

President's Column

I have met with the Chief Minister and Attorney General, Mr Burke, on two occasions. The opportunity to establish communications with him was most welcome.

At the first meeting Mandatory Sentencing was discussed. At the second meeting developments in the National Legal Services Market were discussed.

Following on from the discussions with Mr Burke about Mandatory Sentencing, the Law Improvement Committee of the Law Society has endorsed and sent to the Attorney-General written submissions on Mandatory Sentencing which were prepared by Elizabeth Morris, in liaison with Richard Coates and consultation with the Law Society. The submissions state, among other things, that the following areas are priority areas for immediate reform of Mandatory Sentencing:

1. Mandatory sentencing should not apply to juveniles
2. Mandatory sentencing should not apply to criminal damage
3. Mandatory sentencing should not apply to adult first offenders
4. The mandatory sentencing period of 12 months imprisonment for third and subsequent convictions should no longer apply
5. Courts should be given the discretion to refrain from imposing the mandatory sentence where it is established that having regard to the particular circumstances of the offence or the offender, it is not in the interests of justice to do so.

In reforming these particular areas the following outcomes would be achieved:

1. Young people stay out of contact with more experienced criminals, until it is the last available option;
2. Not as many people will be incarcerated for minor and trivial offences;
3. People will be given a chance to reconsider their actions and make a choice as to whether they are going to 'mend their ways';
4. The Territory will not be put to the expense of 'permanently' incarcerating increasing numbers of young Aboriginal men from remote communities for relatively minor offences;

5. Offenders who deserve a chance will be given one; the intellectually disabled, the young, those of exemplary character, or those suffering from mental illness will be dealt with in a manner appropriate to their circumstances.

What may be of assistance is a two doors approach to protect the community which involves:

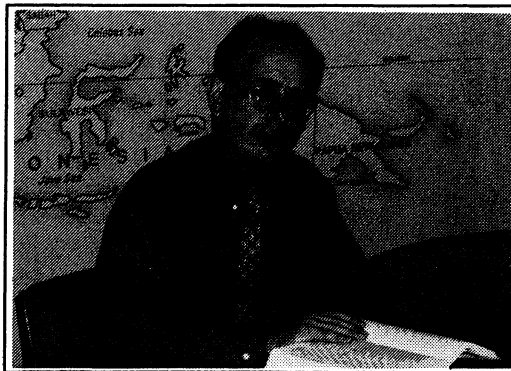
- Offenders must acknowledge responsibility for their actions;
- It is in the community interest that where possible, the offender assists in making good some of the damage suffered by the victim.

The written submissions on Mandatory Sentencing which the Law Society has sent to the Attorney General were unanimously endorsed by the Law Council of Australia at its meeting on March 20, 1999.

As to developments in the National Legal Services Market the Attorney General has agreed with the proposals that a seminar be held by the Law Society on such matters and that following the seminar detailed submissions should be made to government by the Law Society for its consideration. It is hoped to hold the seminar on April 23, 1999. The Attorney General has also stated his preliminary view is that he sees no difficulty with the implementation of the travelling practising certificate regime. However, the Attorney General believes that, whatever reforms are ultimately made to legal practice, such reforms should be implemented as a package.

On March 19 the Law Council of Australia held its Planning Conference for 1999. The conference was attended by Maria Ceresa. The priorities for the Law Council of Australia for the following year would appear to be:

1. the implementation of competition policy;
2. Legal Aid and Access to Justice;
3. Pretrial Criminal Procedure and the Right to Silence;
4. International Legal Practice;
5. GST and Legal Services;
6. Australian Legal Convention.



Steve Southwood, President

Letter to President Removing Ambiguities in Legislation

Following a request made to the Committee by a member of the legal profession, the Attorney General has agreed to the Northern Territory Law Reform Committee taking on the following role:

"To review the wording of particular provisions of Acts, Regulations and Rules of Court that have been identified by the legal profession as in need of re-writing for the purpose of ensuring greater clarity. The review would not examine (change) the policy of such provisions".

Effectively the Committee will be acting as a sounding board for the members of the legal profession and others concerning legally contentious or ambiguous provisions being provisions that have not necessarily been the subject of judicial or parliamentary clarification.

Accordingly, I invite you or your colleagues to provide, from time to time, advice to either me or the Executive Officer as to any Acts, Regulations or Rules that contain wording that is ambiguous or unclear. If the apparent policy of the provision is clear the Committee will prepare a short report suggesting a revised wording. If the policy is unclear or contentious the Committee will refer the matter to either the Attorney General or the Attorney General's Department for further direction about the role of the Committee in the matter.

Austin Asche
President
NT Law Reform Committee