

CRIME SCENE DO NOT CROSS

Criminal Law Masterclass 2011 – NSW

Enhancing practical expertise and knowledge
in appellate work and criminal defence

30 November 2011, PARKROYAL Darling Harbour, Sydney

CRIME

SCENE DO NOT CROSS

Program highlights

- Examine developments in the admissibility of tendency and coincidence evidence
- Sentencing update – developments in double jeopardy and non-parole hearings
- Challenging police powers and improperly obtained evidence
- Essential insights into sexual assault developments in NSW
- Delve into evidentiary issues and updates including DNA handling and amendments to the *Evidence Act 1995*
- Exploring recent NSW child pornography cases and the *Crimes Amendment (Child Pornography and Abuse Material) Bill 2010*

Claim up to 6 CPD/MCLE points

Speakers

- **Professor Nicholas Cowdery AM QC**, former NSW Director of Public Prosecutions, Visiting Professorial Fellow at **UNSW Faculty of Law**
- **Anthony Bellanto QC**, Barrister, **Samuel Griffith Chambers**
- **Virginia Lydiard**, Crown Prosecutor, **NSW Department of Public Prosecutions**
- **Geoff Archer**, Principal, **Archer & Archer**
- **Ian Barker QC**, Barrister, **Berry Chambers**
- **Cara Feiner**, Barrister, **Samuel Griffith Chambers**
- **Margaret Bateman**, Barrister, **Marbury Chambers**

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Criminal Law Masterclass 2011 – NSW

Enhancing practical expertise and knowledge in appellate work and criminal defence

Wednesday, 30 November 2011

8:30 Registration

8:50 Welcome from the Chair

9:00 Human rights in criminal justice

Professor Nicholas Cowdery AM QC served as Director of Public Prosecutions for NSW for 16 and a half years, the longest term in such an office in the nation's history.

In his time as DPP he superintended the prosecution of some of the nation's highest profile cases, including Ivan Milat, Gordon Wood and Keli Lane. He was President of the International Association of Prosecutors for two terms from 1999 to 2005 and was inaugural Co-Chair of the International Bar Association's Human Rights Institute from 1995 to 2000. He is Human Rights Advisor to the Law Council of Australia and a member of the NSW Sentencing Council.

In his opening address Professor Cowdery will explore the influential role that the prosecutor plays in the protection of human rights. He will also examine the increasing punitiveness of criminal justice in NSW, official reaction to the threat of terrorism and on measures such as the *Crimes (Criminal Organisations Control) Act 2009* and threats to the separation of powers.

Professor Nicholas Cowdery AM QC Hon DLaws, former NSW Director of Public Prosecutions, Visiting Professorial Fellow at **UNSW Faculty of Law**

0.75 CPD/MCLE point in substantive law

9:45 Sentencing update – developments in double jeopardy and non-parole periods

- Double jeopardy update – analysis of *Regina v JW* [2010] NSWCCA 49, *DPP (Commonwealth) v De la Rosa* [2010] 194
- Application of the statutory non-parole period

Anthony Bellanto QC, Barrister, **Samuel Griffith Chambers**

0.75 CPD/MCLE point in substantive law

10:30 Morning tea

10:45 Police Powers and LEPR – exploring powers to search, arrest and detain

- Challenging police powers under LEPR
- Admissibility of improperly obtained evidence and the ongoing impact of *DPP v Carr* [2002] 127 A Crim R 151
- Unlawful arrest – far reaching impacts of *Williams v Director of Public Prosecutions (NSW)* [2011] NSWSC 1085
- Police acting outside their powers in the case of unlawfully obtained evidence

Margaret Bateman, Barrister, **Marbury Chambers**

0.75 CPD/MCLE point in substantive law

11:30 Evidentiary issues and updates – recent case law and amendments overview

- Recent amendments to the *Evidence Act 1995*
- DNA handling – challenging forensic evidence
- Case law update: *DAO v R* [2011] NSWCCA 63, *Carlton v R* [2010] NSWCCA 81 (recorded admissions), *EK v R* [2010] NSWCCA 199 (admissibility of recorded evidence) *Chen v R* [2010] NSWCCA 224 (accomplices)

Cara Feiner, Barrister, **Samuel Griffith Chambers**

0.75 CPD/MCLE point in substantive law

12:15 Networking lunch for speakers and delegates

1:15 Exploring traffic offences and drink driving developments

- Recent cases - driving offences involving death or grievous bodily harm *R v Choukeir* [2011] NSWDC 123, *Police v Turner* [2011] NSWLC 27
- GBH – totality principle and concurrent sentencing *R v Read* [2010] NSWCCA 78
- The application of the Proudman and Daymon defence to PCA matters
- Pharmacological evidence
- Illegally obtained blood samples

TBC

0.75 CPD/MCLE point in substantive law

Future Events

OH&S: National Harmonisation 2011

8 November 2011, PARKROYAL Darling Harbour, Sydney
10 November 2011, Brisbane Marriott Hotel
15 November 2011, Stamford Plaza Melbourne

Criminal Law Masterclass 2011 – VIC

29 November 2011, Stamford Plaza Melbourne

Personal Injury Law 2011

16 November 2011, The Grace Hotel Sydney
23 November 2011, Stamford Plaza Melbourne

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CRIME SCENE DO NOT CROSS

30 November 2011, PARKROYAL Darling Harbour, Sydney

2:00 **Child pornography – recent cases and analysis of *Crimes Amendment (Child Pornography and Abuse Material) Bill 2010***

- Excessive sentencing in the case of *Whiley v R* [2010] NSWCCA 53 and sentencing challenges
- Assessment of the objective seriousness of child pornography offenses
- Analysis of *R v Stratham* [2011] NSWDC 128 and *R v R, AM* [2011] SADC 38
- *Minehan v R* [2010] NSWCCA 140 at [96] – [101] – discussion of the significance of general deterrence, denunciation and prior good character
- *Crimes Amendment (Child Pornography and Abuse Material) Bill 2010*
- What constitutes possession when dealing with computer and electronic devices
- Use of the COPINE scale

Geoff Archer, Principal, Archer & Archer

0.75 CPD/MCLE point in substantive law

2:45 **Afternoon tea**

3:00 **Sexual assault developments within NSW – essential insights**

- Overview of the *Crimes (Serious Sex Offenders) Amendment Act 2010* and the *Crimes (Sentencing Procedure) Amendment Act 2010*
- When evidence is “disclosed in the case of the prosecution” – *Spratt v DPP* [2010] NSWSC 355
- “Fresh in the memory” section 66 *Evidence Act 1995* – *R v XY* [2010] NSWCCA 181
- Tendency evidence in sexual assault cases *DJS v R* [2010] NSWCCA 200

Virginia Lydiard, Crown Prosecutor, NSW Department of Public Prosecutions

0.75 CPD/MCLE point in substantive law

3:45 **Admissibility of tendency and coincidence evidence – examining scenarios and recent cases**

- Considering Section 97 *Evidence Act (NSW)* and Section 101
- “Significant Probative Value” – *DAO v R* [2011] NSWCCA 63 and *BP v R* [2010] NSWCCA 303
- Rejection of admissibility and tendency evidence – *R v Ceissman* [2010] NSWCCA 50
- Admitting tendency evidence – *R v PWD* [2010] NSWCCA 209
- Impermissible use of evidence – *L’Estrange v R* [2011] NSWCCA 89
- History and evolution of the common law doctrines of propensity and similar fact evidence

Ian Barker QC, Barrister, Berry Chambers

0.75 CPD/MCLE point in substantive law

4:30 **Closing remarks from the Chair**

4:35 **Close of conference**

Who should attend?

- Criminal Law Practitioners



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