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12. See Mossop, D., 'Environmental laws and the evolution of the implementation of environmental policy', (1992) 2 *Australian Environmental Law News* 57.
13. See Johnson, J., 'Legal aid axed', (1993) 28 *Impact 1*.
14. See, for example, Molesworth, S., 'Provision of legal aid for environmental issues: the squeeze on environment defender's offices', (1992) 9 *Environmental and Planning LJ* 286.
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18. Gunningham, N., Pollution, *Social Interest and the Law*, Martin Robertson, London, 1974, pp.86-7.
19. Farrier, above, pp.84-5; Franklin, above, pp.86-7.
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LETTERS

Dear Editor,

I found Martin Ryan's contribution to the August 1993 issue of *Alt.LJ* annoying and less than helpful.

Overcommitment (nowhere defined) can lead to defaults on repayments! Shock! Horror! These defaults can lead to bankruptcy! People who are harassed over debts are more likely to petition for their own bankruptcy than those who are not harassed and the greater the debt, the greater the level of harassment!! How new!! How exciting!!

From the table included in the article we find that threats of legal action and the sending of non-abusive letters are major collection methods used by creditors, presumably before the instigation of legal proceedings although Ryan does not categorise legal proceedings as a collection method. He does not comment on the requirement of a letter before action in most proceedings for debt as a prerequisite to a claim in most jurisdictions.

Ryan bastardises Kercher's definition of 'the use of unfair non-judicial tactics in an attempt to coerce payment of a civil debt' by making the *sending of letters of demand* out to be 'unfair'. In those circumstances actually commencing court action against a debtor must be positively unconscionable.

In my view, articles which push untenable variants of social justice arguments to illogical extremes make it very much harder for those of us who are struggling for real equity in the legal system to get anywhere – the conservatives paint us all with the same brush!

I would hope that future editors strongly consider the practical effect of what they are about to print before rushing copy to the typesetter.

Jon Gorr
Clifton Hill

Reply

Dear Editor,

Jon Gorr accuses me of pushing arguments to illogical extremes and makes a number of specific points of criticism of my article. In doing so, I think he has distorted and oversimplified my findings and conclusions.

First, Mr Gorr may find my main finding that creditor harassment, combined with insolvency, is a major precipitant for petitioning for bankruptcy for the sample that I interviewed neither new nor exciting, but it was the first time that a clear link had been established empirically in a systematic piece of research. Mr Gorr may have been privy to this knowledge, derived from whatever source, but others who are less well informed may find this research finding both new and surprising. Certainly, there was considerable media interest engendered by the article.

Second, I do understand that a letter before legal action begins is required in most jurisdictions. I have no argument with this and do not consider such letters nor subsequent legal action *per se* to be unfair. I have no quarrel with legitimate and fair means of debt collection as response to default.

Third, Mr Gorr contends that I have utilised Kercher's definition to make the sending of letters of demand 'unfair' and legal action 'unconscionable'. If he had read on further in the article, he would have seen that my definition of harassment also included collection methods that are reasonable and proper as an individual method, among which I would include letters and court action, but when used in combination with other methods and in such frequency and duration, they are perceived as harassment. He seems to ignore the important fact that 27% of the sample were subjected to four or more methods of collection, 44% had contact several times a week with the main harassing creditor and for 35% this pressure went on for six months or more.

Mr Gorr appears to ignore totally my main argument that excessive creditor harassment, originating primarily from finance companies going beyond the use of legitimate collection efforts, needs to be curbed to prevent overcommitted debtors from resorting to bankruptcy and then, when bankrupt, these people should be adequately protected from further collection attempts.

Martin Ryan
Melbourne

structure and the key determinant of how funds are to be expended at the local level. As very little is known about how the PCCCs operate and what they do, and the Safer Communities strategy is still under public comment, we can only hope that the movement is away from public relations and advocating more controls over marginal groups and towards addressing the broad array of factors that make our communities less safe.

References

1. Vicsafe was a consultant-produced name and logo given to the 'new' crime prevention initiative launched in August 1991. It was hailed as an 'integrated anti-crime strategy' and included a Public Safety and Anti-Crime Council (PSACC) chaired by the Premier.
2. For instance, see Beyer L., 'Community Policing in Victoria: Past Lessons - A Model for the Future', Unpublished MA Thesis, Dept of Criminology, University of Melbourne, 1991. Beyer discusses the introduction in 1969 of the crime Prevention Bureau in the Victoria Police and the Police Community Involvement Program (1981) and various other developments in the 1980s. However, Beyer is arguing for problem-oriented policing, embracing community policing, dropping the image of the police as crime-fighters and not viewing the community as simply a resource to help fight crime. What is unclear is whether community policing is a part of crime prevention or whether crime prevention is a part of community policing (p.103).
3. For examples of the electioneering and its effects in Victoria see Corns, Christopher, 'Claiming the Victim Territory: The Politics of Law and Order', (1990) 8 *Law in Context*; and White, Rob and Richards, Chris, 'Police Unions and Police Powers', (1992) 4(2) *Current Issues in Criminal Justice*; see McNamara, L., 'Retrieving the Law and Order Issue from the Right: Alternative Strategies and Community Crime Prevention', (1992) 10(1) *Law in Context* (on NSW); and O'Connor, I., 'Spare the Rod? New laws, old visions', (1993) 18(1) *Alt.LJ* (on recent developments in Queensland).
4. The Hon. M. Sandon, MP, *Hansard*, Legislative Assembly, 20 September 1990.
5. See 'Crime Prevention Program Good Neighbourhood Projects', Guidelines - October 1990, Ministry of Police and Emergency Services, pp.3-6.
6. For instance see 'Local Approaches to Crime Prevention', Proceedings of a seminar held in St. Kilda, 8 June, 1991.
7. The largest single item is the Victorian Football Association 'Care for Kids' program ($300,000). Interestingly, the Good Neighbourhood Program received the third largest amount at $222,724, making it rather surprising that the 'Issues Paper' that launched PSACC hardly mentions either the GNP or Safer Cities/Safer Communities. See PSACC Priorities: 1992/93, undated

LETTER

Dear Editor,

I would like to briefly comment on the question posed in the conclusion of Andrew Palmer's article 'Confessions in the High Court' (1993) 18(5) *Alt.LJ*. He asks whether the High Court's recent approach to confessional evidence will have any effect on police conduct. While it is true that the High Court in contemporary cases such as *Williams*, *Pollard* and *Foster*, has been prepared to exclude confessional material when they have been obtained by police in dubious circumstances, readers should not be too optimistic about the effects of these High Court pronouncements on the reality of everyday police practice.

This reality is that a large part of the criminal justice system consists of an administrative process whereby the pattern of interrogation and guilty pleas is a matter of routine; where even if people are aware of their 'rights' while in custody, they also know that any perceived challenge to police authority may only makes matters worse; and few police practices are ever subject to the supervision of any Court of Appeal, let alone the High Court.

David Dixon, in a paper presented at the ANZ Criminology Conference, Sydney, 1993, entitled 'The Legal (Non)Regulation of Custodial Interrogation in NSW', showed that the experience in NSW following the *Williams* decision was that both the police and the lower NSW courts either ignored the decision, or were able to circumnavigate it. Furthermore, he is not very optimistic about the effects of *Foster*: 'the opportunity for a clear, comprehensive statement about the relationship between voluntariness and the exclusionary discretions is missed. In its place, we are given comments which are restricted by a criterion of relevance to the specific case' (at p.17). A more preferable approach by the High Court would have been to develop a blanket exclusionary rule in respect of all unlawfully obtained evidence, as the US Supreme Court did (*Mapp v Ohio* (1961) 367 US 643), together with an extension of this exclusion to 'the fruit of the poisonous tree' i.e. to evidence which is later gained as a result of an initially unlawful act by the police. Such an approach would have been superior to the vaguer notion of 'fair trial' that the High Court has utilised.

However, ultimately even such an approach would be of only limited potential. Given the power of the police to resist reforms to the law in this area which may make it more certain, their power to influence decision making, and the passionate law and order rhetoric which dominates questions relating to civil liberties today, I suspect that the real answer to the problems do not lie with the law. Rather, the answers lie in strategies involving greater political accountability of the police force, and a more professional, educated police force. Until this occurs, I am afraid that all the glorious pronouncements of the High Court will not have any noticeable effect on police conduct.

Sam Garkawe
Clayton