

# VICTIMS' VOICES

## DON'T BE HOODWINKED ATTORNEY-GENERAL !

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### Double Jeopardy Reform

One of the benefits of the last election is that now we have an Attorney-General treating the victims and the accused with equal respect, rather than one whose only consideration appeared to be that of looking after those accused of criminal behaviour. Honouring a pledge he made before the election, A-G Robert Clark has recently stated that he will be reforming that anachronistic law, double jeopardy, which grants immunity from further prosecution to someone acquitted, no matter how tainted the acquittal may have been and no matter what new incriminating evidence may come to light. England abolished the law less than a decade ago and so far, as our website on DJ lists, there have been three separate convictions for murder of people previously acquitted. Robert Clark is a man of integrity and good heart and in declaring the law will be changed he has stated the new legislation will fol-



low the Council of Australian Governments (COAG) reform model put together by the committee of all states' Attorneys-General from 2004-2007. Apart from small differences, this is the model other Australian states who have reformed the law have used.

There is just one problem. **The COAG model doesn't work!**

For the accumulated 14 years double jeopardy has been "reformed", (Qld 3 ½ yrs, NSW 4 ½ yrs, SA 3 yrs, Tas 3yrs) there has not been a single conviction of an accused previously acquitted. (And that doesn't even take into account the questionable acquittals before the law was changed that three of the states allow to be considered.) In fact no court anywhere has even allowed a single re-



prosecution!

Historically the Labour Party has always been soft on crime, embracing that well known adage "It wasn't the criminal's fault, society is to blame." (see article p. 3) and back in 2004-07 every state's Attorney-General belonged to that party. The COAG model was put together in response to the infamous *R v Carroll* trials in Queensland where the accused was twice found guilty by separate juries and yet ultimately released by the Australian High Court due to the double jeopardy "principle".

Politicians around Australia felt the heat from the public to "do something". Unfortunately the something those Labour politicians did was to create a model that gave the appearance of reform while knowing all the while that in practice no, or extremely little, change would happen.

As honest as our Attorney-General is in honouring his commitment, we are afraid he may be just too trusting in the COAG model to deliver meaningful reforms, rather than reforms on paper that just don't happen to work in practice.

One problem with the COAG model is that judges can deny an application if they think that "in all the circumstances" it is not in the "interests of

justice" to do so. Considering some legal academics have stated that in any retrial the jury will automatically think the accused is guilty (as ridiculous as that argument is) and that the risk of an unjustifiable conviction will increase with every new trial, there will be some judges who believe a retrial, **per se**, will not be in the interests of justice, even before looking at the circumstances.



Another problem is that a judicial error of law, such as incorrectly denying relevant evidence, will not be grounds for a retrial, despite the fact that it is for the defence after a conviction. Please check our DJ website for more problems of the COAG model together with suggested solutions.

If you are concerned, contact Robert Clark to ask him not to be so trusting.

(Be sure to be courteous. Don't forget: Robert is one of the good guys.)

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## JOHN L COOMBES FREED TO KILL AGAIN, AND AGAIN

**THE sadistic killer who dismembered a childcare worker and dumped her body parts off a pier had murdered twice before, it can now be revealed.**

Herald Sun 3rd May 2011

In a move that took police and prosecutors by surprise, John Leslie Coombes yesterday pleaded guilty in the Supreme Court to the murder of Raechel Betts, 27.

Coombes strangled Ms Betts and cut her up in a bathtub after an argument at the Phillip Island home of co-accused Nicole Godfrey in August 2009.

Told Coombes had killed twice before, Betts' family called for a review of the parole system.

Her body parts were placed in plastic bags and thrown off a pier at nearby Newhaven.

In the wake of yesterday's guilty plea, the *Herald Sun* can reveal that Coombes had twice been convicted of murder - but was released - before he killed Ms Betts.

In February 1984 he murdered a man named Michael Peter Speirani.

In November the same year he murdered Henry Desmond Kells.

Coombes received a life term in December 1985 for the Kells murder.

In April 1990 he was granted an 11-year minimum term. For the Speirani murder he was ordered, in April 1998, to serve 15 years with a 10-year minimum.

Raechel's grandfather, Neville Betts, told the *Herald Sun* that while Coombes had pleaded guilty to the murder, "the whole experience needs to be looked at".



"I've got seven granddaughters ... Raechel was the oldest, and when she was taken out you wonder why, and you wonder how," he said.

"It's all very hard. What I do know now ... the parole system has to be seriously looked at. This man murdered, and was paroled, and he came out and murdered again. "With two murders under his belt, both convictions, he went forward and murdered the third time."

The system "got it so wrong" in allowing a "beast to come among us again".

Mr Betts and Raechel's mother, Sandra Betts, said Coombes's decision to plead guilty yesterday was a small step towards justice.

"It's the most honest thing he's done so far, that's for sure," Sandra



Latest victim Raechel Betts

Betts said outside the Supreme Court after the surprise plea.

Coombes decided to change his plea during a morning of pre-trial argument. When asked how he pleaded to the charge of murdering Ms Betts, he replied: "Guilty, Your Honour."

Coombes will next appear in court before Justice Geoff Nettle at a date to be fixed.

Nicole Godfrey, 28, had already pleaded guilty to attempting to pervert the course of justice after providing Coombes with a false alibi.

Last week she received a three-year jail term, suspended for three years.

## RAPE SENTENCES IN VICTORIA TOO LENIENT, SAYS DPP

G. Wilkinson, Herald Sun, 24/3/'11

Almost a quarter of all sentences for rape were too light, the Court of Appeal was told yesterday.

Lawyers for Director of Public Prosecutions asked the court to introduce five categories of rape and a sliding scale of penalties to properly reflect their seriousness.

The DPP's submission to a rare Full Bench of five judges said 13 of the 56 rape sentences imposed in Victoria in 2009 were inadequate.

The court was told rape sentences during that year ranged from 18 months to 14 years. Only 10 offenders

were sentenced to more than six years' jail.

The average jail sentence for rape between 1999 and 2008 was just over five years.

Barrister Paul Holdenson QC, representing the DPP, told the court current sentencing practices were inadequate and did not reflect the maximum 25-year penalty for rape.

Mr Holdenson said the proposed new classification of rape offences, with an appropriate sentencing range for each, would provide judges with a yardstick or checking



"rape classifications needed"

mechanism.

He told the appeal judges the grading of rape offences and sentences would not remove the discretion of judges but would ensure more consistency.

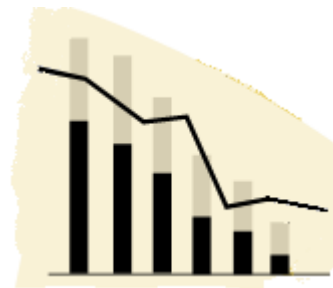
The sentences proposed for different classifications of rape offences ranged from no imprisonment in exceptional cases to the maximum of 25 years for the worst cases.

The DPP based yesterday's test case on an appeal

## DID THE BLEEDING HEARTS GET IT WRONG ON CRIME?

Richard Cohen, *The Washington Post* 1st June, 2010

This is a good news, bad news column. The good news is that crime is again down across the American nation -- in big cities, small cities, flourishing cities and cities that are not for the timid. Surprisingly, this has happened in the teeth of the Great Recession, meaning that those disposed to attribute criminality to poverty -- my view at one time -- have some strenuous rethinking to do. It could be, as conservatives have insisted all along, that crime is committed by criminals. For bleeding heart liberals, this is bad news indeed. The figures are rather startling. From 2008 to 2009, violent crime was down 5.5 percent overall



and almost 7 percent in big cities. Some of those cities are as linked with crime as gin is with tonic or as John McCain is with political opportunism. In Detroit, for instance, with the auto industry shedding workers, violent crime was down 2.4 per-

cent. In Washington, D.C., murder was down 23.1 percent, rape 19.4 percent and property crime 6 percent. Stats for political corruption are not available.

What's going on? There is no unanimity of opinion but whatever the reasons, it now seems fairly clear that something akin to culture and not economics is the root cause of crime. By and large everyday people do not go into a life of crime because they have been laid off or their home is worth less than their mortgage. They do something else, but whatever it is, it does not generally entail packing heat. Once this becomes an accepted truth, criminals will lose what status they still retain as victims.

This is not as outlandish as it may seem. I recall that after the L.A. Watts riots of 1965 (34 dead), someone determined that the mobs looted only those stores owned by the miserly and the mean. In other words, the store owners had it coming, and the rioters, which is to say the criminals, were just getting some justice, often in the form of a TV set.

So two years later, in the immediate aftermath of the Newark riots (26



dead), I conducted a one-man, totally unscientific survey of looted stores. I detected no pattern. Generous owners were trashed. Good guys suffered. The mob was not administering justice. It was getting stuff for free.

The Watts survey tended to support liberal dogma that criminals were like everyone else, only more desperate. Probably the ultimate example of this was cited to me years ago by a woman who had her necklace yanked from her while walking in Manhattan. When I commiserated with her, she said of the crook -- I am not making this up -- "he probably needed it more than I did." This is liberal guilt at its apogee.

A good deal of social policy was predicated on such an outlook. It made victims of criminals and criminals of victims (all wealth comes from theft, etc.) -- and in so doing,

insulted the law-abiding poor who somehow lacked the wit to appreciate their historic plight. This ideology was mocked by Stephen Sondheim in his lyrics for the "West Side Story" song "Gee, Officer Krupke": "Dear kindly Sergeant Krupke, you gotta understand, it's just our bringin' up-ke that gets us out of hand. Our mothers all are junkies, our fathers all are drunks. Golly Moses, natcherly we're punks!" In other words, all the gang members were the unavoidable products of their environment.

Common sense tells you that the environment has to play a role and the truly desperate will sometimes break the law -- like Victor Hugo's impoverished Jean Valjean, the main character from *Les Miserables*, who stole bread for his sister's children. But the latest crime statistics strongly suggest that bad times do not necessarily make bad people. Bad character does.

### ...highest of 53 rape sentences 14 yrs, out of a max. of 25 yrs...

(>from p. 2) against a sentence of seven years, with a five-year minimum, imposed on convicted rapist Jason Werry. Werry 28, had forced himself upon a 17 year old girl pleading to be left alone,

and then left her in a desolated reserve, where he had driven her, taking her wallet and phone with him.

Mr Holdenson said that, given the gravity of the offence and Werry's not-

guilty plea, the sentence gave inadequate weight to the available maximum and too much weight to current sentencing practices.

The Full Bench consisted of Chief Justice Marilyn

Warren, Court of Appeal President Chris Maxwell and Justices Peter Buchanan, Mark Weinberg and Bernard Bongiorno.

Justice Maxwell said a suggestion by Werry's barrister that guidelines fettered judicial discretion was "entirely contestable".

## WHY A \$1 MILLION REWARD FOR THUGS' KILLER?

### Victims group slams \$1 million reward.

The AGE May 30 2011  
A victims of crime advocate has criticised a Victorian Police offer of a \$1 million reward to help solve a gangland killing, saying the death of Richard Mladenich was "good riddance". Police say they are trying to tempt people who knew who killed Mladenich to come forward, with the reward up for grabs by anyone who offers information that leads to a conviction. Mladenich was a body-guard to slain drug boss Carl Williams and was killed at a St Kilda hotel 11 years ago. But Crime Victims Support Association president Noel McNamara

said only other criminals would know who killed Mladenich and they would now be set to claim the reward after having refused to cooperate with police for many years. "They live by the sword and they die by the sword, so it is good riddance to bad rubbish," Mr McNamara said of Mladenich's death. "That is another scumbag put in the earth and gone to hell ... the reward is a waste of time." Mr McNamara said he did not believe the reward would entice anyone to come forward. "They get what they deserve, those guys," he said. "The real victims of crime are the ones who have

someone come into their lives uninvited and stuff it up forever," he said.



**39 year old career criminal and feared stand-over man known as "Mad Richard", Richard Mladenich was shot to death in a St Kilda motel room in May 2000 four weeks after being released from jail.**

We're on the web!

[cvsa.com.au](http://cvsa.com.au)

[cvsa.asn.au](http://cvsa.asn.au)

[doublejeopardyreform.org](http://doublejeopardyreform.org)

Making justice a right,  
not a privilege



### Another CHANCE to WIN a MICRA !!

Another year, another chance to win a new car. This 2011 Nissan Micra has again been generously donated by the good people of **Fern-tree Gully Nissan** for a Charity Raffle organised by Rotary Emerald.

The proceeds from tickets sold by CVSA staff Noel McNamara, Gwen, or Paddy will go towards the CVSA itself.

Tickets only \$2.00

Prize drawn 8th August 2011



### GOOD NEWS ABOUT DERRYN

In what will please all readers of this newsletter, broadcaster Derryn Hinch has successfully undergone a life saving liver transplant operation at the Austin Hospital in Melbourne. The lead surgeon said the team "sweated" during the 5 ½ hour nerve wracking operation. There was a risk of major blood loss, which would have put pressure on Hinch's heart. "These are operations in which patients can die, so it is possible that Derryn could not have survived it," Prof Bob Jones said. He added that it was an extraordinary thing that those who die have donated organs and that particular patient who supplied the liver for Derryn had also donated other body parts to recipients around Australia. There were probably half a dozen Australians benefitting from his gift.



With a smile on his face Prof Jones (far left in picture) ended the press interview with the jibe that "ICU will kick Derryn out pretty quickly, as he is probably going to start talking as soon as he awakes."

We must all still remember however that Derryn is still not completely out of the woods yet as there is always the risk of his body rejecting the new organ or infection setting in.