

**Address by Fraser JA (as Acting Chief Justice) to the Australian Court
Security Group Symposium
Thursday 9 July 2015 at 9:00 am**

Good morning. It is an honour to address you all at this 3rd Australian Court Security Group Symposium.

I begin by thanking the Courts' security team for their effective and energetic work in securing the courts in Queensland. I can assure you that the judges do very much value and appreciate your important work, of which we are thankful beneficiaries.

The central importance of security for the courts is obvious. This Symposium is a valuable way of promoting investigation by the experts of what must be done to ensure that the courts have that essential security in the modern era.

The tragic and shocking events of 9-11 in 2001 inevitably had a massive impact upon attitudes to terrorism and security. Terrorism is certainly an important issue warranting special focus for court security, just as it is for all democratic institutions. It is undoubtedly apt that the conference organisers have chosen as the theme of this conference "Terrorism and its Impact on the Courts".

You do not need me to remind experts such as you about those other potential threats which may affect the ordinary operation of the courts, such as escapes and attempted escapes, assaults with or without a weapon, disorderly conduct, suicide or attempted suicide, vandalism, hostage takers, bomb threats, theft and bomb explosions.

At the 11th Conference of Chief Justices of Asia and the Pacific, the Honourable Justice Robert Nicholson, a former judge of the Federal Court of Australia and the Convenor of the Security Committee at that time, observed that:

“At places where law is applied, courts on their face may attract the attention of persons whose political objectives or private philosophy are antithetical to the rule of law and hence to the proper functioning of the courts.¹”

A well-known example of such attitudes to the rule of law is found in a quote from Shakespeare’s King Henry VI which is nearly always taken out of context. The speaker of the famous words “The first thing we do, let’s kill all the lawyers” was “Dick the Butcher”, an evil murderer who today would probably be called a terrorist. Justice according to law must be gotten rid of if terrorism is to prevail. Your work in securing the proper functioning of the courts against unlawful attacks is a pre-requisite for the maintenance of a free society in which citizens may vindicate legal rights in an independent court system. It is not possible to overstate the fundamental importance of what you do.

Putting aside the terrorism theme for a moment, court procedures often impact upon the lives of the individuals involved in a substantial and lasting way. Emotions may be raw and tensions high. Even if the terrorist threat could be ignored, this state of affairs itself reveals the need for vigilant security of the kind you daily provide.

As you also know very well, the threats posed to court security are now not only physical threats. The risks to information security have increased with the growth

¹ The Hon Justice Robert Nicholson, ‘Issues in Court Security’ (2005) 15 *Journal of Judicial Administration* 5, 5.

of digital communication. The promise of the paperless office has not been generally fulfilled, as I know to my personal cost even in what is laughingly called my “winter vacation”, but it has led to office break-ins which do not involve breaking or entering.

The point was neatly made by Jonathon Clough of the Faculty of Law at Monash University:

“The proliferation of digital technology, and the convergence of computing and communication devices, has transformed the way in which we socialise and do business. While overwhelmingly positive, there has also been a dark side to these developments. Proving the maxim that crime follows opportunity, virtually every advance has been accompanied by a corresponding niche to be exploited for criminal purposes”.²

Perhaps another contribution to modern era security infringements in the courts may be traceable to what has been called a growing “discourse of disapproval and disrespect” owing to the regularly negative media depiction of judges and the work done by courts.³ For example, some studies have suggested that 80% of the general community perceive the judiciary as “out of touch” with public opinion on sentencing.⁴ When the same question was put to fully informed members of the community, namely jurors, there was a marked difference of opinion; only 29.3% of jurors considered judges to be out of touch when sentencing.⁵

² Jonathon Clough, *Principles of Cybercrime* (2010, Cambridge University Press) 3.

³ Pamela D Schulz, “Rougher than usual media treatment: a discourse analysis of media reporting and justice on trial” (2008) 17 *Journal of Judicial Administration* 223, 223.

⁴ Kate Warner et al., “Public judgment on sentencing: Final results from the Tasmanian Jury Sentencing Study” (2011) 407 *Trends and Issues in Crime and Criminal Justice* 1, 1.

⁵ Kate Warner et al., *Jury Sentencing Survey* (2010, Criminology Research Council) 68.

The difference perhaps suggests that, indirectly as a security measure, education about courts and litigation is one way in which the public may form a more positive view about the courts. At present the vast majority of the public are informed only by media reports. Understandably, the media are most interested in adverse reports. No report is ever made of the vast majority of cases in which sentences are not contentious. It is hard to bring to mind a media report, which could well be entirely accurate, that, “Today the prosecutor considered that every one of the twenty sentences handed down by the judge was appropriate.”

I most sincerely wish you a productive, educational, and enjoyable symposium, and I formally declare your proceedings open.