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THE WEEKEND AUSTRALIAN

BOOK REVIEW SECTION

REVIEW OF: *Rethinking Law & Order* by Russell Hog and  
David Brown, Pluto Press, 1998. RRP \$24.95

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With elections coming and with some politicians falling over each other to up the ante in a law and order "auction", this is a book to read.

The authors teach law at universities in Sydney. And the picture they paint is described by them as "bleak but not hopeless". They are describing not just the problem of crime with its devastating impact on all concerned. They are also referring to Australia's political response to it.

It is the capacity of electronic media to bring the details and images of suffering into the living room virtually every night. Whereas in the past such suffering would have been vaguely known but rarely encountered, today in tabloid media especially, it is a constant companion. The phenomenon engenders community fears. It gives rise to demands that political leaders deliver a peaceful and law abiding society. Nostalgic memories of the past often distort the actuality. The result is a potent brew of editorial hectoring and a

battle amongst politicians to demonstrate that each political party is more "tough on crime" than its opponents. This book shows how the complexity of the problem and the frustrations of dealing with it effectively are often swept aside by editorial demands to "Lock them up!". One of the chief points made by the book is that, although that strategy has been embraced enthusiastically by succeeding Administrations in the United States of America, it has scarcely dented the overall crime rate in that country or its steady trends. The one thing it has done is to result in 1.7 million Americans in custody.

The authors are at pains to demonstrate that crime, like the poor (and it is not coincidental), has always been with us. So have the demons used to strike alarm in the hearts of ordinary law abiding citizens. The "ticket of leave" men in the 1830s. The "larrikins" in the 1890s. The razor gangs of the 1930s. The bodgies and widgies of the 1950s. And now the youths who "roam the streets" declaring "war on society", wearing baseball caps back to front. The authors show that demonology is never far from the surface in the popular images of crime.

Much attention is paid by the authors to the political scene in the United States because of their fear that, from that country will probably come Australia's political responses to law and order. President Bush demolished Governor Dukakis in the campaign of 1988 with the aid of advertisements accusing the latter of being personally responsible for the violent crimes of Willie Horton, who had been released from prison when Dukakis was Governor of

Massachusetts. Bush's advertisement featured a menacing mugshot of Horton, an African American, cleverly used to play on community hostility and fear. By the time President Clinton challenged Mr Bush, he had learned well from this experience. He promised, and later delivered, a \$US30 billion law and order crime bill. This introduced into federal law in the United States a "three strikes" provision imposing a mandatory life sentence on anyone convicted of a felony for the third time. It also provided for a hundred thousand new prison places and money for a hundred thousand new police officers. During his first campaign, Mr Clinton took time out from the hustings to return to Arkansas as Governor to sign a final death warrant of a convicted black prisoner whom the authors describe as "so severely brain damaged that he did not understand that he was to die". This is the politics of law and order in the United States. The authors urge that we should not go down the same debased track.

Yet by reference to the promises of Australian politicians in electoral campaigns of the 1990s, Hogg and Brown suggest that an identical competition for a "virile image" has caught on here. They describe how the political auction is egged on by identifiable sections of the media. In an interesting section of this book, they seek to contrast the political forces working for a large measure of economic freedom from government interference with those pressing for an increase in governmental control over those who break the law. They suggest that a metaphor for this imbalance, produced by an economic ascendancy in policy-making in Australia, can be seen in

the huge amounts syphoned off by notorious corporate high-fliers. In one case the shareholders in Bell Resources lost \$1.76 billion which, it is pointed out, represented approximately 18 months of accumulated burglaries by little offenders who jam up Australia's criminal justice system and the prisons. Ordinary citizens, it seems, do not feel particularly threatened by well-dressed business tycoons. But they do feel threatened by the burglars, robbers and small-time thieves whose victims are paraded before them every night on television.

What can be done about this given the realities of the media and the political process in which contemporary politicians have to operate? Although the authors try to strike a positive note at various points in their book, the answer seems to be: not a lot. The consequence, they predict, will be an escalation in "uncivil politics", attacks on judges, repeated demands for the "quick fix" which cannot be delivered, and the marginalisation of various groups who constitute most of the business of the police and the criminal courts.

The authors insist that the only real basis for sound policy on criminal law is empirical data. Statisticians are denounced for being out of touch with popular opinion. Anyone who disagrees with the populist editorialist has his or her professional competence challenged and now, increasingly, must face distraught relatives and the victims of crime.

The second solution offered by the authors lies in the targeting of marginalised groups so that the causes of their isolation and involvement in crime can, wherever possible, be addressed. They single out unemployed youth, heroin users, Aboriginals and homosexuals as minority groups requiring initiatives in policing which draw on the communities involved. They raise the question now being raised by police commissioners and some political leaders: is it appropriate to withdraw the criminal law from some of its present activities? The authors pay special attention to the problems of regular heroin users. They contrast the "zero tolerance" approach of many political leaders with that of "harm minimisation" which they favour.

The final section of the books lists other strategies which may be adopted in rethinking the response to crime. The authors describe initiatives which have been taken overseas, and in Australia, to reduce the incidence of crime. Some initiatives invoke the aid of technology. Computers, for example, are also being called into service to trace stolen property, whether cars or goods deposited with pawnshops. Restrictions on the availability of firearms have undoubtedly contributed to the much lower rates of homicide in Australia than in other societies where such weapons are more readily accessible. The apparent growth in the use of knives carried by young people presents a new challenge to the imagination of those designing effective programmes of crime prevention.

I do not pretend that this book is light reading or that I agree with all of the authors' conclusions. But as elections in Australia loom, their book is undoubtedly a timely reminder of the dangers and futility of the punitive policies aucton. It demonstrates the need for those in the know to counter-balance the strident voices which demand quick-fix solutions.