publishing current and innovative policing research. PPR is currently recruiting for a new Editor/Editorial Team to will lead the way for future researchers in the field and champion the journal within the community. The Editor role is responsible for editorial oversight, handling peer review and making decisions on submissions as well as working with Routledge to continue to develop PPR.

PPR is looking for individuals or teams who have a real passion for policing and bridging the gap between research and practice. The successful applicant(s) will have the ambition and vision to drive the journal forward. PPR is particularly interested in people who are active in the community with strong networks, have confidence to engage with authors and researchers to solicit the highest quality submissions, have strong organizational skills to ensure that submissions are handled in a timely manner, and are able to cultivate positive working relationships with colleagues. Applications close on **1 June 2020**. For more information on the role of a journal editor, visit the [Editor Resources](#) page. [For further information, visit the website here.](#)

Call for Abstracts Special Issue of Archives of Criminology

Criminal Justice in an Age of Populism

Archives of Criminology (Archiwum Kryminologii) is the leading Polish criminological journal, published by the Institute of Law Studies of the Polish Academy of Sciences. This special issue examines the rise of populism in the 21st century, the variations it takes and its implications for criminal justice and penal policy in modern society. It will address matters such as defences against populism; the circumstances under which populism may take positive and productive forms; the attempts of would-be autocrats to usurp and extend special powers in place to control COVID-19; and the implications of the rise of populism for the way in which issues of rights and the rule of law are now understood.

All papers should be prepared and submitted [online](#) in English. The deadlines are **30 August 2020** for the submission of abstracts and **31 March 2021** for the submission of papers, with the issue to be published on 31 January 2022.

[For more information, visit the website here](#), or email the guest editors, Professor John Pratt, (Victoria University of Wellington, New Zealand) at john.pratt@vuw.ac.nz or Dr Magdalena Grzyb (Jagiellonian University, Poland) at magdalenaagrzyb@gmail.com.

[Back to top ^](#)

Events, seminars and conferences

Webinar Terrorism Offences Forum

2.00 – 5.10pm, Friday 12 June 2020

Join esteemed chair Nicholas Cowdery AO QC for an afternoon crash course on terrorism offences with experienced practitioners covering issues such as terrorism financing, anti-money laundering, terrorism offences, juvenile offenders, parole and sentencing.

- Terrorism Financing and Anti-money Laundering Offences, presented by Pauline David, Barrister. Topics include terrorism financing and money laundering defined, common typologies, legal frameworks, case studies and comparative experience.
- Assessing Terrorism Offenders for Court and Dealing with Juvenile Offenders, presented by Peta Lowe, Principal Consultant, Phronesis Consulting and Training; former Director of Countering Violent Extremism, Juvenile Justice NSW. Topics include assessment for terrorism offenders to use in court considerations, considerations for juvenile offenders, trials, sentencing and parole considerations.
- Sentencing in Terrorism Matters, presented by Chris O'Donnell SC, Barrister. Topics include objective and subjective features in sentencing, sentencing patterns and special considerations.

[Tickets for the webinar may be purchased here.](#)

[Back to top ^](#)

Would you like us to feature information for you?

Get in touch with us

If you or your organisation would like us to feature criminal justice news, publications, events or job opportunities, please [send us an email](#). Please include all relevant details. There is no cost associated with advertising criminology and criminal justice news and information through CrimNet.

[Back to top ^](#)



THE UNIVERSITY OF
SYDNEY

Copyright © 2020 The University of Sydney,
NSW 2006 Australia. Phone +61 2 9351 2222
ABN 15 211 513 464 CRICOS Number: 00026A

To make sure you continue to see our emails in the future, please add law.criminology@sydney.edu.au to your address book or senders safe list.

To unsubscribe, reply to this email with "UNSUBSCRIBE" in the subject line

