

## **REPORT OF THE CRIMINAL PRACTICE COMMITTEE FOR THE YEAR ENDED 31 DECEMBER 2006**

The Committee met four times during 2006. A list of members is appended to this report.

### **Membership**

The Committee has had no resignations or new members welcomed this year.

### **MATTERS DISCUSSED**

Matters discussed or noted by the Criminal Practice Committee were:

#### **Bail history/pre-sentence reports**

At the April meeting, the Committee was advised of progress made on improving and reducing bail history reports. A new user-friendly form had been developed and would be available from June 2006. The Committee agreed that Crown and Defence counsel should be consulted on the revised format and content of pre-sentence reports and a High Court Judge was also asked to look at the proposed format.

#### **Timing for filing submissions on sentence**

The Committee was updated on progress made on changes to the Service Level Agreement with the Department for Corrections. This work centred on developing timeframes. The Committee was advised that it would be presented with proposed changes once the draft agreement has been completed.

#### **Communications received by the Court from parties and the role of the Registrar**

In 2005, the Committee expressed concern about inappropriately casual email correspondence from Registrars to parties and counsel, including instances where correspondence was not copied to both counsel. The Committee was advised that manuals and instructions for both the Higher Courts and District Courts had been reviewed. These instructions provide information about adding documents to files, but are silent on forwarding communications on to both parties. The Higher Courts group was to pursue this matter and liaise with the Ministry of Justice in regard to the District Courts.

#### **Adjournments of extended supervision applications**

The issue of delay in filing extended supervision applications was discussed and found to be common across the country. It was suggested that the legislation be amended to provide the Court with power, on an interim basis, to extend or

impose special conditions until the outcome of the application is known as the imposition of such terms as a condition of bail may be doubtful.

### **Costs in Criminal Cases**

This matter was forwarded to the Crime Prevention and Criminal Justice Policy team at the Ministry and the Committee was to be kept up-to-date on progress.

### **Pre-trial appeals**

The Rules Committee asked the Criminal Practice Committee for comment on whether the pre-trial appeal requirement in criminal jury trials under s379A of the Crimes Act 1961 should be dealt with in the District Court or High Court rather than the Court of Appeal because of delays to trials while pre-trial appeals are heard. Members of the Committee undertook to consult with the judiciary on the issue and further data were also sought.

### **Access to Court records**

The Committee agreed to make a collective response to the draft Law Commission report on Access to Court Records.

### **Law Commission report on search and seizure**

The Committee devoted almost three meetings during 2006 to discussion on the Law Commission draft paper on changes to the powers of search and seizure. A number of proposals made by the Law Commission were discussed in detail. Comments, concerns and suggestions, including some specific rewording suggestions in regard to the report's recommendations, were passed onto the Law Commission.

Issues raised in regard to the report by the Committee included: whether suspects should be advised that there is no requirement to consent to a search; concerns with some of the proposed timeframes under the reforms; the role of Registrars in issuing search warrants; Police discretion to exercise search powers without a warrant; concern that only judges should be able to issue interception and surveillance warrants; concern over the introduction of oral applications for warrants; strong opposition to the introduction of tele-warrants; concerns about balancing visual surveillance with the need to maintain privacy; detail around production and monitoring orders; and a suggestion to adapt the Anton-Pillar process for the seizure of privileged and confidential information.

### **Statutory reforms in criminal area**

Updates on progress on statutory reforms in the criminal area were received at the February and November meetings. Reforms included the progress of the Criminal Procedure Bill, the Evidence Bill, and a number of Member's Bills drawn from the ballot, such as the Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill, and Youth Offenders (Serious Crimes) Bill.

**Criminal cases in the media**

The issue of media interviews with Police was raised with the Media Committee by the Criminal Practice Committee after concerns were expressed in regard to Police statements through the media about criminal cases that were still before the courts.

**Electronic monitoring of bail**

At the June meeting concerns were raised by the Committee over the proposed introduction of electronic monitoring of offenders on bail. These concerns included the lack of legislative provision for this form of monitoring and the potential for the process to have a huge impact on Court resources and on caseflow. Further consultation within the judiciary was to lead to the issue of a Practice Note. An update was received at the November meeting on the recent implementation of this initiative. The Committee was advised that only a few applications had been received to date.

Hon Justice Williams  
Chair, Criminal Practice Committee

## Appendix

At the end of 2006 the members of the Criminal Practice Committee were:

Rt Hon Dame Sian Elias	Chief Justice
Hon Justice Robertson	Judge of the Court of Appeal
Hon Justice Randerson	Chief Judge of the High Court
Hon Justice Williams	Judge of the High Court (Chair)
His Honour Judge Johnson	Chief District Court Judge
His Honour Judge J Walker	Judge of the District Court
Mrs J Ablett Kerr QC	New Zealand Law Society, Dunedin
Mr Morgan QC	New Zealand Law Society, Hamilton
Mr Earwaker	Criminal Bar Association, Auckland
Mr K Stone	Crown Solicitor, Wellington
Mr Brendan Horsley	Crown Law Office, Wellington
Dr W Young	Law Commission
Superintendent G Thomas	New Zealand Police
Mr R Chhana	General Manager, Crime Prevention and Criminal Justice, Ministry of Justice
Mr G Astle	National Operations Manager, Higher Courts, Ministry of Justice
Mr A Arulambalam	Manager, Criminal/Youth Jurisdiction, District Courts, Ministry of Justice

Mr K McCarron, Judicial Administrator to the Chief Justice, also attended meetings.

Secretarial services were provided by Ms D Livas, Ministry of Justice.

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