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Analytical Essay

GUN CONTROL IN AUSTRALIA: A CRIMINOLOGICAL PERSPECTIVE

Rick Sarre*

In recent months there has been an upsurge in contributions to the popular press from social commentators insisting that guns make our nation safer. This essay questions these assertions. The paper provides evidence to support a contrary affirmation: that is, in order to have a reduction in gun violence, there needs to be a reduction in the number of guns generally, and a continuation of the legal controls that currently shape firearms policy in Australia.

Keywords: gun control, gun crime, gun violence, gun safety, gun legislation, firearms control, anti-gun lobby

BACKGROUND

Two opinion pieces in the press in 2014 caught my attention. Both were designed to challenge the Australian policies currently in place to control the availability of guns in our communities. The first was from Senator David Leyonhjelm, Liberal Democrat Senator for New South Wales. Amongst other things, he offered the following assertion:

Anti-gun zealots, within and outside the halls of Parliament, smugly try to convince the rest of the world that Australia's model of firearm management has been a resounding success. ... To satisfy their conceit, they manipulate statistics to suit themselves and pretend that "the science is settled." This is an outright lie. When you look at the real facts, it becomes very obvious that the Australian experiment with gun control is nowhere near as clear-cut as the gun prohibition lobby wants the world to believe. (Leyonhjelm, 2014)

The second was from the high-profile American gun lobbyist Mr John Lott, writing with Australian academic Dr Kesten Green. In their article they challenged a comment from a South Australian judge who, while sentencing a man

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who had supplied a gun later used in a random shooting murder, had called for the banning of guns in homes. Lott and Green (2014) made the following assertion:

Every single time and place that guns have been banned murder rates go up—often several-fold. . . . Murder rates increase after gun bans for a simple reason. When guns are banned it is law-abiding citizens who turn in their guns, not criminals.

Moreover:

Laws that take firearms away from law-abiding citizens leave them vulnerable to criminals, and increase crime. (Lott & Green, 2014)

These comments are not unusual, and have all been made before by various spokespersons on behalf of their lobbying organisations, amongst them the Australian-based Shooters and Fishers Party, and the Firearm Owners Association of Australia. The influence of the US-based National Rifle Association (NRA) on views put forward by proponents of less gun control cannot be discounted.

The NRA holds enormous sway in the political life of the United States. A sobering reminder of the NRA's influence occurred in the aftermath of the events of 14 December 2012. On that tragic day, twenty children and six of the teachers and administrators who cared for them were gunned down at the Sandy Hook Elementary School, Connecticut, by a troubled young individual using legally purchased firearms who then took his own life. Despite the horrendous toll, the NRA refused to acknowledge the part played in the tragedy by policies that allow high-powered firearms to be readily available in that State. Indeed, in the weeks after the Sandy Hook massacre there was an upsurge in gun purchases by American citizens, presumably to arm themselves as a mechanism of defence (Pilkington, 2013), or perhaps to circumvent an anticipated legislative response by the Obama Administration.

In contrast to the United States, Australian parliamentarians have exhibited strong political leadership on gun policy in the aftermath of several horrific events. The story begins almost three decades ago when two gun atrocities occurred only months apart in downtown Melbourne. The first occurred on 9 August 1987. On that day a lone gunman, armed with three firearms including a military-style M14 assault rifle, opened fire on people walking along Hoddle Street, a busy inner city road. Firing more than 100 rounds of ammunition, the gunman killed seven people and injured a further nineteen. Only four months later, on 8 December 1987, another lone gunman armed with a sawn-off military-style M1 carbine entered an

office building in Queen Street. He fired indiscriminately at office workers, resulting in the deaths of eight people and the injury of another five. He evaded justice by jumping to his death from an office window (Chappell, 2015).

NATIONAL COMMITTEE ON VIOLENCE, 1990

These two incidents were among the worst mass killings to have occurred in recent Australian history. Not surprisingly, they provoked widespread citizen and governmental alarm about the general state of violence in Australian society. Shortly after the Queen Street shootings, the then Prime Minister, Bob Hawke, convened a meeting of the State Premiers and the Chief Minister of the Northern Territory to discuss gun control. From this meeting emerged an agreement amongst all governments to establish an inquiry to be known as the National Committee on Violence. The then Federal Minister for Justice, Senator Michael Tate, formally announced the Committee's establishment and its terms of reference in October 1988 (Chappell, 2015).

Over the next year the Committee undertook its many tasks. With a modest budget of \$A183,000 it convened hearings and held conferences. It produced a number of pamphlets and monographs. One of the issues it tackled was firearm ownership and its link to gun violence. From the outset, the Committee despaired that firearms data of any kind were almost non-existent. The chairman of that inquiry, Professor Duncan Chappell, quipped at the time that Australian policy-makers knew more about the numbers of rabbits in the country than they did about the number of firearms (Chappell, 1990).

The Report of the National Committee was published in 1990 (National Committee on Violence, 1990). More than a dozen recommendations regarding firearms were made, including uniform legislation, a national gun control strategy, a computerised firearms registry, and a permanent amnesty for the surrender of unauthorised firearms. The response from governments, however, was, in political terms, lukewarm.

PORT ARTHUR MASSACRE 1996 AND BEYOND

In 1996 this all changed, and dramatically. On 28 April of that year at Port Arthur, Tasmania, thirty-five people were gunned down by a lone gunman wielding a semi-automatic rifle. One month later, the Australasian Police Ministers Council (APMC) agreed upon a strategy designed to ban these specific firearms. Thereafter, a large-scale buyback of all semi-automatic rifles and pump-action

shotguns took place. By August 1998, over 640,000 guns had been surrendered to Australian authorities. That initiative was accompanied by laws tightening licensing requirements, regulating gun registration, and insisting upon safe storage of firearms and training requirements for all gun owners.

More was to come. At a meeting of the APMC in November 2002, additional restrictions on guns were agreed to, which included limiting the classes of handguns that can be imported or possessed for sporting purposes, changing licensing requirements, and exploring options for a buyback program for those guns now deemed illegal. From this consensus emerged the National Handgun Control Agreement of 2002.

The federal Parliament then enacted the *National Handgun Buyback Act 2003* (Cth), which provided for financial assistance to be granted to jurisdictions buying back handguns that did not comply with the new restrictions. The buyback program resulted in about 70,000 handguns and more than 278,000 parts and accessories being surrendered (National Firearms Monitoring Program, ND).

The Prime Minister at the time was John Howard. His decisions were designed to send a decisive message about the place of guns in a modern civilised society. There was very little community disquiet in response to these restrictions other than a few rallies by sporting shooters. In Australia today there continues to be bipartisan political consensus and broad community support for strong gun control (Sarre, 2015a, 2015b).¹

To what extent did the buyback make inroads into the rate of firearm-perpetrated homicides and gun suicides? In a study conducted a decade after the 1998 laws came into effect researchers Dr Christine Neill and Dr Andrew Leigh concluded as follows:

We find reductions in both gun homicide and gun suicide rates that are statistically significant, meaning that they are larger than would have been expected by mere chance. . . . Our best estimates are that the gun buyback has saved between 128 and 282 lives per year. (Neill & Leigh, 2007)

According to these scholars, economists typically put the value of a life saved at around \$A2 million. The buyback cost of approximately \$A250 million had thus proved, they asserted, to be a good use of public money (Neill & Leigh, 2007; Leigh & Neill, 2010, p.510; cf. Lee & Suardi, 2008).

Moreover, those monitoring homicide trends in Australia note that gun death rates have been falling consistently for the last two decades. The homicide rate continues in a long term decline that began before 1998, but the share of murders committed with firearms has dropped sharply.

During the period 2008–09 to 2009–10, approximately one in 10 (n=65; 13%) homicide incidents involved the use of a firearm; of these, only 14 percent involved a handgun. The majority of all firearms used in homicide incidents were reported by the police as unregistered and/or unlicensed. Overall, firearm involvement and in particular the involvement of handguns in homicide incidents, remains at an historical low. (National Homicide Monitoring Program, 2013)

However, this empirical evidence counts for little in the United States where the NRA is politically influential. Estimates in 2009 were that there were more than three hundred million guns in private hands in the United States (Roberts, 2012). This figure would be significantly higher today. At the same time, many US state governments are lifting gun control laws or softening regulations. For example, by virtue of a law passed in April 2014, Georgia now allows holders of “concealed carry” permits to take their firearms into a wide range of public places, including bars, churches, and government buildings, under certain circumstances. The law also allows hunters to use silencers, and authorises schools to allow teaching staff to carry weapons on campus (Gambino, 2014). In November 2014, Missouri lifted a ban on the open carrying of firearms for those who currently hold a concealed weapon permit (Inquisitr, 2014). In June 2015 law-makers passed a bill in Texas giving students and faculty members at public and private universities in that State, from 2016, a right to carry concealed handguns into classrooms, dormitories, and other buildings (Fernandez & Montgomery, 2015).

What part does the Second Amendment of the US Constitution play in the rise in private firearm ownership in the United States and lax control laws? I would argue, a great deal. The wording of the Second Amendment, enacted in 1791, is as follows: *A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.* Despite its awkward grammar, it continues to operate as a foil for gun control advocates because the US courts have asserted that it was *not* meant to apply only to firearms in the hands of militia. In *District of Columbia v Heller* 554 U.S. 570 (2008) the Supreme Court determined that the Second Amendment protects an individual’s right to possess a firearm unconnected with service in a militia, and

to use that firearm for lawful purposes, such as self-defence within the home. The Court reasoned as follows: the Amendment's preface announces a purpose (militia), but that purpose should not be read as limiting or expanding the scope of the second part, the operative clause. The operative clause's text and history demonstrate a right of all citizens to keep and bear arms.

Two years later, the US Supreme Court was called upon, in *McDonald v City of Chicago* 561 U.S. 742 (2010), to consider a challenge to a handgun ban that had been legislated in Chicago. In a 5/4 (split) decision, the court ruled that Chicago had gone too far (and thus was in violation of the Second Amendment) in prohibiting handguns that had been purchased for self-defence generally, not just in the home (Richey, 2010).

In contrast, there is an academic view that the Second Amendment was designed for eighteenth-century colonial communities, and was intended to remove restrictions on the militia committed to protecting them, and to appease the South where slave-owners relied upon militia for slave control (Bogus, 1998, pp.346–350). It is certainly the case that its author, James Madison, could not have envisaged that it would be used more than two centuries later to apply to semi-automatic and rapid-fire guns and military-style assault rifles. Colonial rifles of his day were low velocity, single-shot, muzzle loaded weapons. In contrast, modern rifles are capable of firing many rounds per second, and, in addition, have muzzle velocities far greater than the ones Madison knew, which gives these weapons extended range as well as allowing the projectile to penetrate armour. In this context, would a “reasonable person” have agreed with Madison when he drafted the Second Amendment this way? In any event, it is all moot for Australians. Australia does not have a Second Amendment, nor anything equivalent to it.

CRIMINOLOGICAL EVIDENCE

The current criminological evidence on the subject of guns and their role in crime, both preventing and promoting, is extensive. Let us begin with the suggestion that there is a link between the decade-long decline in the US violent crime rate and the prevalence of guns in the hands of American citizens. The “causal” connection, however, is problematic, since violent crime rates have been declining over a similar period in all industrialised Western democracies, including those that have strict gun laws like Australia. In fact, if one is looking for a correlation, one can find it in the number of guns and rates of gun deaths. Comparisons

between the United States and Australia are useful here. The United States gun ownership rate (guns per 100 people) is more than five times the Australian rate. The United States gun homicide rate is more than ten times the Australian rate (Rogers, 2012). Sixty percent of US homicides are committed by firearms. The equivalent figure in Australia (2010–2012) is 14 percent (National Homicide Monitoring Program, 2015).

It has often been argued by those who would lift restrictions on guns that “guns don’t kill people; people kill people.” There is, however, strong criminological evidence that communities are less safe in circumstances where there are firearms present. A study by scholars at the Harvard School of Public Health, published in 2002, found that, when it comes to childhood deaths, the ready availability of a firearm makes a great difference. Over the period studied (1988–97) nearly seven thousand American children aged between five and fourteen were killed by a firearm. Children in the five states with the highest rate of gun ownership (Louisiana, Alabama, Mississippi, Arkansas, and West Virginia) were sixteen times more likely to die from a gun accident than children in the five states with the lowest rate of gun ownership (Hawaii, Massachusetts, Rhode Island, New Jersey, and Delaware). Children in the “high-gun” states were also seven times more likely to die from a gun suicide and three times more likely to die from a gun homicide (Harvard, 2002). The authors of the study also found that, before an American child reaches fifteen, he or she is twelve times more likely than a child anywhere else in the industrialised world to die of gunshot wounds.

The reasons for this are intuitive, according to researchers such as Alison Wallace (1986) and David Lester (1990). The presence of a firearm means that low level violence on the street or in the workplace can quickly escalate into lethal violence; suicidal thoughts can quickly become fatal; children innocently playing with loaded weapons can quickly become victims; assaults against women in domestic settings can quickly harbour deadly consequences.

The evidence against guns as a crime prevention strategy continues to mount today. In 2013, Bangalore and Messerli published in the *American Journal of Medicine* the results of their evaluation of the possible associations between gun ownership rates, mental illness, and firearm-related death. They reviewed the data for 27 developed countries. They concluded that the number of guns per capita per country was a strong and independent predictor of firearm-related deaths (Bangalore & Messerli, 2013).

Likewise, a meta-analysis conducted by Dutch academic John van Kesteren that was published in 2014 found as follows:

In high-gun countries, the risks of escalation to more serious and lethal violence are higher. On balance, considerably more serious crimes of violence are committed in such countries. For this reason, the strict gun-reduction policies of many governments seem to be a sensible means to advance the common good. (van Kesteren, 2014, p.69)

Van Kesteren (2014) presented his analysis of the statistical data to address the question about whether, at the individual level, a person is safer for having access to a firearm. His study concluded, “No.” He explained the reasoning thus:

Contrary to what has been claimed by proponents of widespread gun ownership in the United States, those households that own guns run higher risks of seeing their members being criminally victimized, either by other household members or by outsiders who are not deterred from attacking. This correlational finding provides no proof that the higher risks are *caused* by ownership of a gun; ownership might also be a proxy for a high-risk lifestyle. But this result certainly sheds serious doubt on the notion of gun ownership as a protective factor. (van Kesteren, 2014, p.69, emphasis in the original)

If this conclusion is correct, and the evidence continues to grow (Bricknell, Lemieux & Prenzler (2015), those who advocate gun ownership as a means of crime prevention are confronting a considerable empirical evidence-based barrier.

RECENT DEVELOPMENTS

On 22 February 2015, the report of the Joint Commonwealth–New South Wales Review into the Martin Place siege on 15 December 2014 was released. The siege had left the gunman Man Haron Monis and two hostages dead. The sawn-off shotgun used by Monis during his attack, said the authors of the report, was probably from the “grey” market: firearms that entered Australia legitimately, but were not handed in at the time of the 1996 buyback, and were subsequently made illegal (Australian Government, 2015a). Indeed, there is a growing pool of illegal firearms (ACC, 2013, p.45) There are suggestions that there may be as many as 250,000 illegal long-arms and 10,000 handguns in Australia at the time of this writing (Australian Government, 2015b).

The recommendations of the Joint Review on this specific subject include asking CrimTrac, in cooperation with all Australian law enforcement agencies, to

prioritise bringing the National Firearms Interface (CrimTrac, ND) into operation by the end of 2015. The Interface (designed to track illegal firearms and eliminate the markets for them) was initiated in 2012 by the Standing Council on Police and Emergency Management and picked up by the then Minister for Home Affairs, Jason Clare, in May 2013. The Joint Review also urged Australian police to continue an audit of their firearms data holdings ahead of the Interface, and to seek ways of simplifying the regulation of the legal firearms market, policies all designed to reduce the numbers of illegal firearms in the community.

The Coroner was examining the December 2014 siege and its tragic outcome at the time of writing. One can assume with some level of confidence that the origin of the specific firearm used in the Martin Place siege will be a subject of the findings. A relevant question for the Coroner is whether Australian legislators should hold the line, and continue its record on strong gun control, or relax restrictions to move closer to the position now being adopted by a growing number of legislators in the United States. On the available evidence, the Coroner is highly likely to choose the former option, and wisely so.

At the same time as the siege inquiry was being undertaken another inquiry was under way in the Australian Parliament. For, on 19 June 2014, the Australian Senate had referred the following issue to the Legal and Constitutional Affairs References Committee for their inquiry and report: “The ability of Australian law enforcement authorities to eliminate gun-related violence in the community.” The Committee’s report was published on 9 April 2015 (Australian Government, 2015b). There were a number of recommendations, including continued funding for gun monitoring, data sharing, and policies designed to ensure that all firearm data will be transferred to the National Firearms Interface.

Significantly, Recommendation 5 seeks more amnesties:

The committee recommends that an ongoing, Australia-wide gun amnesty is implemented, with consideration given to ways in which this can be done without limiting the ability of police to pursue investigative leads for serious firearm-related crimes.

Of interest was the attention given to the possibility of so-called “3D” gun “manufacturing” as well, leading to Recommendation 8:

The committee recommends that Australian governments continue to monitor the risks posed by 3D manufacturing in relation to the manufacture of firearms and consider further regulatory measures if the need arises.

The Australian public awaits the government’s response with interest.

CONCLUSION

The current body of research evidence suggests that gun violence will continue to persist while people have ready access to guns. In Australia the nation is fortunate that the numbers of legal guns in the community is manageable, and that authorities have implemented many policies that guard against the risk posed by illegal guns. There is little doubt, however, that the gun debate will continue to be hotly contested, despite the growing body of evidence in the subject literature, because the issue remains highly politicised. However,

... it is to be hoped that there will still be sufficient political will to protect and further the major gun law reforms [that have been] achieved... (Chappell, 2014, p.407).

Social commentators argue that Australians have benefited from the gun buybacks and restrictive laws that have been in place since 1996. Given the evidence presented above, and given the bipartisan political support in Australian parliaments, as well as wide-spread general community backing for current gun control strategies, it is unlikely that these laws will change their direction or intent. So, wouldn't it be better that those opposing gun control engage in implementing responsible public policy rather than attempting to slow or to stop altogether its inevitable progress?

NOTE

- ¹ Portions of this paper appeared in *The Conversation* on 3 March 2015 (Rick Sarre, "Martin Place Siege Review Makes Case to Tighten, Not Relax, Gun Laws").

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Historical Research Article

“A NECESSARY BUT DANGEROUS CLASS”: EARLY PRIVATE INVESTIGATORS IN AUSTRALIA

Troy Whitford[†]

From the 1880s private investigators begin to appear on the Australian legal landscape. Commonly known as private detectives the name itself proves contentious. Private investigations in Australia is a profession built on divorce laws which focused on finding fault. In such a social climate private investigations become an unwelcomed necessity. Without regulation or licencing private investigators tend to adopt dubious practices such as blackmail, trespass and perjury. Calls to regulate the industry came early from the judiciary which had come accustomed to private investigators giving evidence. It took legislators a little over sixty years to begin introducing regulation and licencing. The delay is in part because Police refused to acknowledge such a profession existed. By licencing and regulating the occupation, it gave it legitimacy and set the foundations for a more professional class.

Keywords: Private investigations, private investigators, private detectives, training, education, occupational licensing, Australia

Private investigators in Australia have never enjoyed great prominence. Europe can boast Eugène François Vidocq, perhaps the world’s first private investigator; and the United States had Allan Pinkerton, Chicago’s first police detective and founder of the famous Pinkerton’s National Detective Agency. But Australia does not have such illustrious beginnings. It is difficult to know who Australia’s first private investigator was.

Private investigators (or *private detectives* as they were originally referred) begin to appear before the Australian courts as witnesses and defendants as early as 1889. Into the early Twentieth Century the Australian private investigators, for a fee, were embroiled in divorces, perjury, and trespass. Treated with suspicion by judges and ridiculed by police—early private investigators operated in an

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unrecognised ill-defined field of work sometimes occupied by conmen, blackmailers and criminals. Early investigations work without regulations and licencing meant private investigators were operating in legal shadows. Private investigators were taking cases that were of no interest to police but important for those involved in civil suites and divorce proceedings. This exemplar of early perceptions and behaviours of private investigators illustrates the justification for licencing and training which would be introduced over the later part of the Twentieth Century. Nevertheless, it also seeks to conclude with a suggestion that future private investigators are better educated, equipped with stronger powers (accompanied with oversight) and develop a better working relationship with police.

Little has previously been written on private investigators in Australia. One important work on the topic is written by Prenzier and King for the Australian Institute of Criminology (2002). The article provides a working snap shot of the industry at the turn of the Twenty-First Century and poses some important questions about the future of the industry. Particularly, possible relationships between private investigators and police. The work of Prenzier and King provide a means to begin discussing the future role and expectations of private investigators. Aside from the work of Prenzier and King contemporary published material on investigations tends to be aimed at practitioners or is found in popular detective fiction literature.

There has been little, if any, historical inquiry into private investigators in Australia. Examining newspapers and court reporting from 1889 to the 1950s provides a cursory insight into the early work of private investigators in Australia. Newspapers as a source has limitations in terms of accuracy and some of the articles tend to be sensationalist, but the consistent stories about the investigations profession in newspapers does give an insight into the police, public and judicial perceptions of private investigators during the period and clearly indicates investigators in Australia had rightly or wrongly been a mistrusted class of professionals.

By examining aspects of real Australian private investigations during the early Twentieth Century it becomes apparent that fault based divorce is a driving factor for the expansion of the investigations industry. In 1901 there were 398 divorces allowed and in 1925, 1,888. By 1955 there were 6,724 (Australian Historical Statistics and ABS). The rise in divorce was seated within laws that required proof of infidelity or mistreatment. Naturally, this increased the activity

of investigations work. With a rise in divorce in Australia we find the private investigations industry an unregulated and unlicensed entity. Subsequently, it is within this context we see the industry occasionally behaving at its worse. Contemporary practitioners of private investigations may find the boldness of early investigators breathtaking. Others, however, may appreciate why there were moves to regulate the industry to standards that exist today. But it is surprising that it took so long for regulation and licensing to come into law. An emerging theme stemming from this examination of early investigations work in Australia is the credibility of investigators.

The investigator is paid to find evidence and therefore a constant concern, particularly in the divorce courts, was that the evidence provided by investigators would most likely be biased. Without cameras or video footage, like today, early investigators relied predominately on their creditability and reputation as a witness. Part of the brief for lawyers cross-examining the testimony of private investigators was to discredit the investigator's professional standing. Subsequently, the character of investigators was commonly at the centre of evidence. Yet, even today, it is the character of private investigator which is central to much their work. Therefore, it is through regulation and licencing that the profession gains a better standing.

Without licensing or registration of private investigators it is difficult to know exactly how many were operating in the Australian colonies at the end of the Nineteenth Century. However, there must have been a reasonable number in the field for Colonial Chief Justices to start marking public remarks about the behaviour and reliability of private investigators. In 1893, a New South Wales (NSW) state Chief Justice told the *National Advocate* newspaper he would never accept the evidence of a private investigator if it was not collaborated by someone else. While the evidence provided by the private investigator was suspiciously viewed by Judges other private investigators were out rightly accused of perjury. In 1893, a private investigator was sentenced to one month's prison for intimidating a witness. As part of the Victorian Chief Justice's deliberations on the perjury matter he stated there was a need for licensing "private detectives" (Bendigo Advertiser, 1883, p.2). His concern that many who had entered the private investigator profession were simply discharged convicts without good character or unblemished reputations.

The private investigators' role in organising witnesses to commit perjury was of grave concern to the Chief Justice. The practice was known as "ready up."

This involved a private investigator working a divorce case and finding a witness that would be willing to perjure themselves to in court. The witnesses would be encouraged to substantiate grounds for divorce which would include providing witnessed accounts of adultery, desertion, cruelty, habitual drunkenness, or insanity (Donaldson, 2004, p.1). Early private investigators were also criticised for using decoys when working on divorce cases. In 1889, a New South Wales (NSW) Judge was presiding over a divorce case. During the case it emerged that the woman seeking a divorce used the services of a private investigator who organised and paid a young woman (the decoy) to have sexual intercourse with her husband. By using the decoy the woman would be able to prove adultery. The young woman (the decoy) was cross-examined during the proceedings and the ploy discovered. The presiding judge used the opportunity to let private investigators know that manufacturing evidence would be viewed as criminal conspiracy (Sydney Mail, 1889, p. 12). Some private investigators, nevertheless, were consciously aware of the value of their reputations and would go to lengths to protect their character. One such example was in 1908. A Melbourne based private investigator, William Moncrieff, was charged with encouraging an aggrieved wife to commit perjury. It was alleged he encouraged the wife to bring false charges against her husband (who happened to be a police officer) saying he left her taking some gold and jewellery. Moncrieff in giving evidence obviously refuted the accusations. But interestingly, he was keen to get to court to prove his innocence, stating that he did not want to be discharged on lack of evidence from the persecution but rather on his own strength. Moncrieff was acquitted (Geelong Advertiser, 1908, p. 5).

Into the early Twentieth Century, the judiciary continued their call for regulation. The judiciary were critical of the character of those practicing as private investigators but governments at a state or the new federal level had yet to act on reforming the industry. A New South Wales judge heard, during a divorce trial in 1907, how the husband paid a private investigator to reside at his wife's boarding house to obtain evidence for a divorce. As the judge heard evidence on the antics of the private investigators in the boarding house he made his concerns felt. The judge, stated private investigators, "...belong to a very dangerous class and should they be watched... but they are a necessary class...carrying out unpleasant duties... they are not a class that has much respect from the community" (Goulburn Herald, 1907, p. 4). It is worth noting, the private investigator was paid £2 per week for the boarding house job. This was just two shillings short of what

Justice Higgins had recommended, in the same year, when he brought down his Harvester Case decision, which set the Australian minimum wage for unskilled labourers at £2 and 2 shillings per week.

The 1920s and 1930s have been described as the golden age of detective fiction in Australia, Britain, and the United States (Symons, 1993). Dorothy Sayers and Agatha Christie are, arguably, most renowned for their interwar detective novels. However, such an interest did little to improve the perception of real private investigators. Rather, the fiction gave private investigators an unnecessary mystique. In fiction as in reality it was predominately men (often former police officers) who undertook investigations work. However, in 1925 there is some evidence to suggest there was at least one woman working in Queensland. Mrs Kate Condon, described by the newspaper as a ‘neat little thing’ was apparently favoured by Chief Justices. The private investigator had won the confidence of the courts with her testimony and reliability. During one divorce trial she recounted how she had chased a man she was trailing over four fences as he attempted to run away. When asked how she managed to jump the fences she replied to her cross-examiner... “It is quite easy for me. I will show you sometime if you are interested” (The Western Champion, 1925, p. 15).

For Australian private investigators the 1920s saw an ongoing campaign to register their activities. There was also some concern raised by police that there was something insincere about investigators using the term *private detective*. In 1922, an opinion piece in the *Newcastle Morning Herald* argued that investigators using the word *detective* represent a status they did not possess. The article suggested that the word *detective* be prohibited for only those serving in the police force (Newcastle Morning Herald, 1922, p.4). The NSW Inspector General of Police also contributed to the debate by saying police detectives under his command resented private investigators using the term *detective*. He supported the move to renaming them to *inquiry agents* (Daily Examiner, 1922. p.2). As an aside, Prunckun (2013, pp. 9–10) says, “In contemporary practice, the term *detective* is usually reserved for sworn police offices, whereas the term *investigator* is used for those occupations other than police—for instance, private investigators and investigators who may be employed in government regulation and compliance work. ... Today, one of the many designations [of the term *investigator*] is that of *inquiry agent*.” Under current Australian licencing laws, *inquiry agent* is the term used today. An editorial in the Queensland based newspaper *The Chronicle* published in 1922 takes a similar view about the use of

the word *detective*, but also argues that many in the investigations industry are criminals and greater regulation is required.

Further callings from the judiciary to register and licence investigators are made in 1924 (The Truth 1924, p.8). A Queensland State Chief Justice Mr McCawley appeared to lead the push for better regulation. He acknowledges that the private investigator has a place in society but is critical of the types of characters it tends to attract. Citing the common occurrences of blackmail, he argued that licencing and registration would give the investigations industry a better standing in the community (The Brisbane Courier, 1924, p.6). It was reasoned greater credibility for the profession through registration or licencing would give better standing to the evidence supplied by private investigators. Further, the judiciary believed that because anyone could commence work as a private investigator all evidence required close scrutiny (The Brisbane Courier, 1926, p.6).

In 1924, The *Truth* Newspaper ran a large exposé on the role of private investigators in divorce cases. It highlighted that private investigators at this time were earning £1 and 1 Shilling per day (The Truth, 1924, p.8). The average weekly wage at this time was a little over £3. The article was particularly critical of an activity undertaken by some private investigators known as a “chair report”. A “chair report” involved the private investigator being paid to watch a spouse. The private investigator would then orally brief the client from their office—“the chair”—stating they had seen the spouse with another person but was unable to get evidence without breaking the law. But for an additional fee the private investigator would be willing to break the law and promised to get the evidence within the next few days. The private investigator in reality saw nothing and would not actually pursue the case legally or illegally. The article goes on further describing other instances of blackmail and double crossing clients.

Double crossing was seen as a common approach used by less scrupulous private investigators. Essentially, the private investigator would take payment from a client, then go to the person they were asked to investigate and ask for payment to cease the investigation. According to the article, another scam used by some private investigators was “bleeding white”—a process where a concerned spouse asks a private investigator to have their partner followed to see if they are faithful. The client has no evidence of infidelity, nor intention of divorce. They are simply curious. The private investigator returns and says they were unable to find anything, but suggests that observations continue. This is done to bleed the

client out of money. Other investigators would use what was called the “third degree”—harsh questioning to get information. It was activities such as these that brought the profession into further disrepute.

As debate over licencing and regulation continued into the 1930s, the rise of private investigators being charged with criminal offences also gained greater notoriety. In some courts, it seems in absence of regulation, the rights of private investigators were being debated. While even today, as then, investigators do not enjoy powers beyond the ordinary person, there may have been some perception, or at least suggested ambiguity that trespass by a private investigator was permissible to obtain evidence. It appears there was some argument made that the need to obtain evidence gave the private investigator some degree of powers. Nonetheless, this argument did not win favour with the judiciary. In 1933, two private investigators were sentence to prison; one for 14 days the other for one month, after entering a house in East Melbourne in an attempt to find evidence for a divorce case (*Western Herald*, 1933, p.2). Further, in 1936, a New South Wales court ruled that a private investigator could not enter a house against the wishes of the owners to get evidence. Such actions would be deemed as trespass (*The Biz*, 1936, p.6).

Despite evidence of impropriety throughout the 1930s, police still resisted any moves to regulate or licence private investigators. According to the NSW Police, any move to licence or regulate the profession would only give private investigations a status and recognised occupation (*Canberra Times*, 1931, p.3). The view of police seems to permeate with legislators in most of the states, but it was in contrast to what the judiciary had been seeking since the late 1880s. The difference of opinion between the police and judiciary provides an interesting insight into where private investigators fitted within the policing and legal professions. It is likely, police disliked private investigators because they considered there was a public misconception investigators had some connection with police work. Yet, the judiciary, who probably spent more time dealing with private investigators through court proceedings, could better appreciate the role of private investigations. Private investigators were common in giving evidence for divorce cases and accepted by the judiciary, but they continued their calls for better regulated, trustworthy, and licenced investigators.

In the post-Second World War period, and up until the 1950s, the courts perceptions of private investigators remained unchanged and there were still calls for the industry to be licenced and regulated. This view was expressed in the

newspapers. In 1948, an editorial published in *The Truth* newspaper highlighted that there were investigators working in Sydney who had significant criminal records. It was concerned with the ease in which people could join the profession and the lack of interest the New South Wales State government had in licensing private investigators (The Truth, 1948, p.4).

It was not until 1953 that NSW begins its licensing process. Prior, in 1951 South Australia had commenced licensing its investigators. Regardless, Victoria was still unwilling to make legislation. It was not until a private investigator was charged with breaking and entering a home that the issue of licencing and regulation was reignited in Victoria. Despite requests by the courts and newspapers to regulate the industry, the Victorian Premier John McDonald argued that investigators were "...like any other citizen and the laws would apply to them equally" (The Argus, 1951, p.10). In 1956, there is a change of view and Victoria begins to introduce its legislation to licence investigators. This change came after seventeen separate investigators were the subject of complaints made to Parliament. It was also reported there was a rise in the number of blackmail attempts made by investigators while undertaking divorce investigations (Argus, 1956, p.6). The new regulations and licencing were fundamentally uniformed across the states. All licencing regulations included the removal the term *private detective* to be replaced with *private inquiry agent*. In addition, licencing in all the states included criminal and character checks. The regulation and licensing of private investigations acknowledged that it was an actual profession. Subsequently, it was a move that could, in the long term, generate greater public confidence.

As illustrated, private inquiry work in the past has been marred in controversy and resented by Police. It seems formidable to suggest that the profession enjoy greater powers. Still, the idea was canvassed in a 1992 NSW Independent Commission Against Corruption Inquiry, where it was recommended that "...consideration be given to allowing licensed agents greater access to information such as criminal histories, information on driver licences and vehicle registrations" (Prenzler & King 2000, p. 5). Aside, it is interesting to note that this recommendation had come from a Chief Justice—a further indication that the judiciary are more comfortable with the work of private investigators than the police.

Access to greater information is helpful for private investigators undertaking cases in fraud and intelligence gathering for debt collection. Throughout the late-

Twentieth Century and into the Twenty-First Century, most investigation work has been related to fraud. Predominately it is insurance fraud that is investigated through factual investigations or surveillance (Cooper, 2005), but, in 1999 the Australian Government also used the services of private investigators to carry out surveillance work on suspect welfare recipients (Prenzler & King 2000, p. 4). By the insurance sector and Government making use of private inquiry services the industry has become even more legitimate.

A further means for the industry to gain greater acceptance is through developing stronger ties to policing. Prenzler and King (2000) provide an anecdote of a private investigations firm working with police on a homicide case. The family of the victim had employed the services of a private investigator who, under police direction, assisted with door knocking and surveillance. The collaboration brought about an arrest of a suspect (Prenzler & King 2000, 4). While the anecdote is a high-end example, it does provide some discussion around future roles for private investigators.

Naturally, within the industry there is consensus that greater access to government information would assist fraud investigations, but there is also acknowledgement that with such power there must be a considerable amount of responsibility and training (Prenzler & King 2000, p. 6). Already licencing is a fundamental requirement and since early-2000 anyone seeking an investigations licence must have completed a Certificate III in Investigative Services. However, the advent of “fast tracked” courses means that some training providers advertise such a course can be completed within five days. Clearly, this suggests that there is still not enough emphasis on training and education. For an investigator to enjoy respectability and greater powers there must be confirmation that the investigator is part of an honourable occupation.

Today, private investigators need to be intelligence-led (Walsh, 2013). They require a formal theoretical knowledge; industry knowledge; and practical knowledge (Whitford, 2013a). None is more important than the other. They must have an understanding of how the world works and how societies and institutions function (Whitford, 2013b). Investigators need to know their industry and the industries they service (Whitford, 2013b). They need a strong knowledge in how to conduct inquiries (Prunckun, 2013). Investigators must also possess analytical skills and an ability to frame and undertake qualitative research (Prunckun, 2015). Finally, they must develop values (Bradley, 2013). Unlike government and law enforcement agencies, private investigators do not always have a clear

protagonists and antagonists. Investigators must be taught to develop their own ability to judge a situation ethically (Whitford, 2013a). These types of skills, knowledge and values cannot be taught at a certificate level. The obvious conclusion is that further training and education is required.

While this history of private investigations in Australia has discussed the nature of the work inquiry agents perform, it is an occupation that has placed them, at times, in a legal ambiguity. The industry was built on archaic divorce laws that aimed to find evidence of fault. As an unregulated and unlicensed occupation, some investigators had a tendency to indulge in criminal practices. For the most part private investigators were viewed with a great deal of mistrust. In many ways, it was only licensing and regulation that allowed the industry a legitimate place, and hence, greater credibility. But the journey for recognition and trust is far from complete. While historically the judiciary appears more accepting of private investigators, it is the police who view them as essentially amateur at best, and a criminal nuisance at worst. Arguably, it is through better training and education that private investigators can shake off the past and move into the future.

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Dr Troy Whitford, BA, MA, PhD, lectures in history and politics at Charles Sturt University and is a doctoral supervisor at the Australian Graduate School of Policing and Security. His research interests include political intelligence gathering and the place of private investigation firms within the broader intelligence community. Dr Whitford has written on elements of the extreme-right in Australia and the nature of political intelligence in the Twenty-First Century. He is a government licensed private investigator and a director of Civintel Pty Ltd, an intelligence-led private investigations company.

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Book Review

Proactive Intelligence: The Successful Executive's Guide to Intelligence

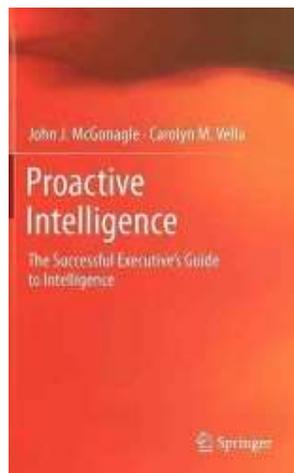
by John J. McGonagle and Carolyn M. Vella

Springer, London

2012, 275 pages

ISBN-978-1-4471-2741-3

Reviewed by Dale Fehringer



John McGonagle and Carolyn Vella, who have worked in and written about competitive intelligence (CI) for many years, have turned their experience into a book for executives about conducting CI and proactively using intelligence to help make better decisions. The resulting document is sophisticated enough to satisfy an executive audience, but simple enough to instruct without overusing CI jargon and technical terms.

The authors state their intention up front:

This book marks a new direction—it focuses on competitive intelligence collected by, analysed by, and used by—you alone. This is not going to be a guide on how to work full time as a CI specialist. Instead, we want you to learn enough about CI, and what you can do with it, to enable you to do your job, whatever that is, better. (p. v)

They deliver on that promise. This how-to manual is presented in clearly-written and carefully-organised text that explains the CI process step-by-step. The authors obviously know their stuff, and they offer real-life examples to help clarify their points.

The title, *Proactive Intelligence*, refers to using CI to take action before a competitor acts, not afterwards, and the authors emphasise that point throughout the book. They believe that up-front education, proper planning, and personal

effort can enable decision-makers to obtain the intelligence they need, when they need it, and then use it almost immediately to help make better business decisions.

Writing a CI book for management has been done before, but this one is unique in that it is targeted at executives faced with developing their own CI. It tries to accomplish a lot in a single document, which may be a little optimistic, because CI is a complex subject. It may be asking too much to expect business executives who need CI but do not have access to CI resources to: (a) conduct their own CI research and analysis; and (b) objectively use that analysis to help make proactive business decisions. But readers who want to develop their own CI now have a manual that tells them how.

The discussion of competitive intelligence begins with definitions, a description of the CI cycle, and an explanation of the different types of intelligence. Once that groundwork is done, the authors describe the benefits of CI to business executives, telling the reader: “The beauty and benefit of CI is that it is not a one-time option, such as you get from a consultant or other professional, but it is factual information about your competitors you have developed, and thus can replicate in the future.”

The authors include a few foundational topics, such as the different kinds of CI, and a set of rules for conducting research on the Internet. There is a good discussion of how to prepare for and conduct interviews, and a comprehensive and easy-to-understand list of sources and uses of data. Another section describes how the reader can be a better customer for intelligence, and there are best practice examples of how CI can be used to help make proactive decisions. The section on CI analysis starts by breaking the process into sub-processes (amassing, assimilation, incubation, enlightenment, and corroboration), and provides analysis “tips” and “tools and techniques,” and briefly discusses some of the most common analysis methods. Toward the end of the book there is a thought-provoking discussion on the ways terrorism has affected CI.

The authors encourage the reader to: “look at the world differently to be able to develop your own CI,” after which “you should be able to look more objectively at your own firm.” And they return to their basic premise: “Remember, you are in a world that continually changes. Unless you are willing to be proactive, you will be only reactive.”

This is a welcome addition to the growing subject literature on competitive intelligence. It is carefully planned and written, and it should serve intelligence practitioners well.

ABOUT THE REVIEWER

Dale Fehringer is the editor of *Competitive Intelligence Ethics: Navigating the Gray Zone* (Society of Competitive Intelligence Professionals, 2006). He developed and managed the Competitive Intelligence Unit at Visa International and is a past member of Society of Competitive Intelligence Professionals' board of directors.

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Book Review

Understanding Lone Wolf Terrorism: Global Patterns, Motivations and Prevention

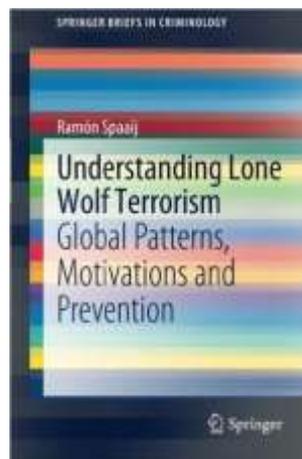
by Dr Ramón Spaaij

Springer, New York

2012, 119 pages

ISBN: 978-94-007-007-2980-3

Reviewed by Jason-Leigh Striegler



We are all familiar with acts of terrorism that are carried out by either structured or leaderless organisations. These date back to the early-1960s, and before; but when examining so-called *lone-wolf* terrorism, we also see that these acts are by no means a new phenomenon.

With a primary focus on terrorist organisations—particularly post-September 11—it is arguable that lone-wolf terrorism has not received the attention it deserves. This lack of research has, on many occasions, left law enforcement and intelligence agencies (LEIA) in a somewhat ominous position to properly identify, manage and hinder individuals who plan and conduct terrorist acts in self-imposed seclusion and impunity.

Spaaij's publication develops a clear working definition for lone-wolf terrorism, and provides a discussion of the distinction between what he claims lone-wolf terrorists are, and what they are not. He outlines the evolution of lone-wolf terrorism, including its effectiveness and incidence rates, and provides an examination of the motivational patterns and ideologies used by lone-wolf terrorists, including the sociological and psychological conditions that influence and radicalise individuals to engage in violence. By using specific case studies in juxtaposition with real-world examples, Spaaij analyses the evidence from six fundamental influencing areas, including: the individual themselves; familial and interpersonal relationships; group and social associations; state and government actions/reactions; as well as historical and contemporary lone-wolf terrorists.

Using this case study approach, Spaaij clarifies what he considers the misperceptions about lone-wolf terrorism are by asserting that terrorists can only be classified as lone-wolves if they operate in complete isolation, and follow their own ideological motivations to violence. He explains that violent individuals—or as he describes them, *lone nuts*—who do not have any ideological reasoning, cannot be considered lone-wolves. Spaaij also suggests that what academics have coined *lone-wolf packs*, which consist of two or more individuals who are ideologically motivated, but may, or may not take direction from larger terrorist organisations, cannot be considered lone-wolves.

The five case studies Spaaij uses were obtained from the *Transnational Terrorism, Security and the Rule of Law* (TTSRL) 2006–2009 database, the *Global Terrorism Database* (GTD), and the RAND-MIPT *Terrorism Knowledge Base* (TKB). The case studies include the lone-wolf terrorist attacks carried out by Theodore Kaczynski, Franz Fuchs, Yigal Amir, David Copeland, and Volkert van der Graaf. These were selected to demonstrate that there is no single profile for a lone-wolf terrorist and that there is no single strategy used to carry out lone-wolf attacks. Spaaij draws on a number of other examples of terrorist attacks to demonstrate the differences between lone-wolf terrorists and those who are part of autonomous (albeit small) groups—citing the Oklahoma City bombing (1995), the Madrid bombings (2004), and the London bombings (2005), to reinforce this point.

It is important to note that the conclusions Spaaij draws from the TTSRL, GTD, and TKD indicate a sharp rise in lone-wolf terrorist attacks in fifteen countries, over a 42-year period (1968–2010, as is illustrated in the appendix), demonstrating the substantial growth of lone-wolf terrorism over time. One of the major gaps in the databases, however, is that they do not provide details of the perpetrators ideologies. These data sources also fail to separate between lone-wolf terrorism and terrorism committed by small isolated groups.

The analysis in the publication does, however, convey that singular profiling of a lone-wolf terrorist is problematic, as lone-wolves have no singular personality type; the individual profile of each lone wolf is particularly unique to their personal grievance/s; and because the lone wolf tends to be very meticulous in the covert planning and carrying-out of terrorist attacks. While Spaaij's book discusses a number of issues that are central to profiling lone-wolf terrorists, he also provides recommendations to agencies on how they might respond to their violent acts. In doing so he outlines legalistic, repressive, and conciliatory

responses. These include the development of strategies to address terrorism within domestic legal frameworks; the enhancement of security, intelligence and law-enforcement's capability to inhibit potential terrorists; and, the potential meeting of terrorists' short-term demands to preserve life, but reduce their longer-term goals of influencing through media and propaganda.

The definition of a lone-wolf terrorist put forward by Dr Spaaij demonstrates how solitary individuals carry-out and justify their use of violence based on ideology; and how their tactical methodology, planning and implementation of activities are conceived without any direct command or control. Although terrorist attacks carried-out by organisations still outnumber those conducted by lone-wolves, by providing an in-depth examination and analysis of this form of terrorism, Spaaij affords a tangible platform for LEIA, academia and the community at large to identify, manage and more importantly, address this rising crime-type.

ABOUT THE REVIEWER

Jason-Leigh Striegher, MA, is a doctoral candidate at the Australian Graduate School of Policing and Security, Charles Sturt University, Sydney where his research focus is on the prevention of home-grown violent extremism. Prior to commencing his doctoral studies, Jason-Leigh completed a Master of Arts in Terrorism, Safety and Security. With over 27 years of experience in the Australian Defence Force and various policing agencies, Mr Striegher's roles have included, Anti-Terrorism Instructor for the Iraqi Police Service in Jordan; Operational Safety Assessor in East Timor and Bougainville; Senior Military Police Investigator in Malaysia; Force Military Police Liaison Officer in Cyprus—which included involvement in the major evacuation of Australians from Lebanon in 2006; and a number of years as an investigator within a Joint Counter-Terrorism Team.

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Book Review

***Developing and Maintaining Police–
Researcher Partnerships to Facilitate Research
Use: A Comparative Analysis***

by Jeff Rojek, Peter Martin, and Geoffrey P. Alpert

Springer, New York

2015, 84 pages

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Reviewed by Alan Beckley



This short book, which calls itself a monograph, contains some useful thoughts and practical solutions to the age-old problem of fusing practical policing with the rigours of science and research to achieve evidence-based policing. The authors admit that the contents of their analyses are limited to their experiences in only two nations: the United States and Australia, but these are large countries with vastly disparate policing systems; therefore useful lessons can be learned. Perhaps there would have been more value in including material from other countries such as Canada and the United Kingdom (UK) in greater depth to explore different perspectives, as these are mentioned only in passing. However, there is a significant amount of information contained in the book to offer advice and support to practitioners and researchers who are seeking to work together to evaluate, research or assess policing operations, policies, practices, or procedures.

The book compares and contrasts the police research environment in each of the two countries and finds that there is a different climate in each. While many of the thousands of police departments in America are prepared to respect and welcome work with higher education institutes, this is not the situation in Australia where misunderstandings and mistrust exist between police practitioners and university researchers. Although there is a long history of police research in the United States, which dates back to the early-1900s, the book reports difficulty in establishing permission to research in Australia and can find few examples of successful police/university relationships. One of the authors is a senior police

officer in Queensland Police Service and there is an example of successful collaboration there and a suggestion that the way forward for Australia is through the Centre for Excellence in Policing and Security (CEPS) based at Griffith University (Queensland, Australia) although that organisation is suffering lack of research funding.

The main value in the book is where the authors carefully analyse the challenges of police/researcher partnerships: it is this area that both parties; police agencies and universities, should learn and understand more about each other's needs and requirements. The book lists the fundamental concerns from police organisations as:

- What would be the investment from the police organisation?
- In particular, what vital information would the researcher require?
- What control would the organisation have over the purpose to which this information was applied? and
- Importantly, how could this really improve policing when police officers where [sic] best placed to know about policing? (p.65)

The book contains very helpful sections on identifying the constituents of successful police–researcher partnership arrangements; it also explains thoroughly fundamental questions to each of the parties, examining the situation from each of the perspectives. Clearly, there are different perspectives and each of the parties to the partnership has objectives of its own to fulfil, which might not always be compatible with the others. To successfully form a positive partnership with a police force, researchers are recommended to have the following attributes:

- (1) Exude interest in the police context;
- (2) Possess excellent interpersonal communications skills;
- (3) Unselfish in their approaches—willing to give as well as take;
- (4) Open, honest, and transparent;
- (5) Outcomes focused (motivated to deliver on their commitments within a reasonable time frame);
- (6) Flexible in the way they negotiate their position and in the outcomes they desire; and

- (7) Respectful and understanding of the chain of command and culture of the police organisation. (p.54)

That is quite a long list of desirable traits which will be difficult, but not impossible, to achieve in total. These are issues to explore at the inception of the relationship; as the book points out that discovery at a later stage of a hidden agenda has led to mistrust and misunderstandings in the past.

On the positive side, the book cites evidence that recently a higher percentage of police officers have studied to under-graduate, post-graduate and PhD level. This has resulted in more understanding of the value of rigorous and robust evaluation and assessment of the results and outcomes of new policing techniques or testing the actual effectiveness of old tools and techniques. This finding bodes well for the future of evidence-based policing when police and researchers have a clearer understanding of each other's roles and responsibilities.

It is books such as this that can build greater trust within the police service to engender confidence to commission and use validated research and evaluation of police services to ensure that public money is spent wisely, in the way that society intended while demonstrating the best possible value.

ABOUT THE REVIEWER

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