

VICTIMS' VOICES

SUSPENDED SENTENCES STILL WITH US

INSIDE THIS ISSUE:

Suspended Sentences	1
Make the Criminals Pay	1
No Place for Politics	2
Repeat Killers	3
Victim's Life a Battle	4

EDITORIAL

MAKE THE VIOLENT CRIMINALS PAY

A thug put a person in a wheelchair for life and the maximum payment for pain and suffering is now \$10,000 dollars. Two years ago it was even less at \$7,500. In the case we are talking about (p.4 'Crime Victim's Life a Battle') the thug got only seven and a half years minimum jail; and even that was after an appeal of the original sentence of just five years.

This is our so called justice system: an absolute disgrace. This thug is now out of jail and free of any payments to his victim. Any payments for work he got in jail should have been taken off him, and paid to the victim; but it was not. We believe that in the future, half of any money these thugs earn, whether it be the dole or earned wages, should go to the victims as long as it is needed, even if for the rest of their lives.

Revolving door still spinning



Despite Victorian A-G Rob Hulls (above) telling us three years ago that "under the (Sentencing Act) reforms, jail means jail" rapists, arsonists and armed robbers are among hundreds of serious criminals still cheating jail. Even Advisory Council Chairman and Monash University Law Dean Arie Freiberg, who had recommended the abolition of suspended sentences back in 2002, has said he was surprised by the new figures which suggested the law "was not operating as Parliament intended". Apart from Rob Hulls, two individuals directly responsible for this 'revolving door system' are Magistrate Clive Alsop and judge Paul Lacava.



Alsop was in the news recently when sentencing "Australia's worst mum" Kylie Eastwood, who had

been found guilty of giving her five year old son enough alcohol to register a 0.09 reading, almost twice the legal limit if he was an adult driver. If that were not bad enough, she was also at court to answer charges of breaching other suspended sentences relating to neglect of her children and a conviction for refusing a breath



test when disqualified. In spite of all that Eastwood received yet another suspended sentence, this on the ludicrous reason that she should not be separated from her children, the victims of most of her crimes.

Paul Lacava (above), a Hulls' appointee, was responsible in 2008 for letting a HIV-positive man Lam Kuoth walk after being found guilty of twice recklessly endangering a person by having unprotected sex without informing her of his condition, a condition he was well aware of as he had previously been detained in a hospital under a public health order. The court had also heard from police statements that two



HIV-positive Lam Kuoth

other women also had unprotected sex with Kuoth, one of whom did become infected. In attempting to justify his decision, Lacava said that Kouth appeared to be now taking more responsibility for his behaviour because he had said to his doctor that he would now use a condom when having sex. As the CVSA's Noel McNamara responded on the PM radio show 11/8/2008 "Naturally he's going to say that. He's not going to say he's going to reoffend without a condom because he would then go to jail."

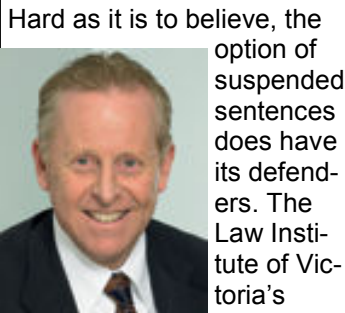
In the same year Lacava also gave a fully suspended sentence to a Paul Mitchelmore whose driving caused the death of an on duty traffic policeman. (see also P2)



"not operating as Parliament intended" - Law Dean Freiberg

SUSPENDED SENTENCES STILL WITH US (CONT.)

Those who would defend the revolving door



Hard as it is to believe, the option of suspended sentences does have its defenders. The Law Institute of Victoria's Tony Burke (above) declares "A trial judge, when crafting a sentence such as in this instance (the Kouth reckless endangerment) , has to weigh up on the one hand deterrence with the need to encourage rehabilitation on the other."

Does Mr Burke need to be reminded that in many cases we're not talking about attempting to rehabilitate a thief or a fraudster? In those cases if the rehabilitation fails another victim loses some property; in this case failure to rehabilitate (and Kuoth has a history of denying culpability) may well lead to someone dying. Do we really have the right to gamble with innocent people's lives to give the guilty another chance?

Lawyer Stan Winford, Policy and Project Officer of Melbourne's Fitzroy Legal Service said on the ABC *Law Report* (25 July 06) that people have "all sorts of reasons for committing offences, and [for] some of them ... , we can at least understand why they've done it. And for those people, often suspended sentences are a good option." What Stan should be aware of is that when Parliament lays down the criminal law, it already includes various allowances for exceptional circumstances such as duress, provocation or diminished responsibility. It definitely should not be the role of judges, guided by the defence lawyer at hand, to further add their own special circumstances that grant an exception from what Parliament, the people's representatives, have otherwise declared a punishable crime. Stan Winford also declared abolishing suspended sentences would cost Victoria an extra six million a



year in new prisons to house the extra inmates. In response Noel McNamara, on the same program, asked why we throw so many in jail for non-violent offences. If those jailed for fine de-

fault or petty theft had to instead engage in restorative justice such as weekend community service, then there would be plenty of empty cells for those who truly deserved them.

Courtesy of the Herald Sun 16 March 2009

Conviction recorded 2007-2008	Wholly Suspended Sentence
Armed Robbery	23
Aggravated Burglary	61
Arson	7
Dangerous Driving Causing Death	7
Intentionally Causing Serious Injury	14
Rape	4
Sexual Penetration of a Child	23

NO PLACE FOR GENDER POLITICS

Herald Sun 18 Sep 2009: Former judge John Barnett (photo p.4) yesterday accused Attorney-General Rob Hulls of appointing some inappropriate women as County Court judges for gender balancing reasons. The recently retired County Court judge claimed Mr Hulls picked them because they were women, rather than the best candidates. Mr Barnett said he backed claims by fellow former judge John Dee, QC, that

Mr Hulls had appointed undeserving people as County Court judges for political reasons. He said that some of the women appointed to judicial positions in Victoria were very good "but some are not ". Mr Dee alleged that some current County Court judges didn't have the necessary background or skills and were making costly mistakes. On criticism by Chief

Judge Michael Rozenes, Mr Dee responded, "I stand by my remarks. The Chief Judge has not suggested to me that my remarks were untrue or inaccurate." Mr Dee was a County Court judge from 1990 to 2002 and became chairman of the Legal Profession Tribunal after retiring from the bench. He used his new autobiography *Bars & Benches* to call for the creation of an independent board to re-

view the selection of judges by the Attorney-General. In his book, Mr Dee also **>Blames** a combination of legal precedent and legislation for Victorian judges not being able to hand down maximum penalties in rape and other serious cases. **>Calls** for an end to suspects being able to hide behind their right not to answer police questions. Mr Dee told the *Herald Sun* some of (contin. page 4)

REPEAT MURDER SPARKS C.P. RECALL

With no clear views on the subject, journalist Brian Morley walked into Pentridge Gaol on a summer's day in 1967 to witness the execution of murderer Ronald Ryan. As he described it in the Herald Sun (1/10/2009), because of this "deliberate, callous and barbaric act" he walked out firmly against the death penalty and has been an advocate against it ever since.

If all it took for him was to witness a killing then it is a shame for law and order advocacy in Australia that he was not instead a fly on the wall to witness the deliberate, callous, and barbaric murders of innocents perpetrated by infamous Australian criminal Leigh Robinson.

In 1968 labourer Leigh Robinson killed 17 year old Valerie Dunn in a frenzied knife attack after being told she would no longer be going out with him. 16 yr old Des Grewar, who rushed to Valerie's aid, was also stabbed by Robinson but fortunately did not die. Having been found guilty by a jury, Robinson received the death sentence from Judge George Lush. It was apparently a time when judges respected the beliefs and values of the Victorian people. Unfortunately for

Cold Blooded Killers



Robinson

many of those who were to subsequently come in contact with Robinson, it had only been a year after the highly publicised execution of Ronald Ryan. Even though then Premier Henry Bolte had stood by his principles and not capitulated to the cries for leniency from the very vocal pressure groups of the time, the media outcry and condemnation did seem to cause all future such sentences to be commuted. Robinson thus profited from such sentiment and not only escaped the noose, but eventually served only 15 years for his attack: a truly lenient sentence when one considers he not only killed one person but attempted to kill another.

True to form on criminal recidivism, after being released from prison Robinson racked up a

string of further convictions including theft, burglary, indecent assault involving underage girls, and rape. His worst example of not being rehabilitated however, was when he made the headlines in 2009 on being convicted of a second murder, that of a Tracey Greenbury, another woman who had attempted to end a relationship with him.

This is not the first time in Australia a Governor's leniency to someone on death row has been abused. In 1948 in New South Wales, an Eric Thomas Turner was sentenced to death for the murders of his 15 year old girlfriend and her father. His sentence was commuted to life imprisonment from which he was paroled 1970. In 1973 he stabbed to death his mother-in-law, Harriet Field, and his 11 year old step son. (Sydney Morning Herald 16/07/08)

In the wake of the Robinson conviction a poll conducted by the Herald Sun revealed that over 77% of the approximately 3000 respondents supported a return of the death pen-



Turner: killed in 1948, and after release, again in 1973

alty. (23/9/2009). This is not that much of a surprise. Despite the "controversial" decision by Premier Henry Bolte to grant no clemency to Ronald Ryan in 1967, he still went on to win the following state election and since then most polls undertaken to gauge Australians' regard for the death penalty have shown at least a 50% support.

Brain Morley finished his article by asking himself "time and again" what capital punishment achieved. His answer, "It achieved nothing".

Wrong Mr Morley. At least one objective it has achieved is that Ronald Ryan, unlike Leigh Robinson or Eric Turner, never killed again.

How Many More ? Herald Sun 1/10/09

In 1968 a 17-year-old girl was stabbed to death in the kitchen of her own home. From that moment, life for those involved would never be the same. I am the niece of Valerie Dunn, the teenager who was murdered that day by Leigh Robinson.

It is often said that with rehabilitation and counselling, we are able to turn cold-blooded killers into

normal human beings. But Robinson's verdict has proved us wrong. If the original death sentence had not been commuted, Tracey Greenbury would still be alive. Her children would still have their mother and a family filled with grief would not have been forced to confront the heartache of loss.

When a life is taken away so cruelly, it does (cont.P4)



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CRIME VICTIM'S LIFE A BATTLE

Angela Barker was 16 when her boyfriend (right) trampled her in a supermarket car park, inflicting brain damage. Now 24, she lives back home in Benalla being cared for by



her parents who could not afford to continue with intensive rehabilitation. Under victims-of-crime legislation she has received just \$7500 - the maximum sum - for her pain and suffering. While the Barkers (with Angela in photo) received a further \$110,000 for medical and related expenses, they believe the \$7500 awarded for pain and suffering was inadequate. "Victims

Photo courtesy THE AGE

need more," Angela's mother, Helen Barker, said. "I don't want lots of cash but I'd like to know for sure that Angela's needs will be met in the future. We're both pensioners - we can't pay." CVSA president Noel McNamara has been lobbying Attorney-General Rob Hulls on the family's behalf but said requests for a meeting had so far been ignored. "We want

the Government to lift the benchmarks for the crimes compensation award," Mr McNamara said. "People don't want to be rich; they just want to be able to live without being in poverty." While doctors initially said Angela might never recover, she is now

slowly learning to walk and talk again through rehabilitation done in the family carport at home. As father Ian Barker said, "We're fairly under resourced and you've got to do things yourself". Benalla MP Bill Sykes raised the matter in Parliament saying Angela's recovery was being jeopardised because the Government's victims-of-crime policy did not allow for adequate funding for physiotherapy. (Herald Sun; 7 News)

HOW MANY MORE?

(contin. from p. 3)

not only affect the victim, but also those left behind. After the murder of Valerie Dunn, my grandmother died a short time after, from what we believe was a broken heart.

I ask the question: Why? Why did a government release a man 15 years after a cold-blooded murder, allow a man with no sense of remorse or compassion to walk the streets, to then commit rape, assault, burglary and most recently murder again? Where is the justice that Australia so proudly announces to the world?

How many people need to be affected before our justice system recognises that it made a mistake? How many more people need to die before the law is changed

to protect our citizens?

If we release killers into society, how many more parents, siblings and children will be left without a loved one? Leigh Robinson's violent act took away the right for me, my brother, my sister and our cousins to ever meet our beautiful, caring and kind Aunt Val. Our family photos are always missing a piece of the puzzle and special events are never complete.

Our justice system failed my family and the families of those affected by Leigh Robinson. I hope that as a community we can change the system to prevent Leigh Robinson and others like him from walking our streets again. If we are able to change the law, then perhaps Aunt Val didn't die in vain.

Kate Lauretta

NO PLACE FOR GENDER POLITICS

(contin. from p. 2)

Victoria's finest lawyers were reluctant to become judges because they had lost respect for some judges on the County Court bench. "I was talking to a senior counsel the other day and she said to me she would not accept an appointment to the County Court because of the poor quality of people who have already been appointed," he said. "That is not an isolated view."

Mr Dee said the large number of County Court decisions being thrown out by the Court of Appeal was evidence of too many judges getting it wrong.

Mr Barnett (right) yesterday said Judge Rozenes should be tackling the problem rather than asking Mr Dee to apologise for raising what was a legitimate issue. "I think Michael Rozenes would

be well aware of who the poor performers are, but there is not much he can do about them as judges are appointed by the Attorney-General," he said. "Some of the bad appointments were an attempt at gender balancing by the Attorney-General. It is a terrible nonsense all this stuff about widening the horizons and getting judges from different walks of life."

