Human Rights and the Protection of Innocence symposium

Venue: Parmelia Hilton Hotel, Mill Street, Perth city – 25-27 March

Thursday 25 March 2004
The Role of DNA

10.00-11.30am Professor William C. Thompson, Department of Criminology, Law and Society, University of California, Irvine. Government Genetic Databanks: Benefits and Risks of Further Expansion

11.30-12.30pm Dr Silvana Gaudieri, Centre for Forensic Science, UWA DNA applications in Forensic Science: from DNA profiling to virus tracking

12.30-2.00pm Lunch

2.00-2.30pm Mr Malcolm McCusker QC True Confessions?

2.30-3.30pm Presentation by Mr Bret Christian, Editor, The Subiaco Post
The inside story of how good science cracked Australia's longest-running murder mystery.

3.30-4.30pm Mr Robin Napper, Centre for Forensic Science, UWA DNA – The Silent Witness

7.00pm Public Lecture by Professor William C. Thompson
How DNA Evidence Is Transforming Criminal Justice
Introduced by Attorney General Jim McGinty MLA
Social Science Lecture Theatre, UWA
Presented in association with the Australian and New Zealand Forensic Science Society

Friday 26 March 2004
Human Rights in Criminal investigations

Chair: Robert Cock QC, Director of Public Prosecutions

10-11.30am Professor Andrew Ashworth
Professor of English Law, All Souls College Oxford
The working of human rights protections, their phases and minuses

11.30-12.30pm Commissioner Kevin Hammond
Corruption and Crime Commission
The Corruption and Crime Commission: where is it at?

12.30-1.30pm Lunch

1.30-2.30pm Chief Justice David Malcolm

2.30-3.30pm Professor Andrew Ashworth, Oxford
Applications in the criminal justice field

3.30-4.00pm Afternoon tea

4.00-5.00pm Plenary discussion chaired by Robert Cock QC.

Saturday 27 March 2004
Victims' and Offenders' Rights

10.00-11.00am Ann O'Neill, doctoral student
Structural/policy issues for victims rights: living with death and laughing at life

11.00-12.00pm Magistrate Sue Gordon
Children's Court
The Gordon Report and the future

12.00-1.30pm Lunch

Chair: The Hon Julie Bishop MP, Minister for Ageing

1.30-2.00pm Dr. Neil Morgan
Crime Research Centre, UWA
The Parole Board

2.00-2.30pm Estelle Blackburn, writer
Righting Broken Lives – the role of journalism in helping the wrongly convicted

2.30-3.30pm Professor Richard Harding, Inspector of Custodial Services, WA
International Human Rights and the rights of prisoners

3.30-4.00pm Afternoon tea

4.00-5.00pm Final plenary discussion

Registration fee: $150 for 3 days, or $70 per day.
Students/pensioners/benefits/concessions: $75 for 3 days, or $35 per day.

Registration is required for this symposium. For information and registration form please contact the Institute of Advanced Studies, UWA on ias@admin.uwa.edu.au or 6488 1340 or refer to the website on www.ias.uwa.edu.au
Professor Andrew Ashworth  
**Vinerian Professor of English Law, All Souls College Oxford**  
Friday 26 March, 10-11.30am  
**Title:** The working of human rights protections, their pluses and minuses  
**Abstract:** The aim of this session will be to introduce some of the major themes of European human rights law, and to discuss how the Convention has been developed by the European Court of Human Rights in relation to the laws of member states. There will also be consideration of the Human Rights Act 1998 in the U.K., and the changes it has brought.  
Friday 26 March, 2.30 - 3.30 pm  
**Title:** Human Rights and Criminal Investigations  
**Abstract:** The aim will be to take a close look at how European human rights law has impacted on five aspects of pre-trial criminal justice:  
- a) the right to liberty and trial within a reasonable time,  
- b) the right to a confidential consultation with a lawyer,  
- c) the right to respect for private life,  
- d) the right to silence and privilege against self-incrimination, and  
- e) the principle of equality of arms.  
**Biography:** Andrew Ashworth is the Vinerian Professor of English Law. He obtained his LL.B. from the London School of Economics (1968), and then took the B.C.L. at Oxford (1970). He obtained a Ph.D. from Manchester University (1973). In 1993 he was awarded the degree of D.C.L. at Oxford and was elected a Fellow of the British Academy. In 1997 he was appointed a Q.C. Honoris causa. In 1999 he was appointed a member of the Sentencing Advisory Panel, and in 2002 he became a member of the Criminal Committee of the Judicial Studies Board. He was awarded the degree of LL.D Honoris causa at De Montfort University in 1998, and the degree of Jur. D. honoris causa at Uppsala University in 2003.  
His first teaching position was as Lecturer (1970-76) then Senior Lecturer (1976-78) at Manchester University. From 1978 to 1988 he was Fellow and Tutor in Law at Worcester College, Oxford, and he served as Acting Director of the University’s Centre for Criminological Research from 1982 to 1983. In 1988 he was appointed Edmund-Davies Professor of Criminal Law and Criminal Justice at King’s College London, and held that post until moving to All Souls College to take up the Vinerian chair in 1997.

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**Estelle Blackburn, OAM**  
**Writer**  
Saturday 27 March, 2-3 pm  
**Title:** Righting Broken Lives – the role of journalism in helping the wrongly convicted  
**Abstract:** Estelle will detail why she took up the case of John Button, who was convicted of the manslaughter of his girlfriend in 1963 by running her down, and the methods she used to investigate such an old murder. She succeeded in finding information and new witnesses and in convincing them to participate in her decade-long crusade for Button. The evidence of eight
The UK has its own domestic inspection protocols, pre-dating the Council of Europe developments. In recent years the UK model has become more firmly established, and is expanding into increasingly sensitive areas such as immigration detention centres and military prisons.

In Australia, despite formal adherence to the notion of autonomous inspection, that model has only really developed in Western Australia. Indeed, there has been positive hostility to notions of external accountability, particularly in Queensland and New South Wales. In most States accountability is fragmentary, being primarily complaints-driven rather than system-focused. Moreover, development of Standard Guidelines for Corrections in Australia has been stalled since 1996.

The Commonwealth Government could take a lead in driving accountability, both by opening up its own detention systems as an example to the States and in linking State funding for these activities to the attainment of acceptable accountability systems.

Richard Harding, the inaugural Inspector of Custodial Services for Western Australia, will explore these issues in the light of the experience of the Western Australian prison inspection model.

**Biography:** Professor Richard Harding was the founding Director of the Crime Research Centre. Formerly the Director of the Australian Institute of Criminology, Professor Harding’s research interests include the use of weapons in crime, gun control, corporate crime and the privatisation of corrections. His most recent book is Private Prisons and Public Accountability (Open University Press, 1997). Professor Harding has also had a long-standing involvement in international organisations, including United Nations bodies. In July 2000, Professor Harding was appointed as the State’s first Inspector of Custodial Services, an independent office which reports directly to Parliament. He continues to play an active role in the Centre’s teaching and research activities.

**The Honorable Chief Justice David Malcolm**

Friday 26 March, 1.30 - 2.30 pm

**Title:** Human Rights - A Current Legal Perspective

**Abstract:** The Hon the Chief Justice David Malcolm AC CitWA of Western Australia will comment on the current status of laws and their interaction and role in the context of human rights. The presentation will take a broad look at the continued education of the judiciary in relation to the protection of human rights. There will also be a particular focus on DNA evidence, improperly obtained evidence, sovereign rights versus human rights in the context of suspected terrorists, and also mention of the impending legislation in regards to the double jeopardy rule.

**Biography:** The Honorable David Malcolm was appointed Chief Justice of Western Australia in 1998. In 1990 he was appointed Lieutenant Governor of Western Australia and in 1992 he was made a Companion of the Order of Australia. He has practiced law in many areas including mining, media, commercial and corporate law, shipping and administrative law. He is Chairman of the Advisory Board of the crime Research Centre at the University of Western Australia, President of the Western Branch of the International Commission of Jurists and a member of the Board of Directors of the Society for the Reform of Criminal Law.
Mr Malcolm McCusker QC  
Thursday 25 March, 2.00-2.30 pm  
**Title:** True Confessions?  

**Abstract:** The recent report of the “Police Royal Commission” in W.A. has highlighted the past widespread practice of “verballing” suspects in criminal investigations, with obvious violation of human rights to justice. Legislation has been enacted in various States of Australia to meet this problem but, as the Commission report recognised, there are some loopholes, which this brief paper explains, with reference to some decided cases.


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Mr Robin Napper  
**Centre for Forensic Science, The University of Western Australia**  
Thursday 25 March, 3.30-4.30 pm  
**Title:** DNA – The Silent Witness

**Biography:** Robin Napper is the Director of Marketing and Development for the Centre for Forensic Science, The University of Western Australia. He has worked there since September 2001, promoting the work of the Centre, lecturing, writing training courses for International Police Services and recruiting students. Prior to that he was a Police Officer for 31 years in the UK and Australia. Robin Napper was instrumental in the introduction of DNA and forensically driven policing into Australia, and has lectured extensively around the world on these topics. He was an experienced Detective Superintendent who dealt with over 200 murders and cold case reviews in his career.

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Dr. Neil Morgan  
**Crime Research Centre Faculty of Law, The University of Western Australia**  
Saturday 27 March, 1.30 - 2 pm  
**Title:** The Parole Board

**Abstract:** Parole Boards and other releasing authorities face some complex dilemmas when seeking to balance human rights and the protection of innocence. This paper examines a number of these issues, including:  
- The protection of people who have been victims of the person who may be released;  
- Protective measures for ‘potential victims’;  
- The position of prisoners who have been convicted but who may be innocent or protesting their innocence;  
- The position of people who are legally innocent (they have not been proved guilty) but have been detained (often for long periods) following a finding of unfitness to stand trial or insanity.

**Biography:** Dr Neil Morgan is Director of Studies at the Crime Research Centre at the University of Western Australia and a member of the Parole and the Mentally Impaired Defendants Review Boards of Western Australia. His main research interests are criminal law, criminal justice, corrections and sentencing, with a special interest in the issues facing Indigenous people. He is rapporteur for the Asian and Pacific Conference of Correctional Administrators (www.apcca.org) and regularly presents papers at judicial conferences and seminars. He has been involved in a wide range of law reform activities, including presentations to Parliamentary committees and official reviews of restraining orders, parole and remission, prisoner disciplinary proceedings, mental health legislation and community based sentences. He has been a consultant to the Office of the Inspector of Custodial Services and other accountability agencies. He is currently Co-Director of Research for the Western Australian Law Reform Commission’s Reference on Aboriginal Customary Law and of a project on systemic racism for the Equal Opportunity Commission of Victoria.

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Ann O’Neill  
**Doctoral student**  
Saturday 27 March, 10 - 11 am  
**Title:** Structural/policy issues for victims rights: living with death and laughing at life

**Biography:** Ann O’Neill is an outstanding speaker renowned for her unique style of educating and raising awareness of Social Justice and Human Rights Issues.

Ann has intimate and theoretical knowledge relating to Disability, Family and Domestic Violence, Victim’s Of Crime and Post-Homicide issues. Her groundbreaking research “Honouring survival: Is there a rulebook?” explores the Experiences of Secondary Homicide Victims in WA, saw her awarded 1st Class Honours and the Grace Vaughan Award 2001. Ann has received awards, from both the government and non-government sectors of the community. Ann is studying for her PhD. in the Centre for International Health, at Curtin University of Technology.

Ann is currently the founding Chairperson of Angelhands Inc., established 2001. She was the inaugural convenor of the Homicide Victims Support Group (WA) Inc. Ann is also the Executive Director of Soul Stuff, a unique and innovative company designed to assist organisations and people deal with change in their lives and their work places.

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Professor William C. Thompson  
**Department of Criminology, Law and Society, University of California, Irvine**  
Thursday 25 March, 10-11.30 am  
**Title:** Government Genetic Databanks: Benefits and Risks of Further Expansion

**Abstract:** Government genetic databanks have proven so successful in identifying criminals that many are calling for them to be expanded. Proposals to include the DNA profiles of all individuals convicted of crimes, all arrestees, all males, or simply everyone are under active discussion in a number of nations. Expanding databases will undoubtedly help reduce crime, perhaps substantially, but pose a number of risks to civil liberties and human rights. An important issue is whether DNA technology is (or can be) sufficiently reliable to be used in this manner without creating unacceptable numbers of false identifications. Recent cases in which "cold hits" turned out to be false positives have raised concerns. This address will analyze the trade-offs inherent in use of this technology and will discuss steps that might be taken to maximize benefits to society while minimizing potential.
Biography: William Thompson is a professor in the Department of Criminology, Law & Society at the University of California, Irvine (UCI). He received a JD from the University of California, Berkeley (Boalt Hall Law School) and a Ph.D. in psychology from Stanford University. He frequently writes and speaks about scientific evidence, particularly forensic DNA testing. He also does research on human decision making, focusing on people’s ability to evaluate and draw conclusions from scientific and statistical evidence.

Although primarily an academic, Thompson occasionally returns to the courtroom to litigate cases involving novel scientific and statistical issues. He argued the first case concerning the admissibility of DNA evidence before the New Mexico Court of Appeals and Supreme Court. He was the first lawyer in California to successfully challenge the admissibility of an FBI DNA test. He represented defendants in a number of high profile criminal trials, including O.J. Simpson, Sammy Marshall, John Cuff and Corey Robinson. He has also represented indigent prison inmates seeking post-conviction DNA tests. Recently, Thompson served as co-counsel for a defendant in a special-circumstance murder case in Los Angeles in which the defense challenged the interpretation of the government’s DNA evidence.

Thompson has also been involved in efforts to investigate fraud, misconduct and poor scientific practices in forensic laboratories. His recent criticisms of the Houston Police Department Crime Laboratory helped prompt an external investigation that led the District Attorney to shut down the Serology/DNA Section and submit a large number of cases for retesting. He personally discovered DNA testing error that led to the false rape conviction of a Houston man named Josiah Sutton. Sutton was released when additional testing proved his innocence. Thompson has also investigated and written about cases in which poor scientific work and misleading testimony by FBI laboratory examiners led to false convictions.