

# **POLICE ACCOUNTABILITY**

Richard Coates, Director of NT Legal Aid and member of the Criminal Lawyers Association, was invited to present an address at the NT Police Association Conference held in Darwin on 14 August 2000. The theme of the presentation was police accountability which Richard discussed reflecting on his own experiences with the law. His address is reprinted here.

Last month the AIJA held its annual conference in Darwin. The keynote speaker was Justice Susan Denham of the Supreme Court of Ireland. She said in relation to judicial accountability:

The judiciary should absorb the light from the society it serves. The judiciary should be strong, transparent and crystal clear in its operation.

In my view those remarks also have application to police work.

I will share with you my thoughts on the issue of police accountability which are based on my own experiences with the law.

It all began in 1973 when I commenced articles with a Greek solicitor in Melbourne. I was entrusted with minor workers compensation matters for the predominantly Greek clientele.

I recall that after inviting a client to submit a counter offer to the insurer's offer of \$2,000 for the loss of his finger I was told through the interpreter his counter offer; "he wants you to tell them he will pay \$2,000 to the insurance company lawyer if he can cut off his finger."

I may have stayed in that relatively straight forward environment if someone hadn't left. As the cheapest employee I was shunted up a rung to run the criminal practice.

On assuming that role I discovered I was now acting for Dr Bertram Wainer (a noted anti-corruption crusader) and a number of other individuals who were appearing as complainants in the Royal Commission into the Victorian Police

that was being conducted by Barry Beach QC.

I was skyrocketed into an environment I had not realised existed. I had never wholly believed many of the stories of police fabricating evidence, however it soon became abundantly clear to me that there was something rotten in the state of Victoria as far as the activities of a number of senior detectives were concerned.

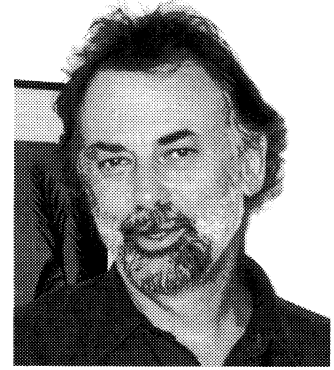
There seemed to be a widely held view within sections of the Victorian CIB that this was a contest between police and criminals and the end justified the means.

I went on from there to work almost exclusively as a criminal lawyer in Melbourne for the next 10 years and represented a number of leading luminaries in the criminal scene. I had graduated from the finger cutters to the toe cutters.

People would say "how can you represent these terrible people". It was not all that hard. We were fighting to get to the truth as far as the evidence that was being presented by the prosecution. We did not have to worry whether the client was in fact really innocent, instead we focused on exposing any unsatisfactory or dishonest dealings on the part of the investigating police, whether it be gilding the lily in relation to observations or an account of a preliminary conversation, or the full blown unsigned, uncorroborated record of interview – the "verbal."

Although many police might have been doing the right thing – the secretive nature of policing back then led us to assume they could well have been hiding something and there was also a general feeling within the police force that they had to hold the line and never concede anything of potential benefit to an accused.

In 1986 I made the great trek North and took up the position of PLO at CAALAS where I expected that I would be



*Richard Coates, Director of NT Legal Aid*

exposing the injustices, no doubt being visited upon Aboriginal people by the Northern Territory police.

It didn't take me long to realise my preconceptions and prejudices were not so well founded and that there were significant differences in the NT's police culture.

I attended bush courts and met policemen of the calibre of Gary Williams and Mick Van Huythesen who were much more in tune with what their communities needed than I was.

They had the respect and support of the people they served. Their life on those small communities was an open book, there was real transparency. They couldn't afford to cut corners or do the wrong thing because it would be thrown back at them at a later stage. They no doubt saw the futility of cheating because everyone would soon know about it as they were operating in a gold fish bowl.

This was an enlightening experience for me. This was real accountability from the grass roots up. This spirit has in my view largely flowed through to the rest of the force because so many of your senior officers got their grounding in the bush and it and has contributed to making this the best police force in Australia.

I do have a word of warning for the future.

I will declare my hand – in case any of you don't know – even though I have been here almost 15 years, I am opposed to mandatory sentencing.

## POLICE ACCOUNTABILITY

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I was in Alice Springs talking with a member of senior Aboriginal women a couple of weeks ago. They said "We need your help lawyers, we have got a big problem with the police, they are putting all our young men in gaol."

The explanation that the police are only enforcing Government policy doesn't necessarily go down all that well out bush.

This should not be surprising for those of you who have had experience with traditional Aboriginal concepts of accountability.

It would be a tragedy if the response by our Government to the complaints of suburban Darwin is going to diminish the relationship you have built in the bush because you are being held accountable for something outside your control.

Richard Coates is also a council member of the Law Society Northern Territory.

## YOUR HONOUR? YOUR WORSHIP?

### Views sought on magistrate's address

The Chief Magistrate of the Northern Territory Hugh Bradley has written to the Law Society seeking the Territory legal profession's views on the form of address used in the lower courts.

The issue arose when the Chief Magistrate received an inquiry from an interstate court as to whether there had ever been a proposal in the Territory to change the form of address in the lower courts from "Your worship" to "Your honour". South Australia is one jurisdiction where this practice has already been adopted.

"The subject having been thus raised at our meeting on 31 July 2000, the magistrates expressed their opinions on the subject. With one or two exceptions I think it is fair to say the magistrates are not too concerned what

form of address is used," wrote Mr Bradley.

"It occurred to us that the profession might have a view on the subject: if there is a general desire for change in our practice, I think the magistrates would be content to fall in with it," he said.

The Council of the Law Society discussed the matter at their meeting on 24 August 2000. A strong divergence of opinion on the proposal to change the magistrate's address was noted and Council agreed the profession should be widely canvassed.

Any comments on the matter are encouraged. Please contact any Council member or the Executive Officer of the Law Society with your views.



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