A PERSONAL EXPERIENCE WITH THE ADMINISTRATION OF JUSTICE IN NSW

2017-2021

Robert Crick

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This description relates to the accusations made against me and the subsequent prosecution and juridical processes regarding the charges laid.

Contents

EXECUTIVE SUMMARY

This document, together with its attachments, describes my experiences with the administration of justice in the context of criminal charges made against me. It covers the event that lead to the charges and the processes of their prosecution through the Local Court in Dubbo and Newcastle, the NSW District Court, the NSW Court of Criminal Appeal and the High Court process for applying for special leave to appeal.

In my view, there were several instances of inappropriate – less than professional; even unethical – behaviour by various elements of the prosecution process. These related to the arrest process, the appearance in the Dubbo court, prosecution representations to the Local Court in Newcastle, the manner in which "evidence" was sought, the self-obsessed agendas on the part various links in the prosecution food chain – to the detriment of the administration of justice and the welfare of the 'complainant', my grandson, Lachie.

The sentence, together with comments and approach taken by the trial judge in its two-stage process, seemed deliberately constructed to ensure no custodial sentence was imposed. The most likely and logical rationale for this was lack of confidence in the safety of the jury verdict.

Even though stages of the judicial process were upheld by the process itself, I believe there were evident deficiencies not only in the conduct of the prosecution but also in the logic and sustainability of the District Court verdict and the Court of Criminal Appeal (CCA) judgement (it's not as though state appeal courts can't made serious errors as evidenced in the Victorian Supreme Court of Appeal case of Pell v The Queen). A detailed critique of the NSW CCA judgement is provided.

Mischievous publicity following the CCA judgement, seemingly in breach of Court orders of suppression (to protect Lachie), were evidently not acted upon by any of the relevant legal authorities. Some social media comments raised questions of potential criminal threats.

With the refusal of any *pro bono* assistance from my legal representatives to seek special leave to appeal to the High Court, I spent considerable time finding my way through the process as a unrepresented applicant. There were instances of lapses in the process on the part of the High Court Registry that I thought were prejudicial to the unrepresented applicant. In the end, I thought the High Court justices that dismissed my application for special leave did so too hastily and unfairly.

INTRODUCTION

1. Following a visit I made in October 2017 to the home of my son, daughter-in-law and grandchildren in Medowie NSW, I was accused of sexually assaulting my grandson while bathing him. This led to my being arrested, charged and brought before the local courts in Dubbo and Newcastle as well as a trial in the NSW District Court and subsequent appeal in the NSW Court of Criminal Appeal and applications for special leave to appeal to the High Court of Australia. I spent almost two years on bail with very restrictive conditions and was found guilty of one of the three serious criminal offences with which I was charged. My experience with the administration of justice in my case has been one of dismay at the almost single-minded obsession with personal agendas, both within and feeding the prosecution process, to the detriment of the interests of my grandson, Lachie, the supposed victim; as well as to the detriment of the professional and ethical reputation of elements of the investigative and prosecution processes.

2. A timeline of events and processes is at **Attachment A**

THE BEGINNING

3. I went to Medowie near Newcastle in NSW on Saturday 7 October 2017 to watch my granddaughter's (Brodee Crick) musical performance. Her mother, Rebecca Crick, had asked me to stay a few days after that because she had a medical procedure that required someone in the house and to drive my grandson, Lachie Crick, to school; and it was Lachie's birthday on Wednesday 11 October 2017.

4. I could stay only until the morning of Wednesday 11 October 2017 as I needed to be back in Canberra on the afternoon of 11 October 2017 for another grandson's teacher-parent meetings (owing to the inability of parents to attend).

5. On the afternoon of 10 October 2017, while Rebecca and Brodee were at the latter's singing class, I was preparing dinner while Lachie was outside playing. I put him on notice that he'll need a bath or shower before dinner. He opted for a bath, which I ran for him a while later. He played in the bath by himself for 10-15 minutes. I then washed him in about a 10 second process with my hands and bath gel. Most of this time was on his lower legs and feet. Only a couple of seconds were spent washing his crotch and bottom. He happily played for a while longer in the bath by himself before I got him out and dried him. He dressed himself and returned to play in the backyard. At this time, I was continuing to prepare dinner. He called me out several times to watch and video him jumping hurdles on his bike.

6. Later, when Rebecca and Brodee returned, I gave him his birthday present. We had a birthday dinner and he delighted in his birthday cake which I had made that day for him; and blowing out his candles. We all enjoyed the celebration. He was excited at getting an early birthday present (his birthday wasn't until the next day); and we played around the living room after dinner, with Lachie having fun with his new helicopter toy. A lot of this was captured on camera – both stills and video.

7. Next morning after Rebecca and Brodee had left early for work and school, Lachie and I spent time together, including with him getting into my bed to watch videos as he had done each morning (and lots of times before). We then went for breakfast at a local café and I took him to school; and headed back to Canberra.

8. At about midday on 12 October 2017, I got a phone call from my son, Kevin Crick, saying that Lachie had said I had put my finger into his bottom. In a telephone call I subsequently made to Rebecca, she repeated this claim. (Kevin was on RAAF deployment in the Middle East.)

9. In addition to conveying by phone my shock at and denial of the allegation, I wrote to both Rebecca and Kevin (having been faced with their unwillingness to consider anything other than what Lachie had said or analyse what he might have been trying to say) to try and assure them that there had been a tragic misconception and misrepresentation on Lachie's part. I also sent an additional message (16 October 2017) to Kevin in between the two letters, which were a week apart (13 and 20 October 2017).

10. Neither Kevin nor Rebecca was willing to respond or in any way engage in discussing the issue; least of all trying to get an understanding of the issue. The shutters came down and were locked tight. My correspondence with them was simply passed to the police. At that stage I had no idea of the extent to which Lachie had been, in effect, brainwashed about anybody touching his privates. That would emerge only later[1].

ARREST

11. On Monday 23 October 2017, I set out by car for Brisbane (long pre-planned) to take care of my youngest grandson (step grandson) while his single mum had work commitments including over the weekend. I had decided to take the Newell Hwy route.

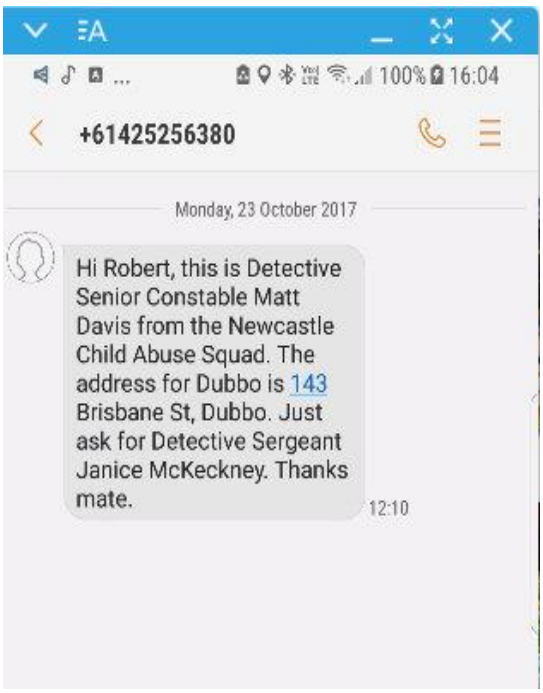
12. Early into the trip, I received a phone call from Detective Senior Constable Matt Davis from the Newcastle Child Abuse Squad.

13. He said he assumed I would know why he was calling. I said yes. He said he would like to interview me. On being told where I was, he asked if I could come via Newcastle. I replied that was not possible. I was going via the Newell Hwy and needed to arrive the following day. He asked when I intended to return and I replied about 6 or 7 November 2017. He asked if I would be able to call via Newcastle on my way back. I replied that I could and was prepared to do that. We agreed on that scenario, with my phoning closer to the time to set an exact time and date.

14. About an hour or so later, he called back to say he had some colleagues who were travelling to Dubbo later in the morning, assuming (correctly) I would go be going through Dubbo to join the Newell Hwy. He suggested I might be interviewed there, adding specifically the following two points: (1) we would get the interview out of the way rather than have it hanging around; and (2) you'd soon be on your way to get to Brisbane.

[1] See Attachment B at paras 27-28; and Attachment E at pages 7-8 from line 14 on p7.

15. In response to my asking – and his agreeing – to text me the names of his Newcastle colleagues or colleague whom I would need to speak with, he sent me a text message (right) addressed and signed courteously with "Hi Robert" and "Thanks mate."



16. On arrival at Dubbo Police Station, I asked for the nominated person, assuming that she was his colleague from Newcastle as he has indicated. Instead, I was met by two detectives (neither one being the nominated person in the text message) who informed me I was under arrest and would be charged with offences as set out in paperwork received from Newcastle.

17. I was duly taken for processing, interviewed extensively (on video) by the arresting officers, refused bail, locked up for the night and taken before a magistrate next morning to seek – and was granted – bail.

18. Despite being fully cooperative with DSC Davis and willing to accommodate his wishes in a mutually agreed way, it became evident that he had lied to me on a number of counts; and his lies were a ruse to get me to call into Dubbo – not for an interview and "be on my way" but for arrest and holding. This despite my full cooperation to fit in with his initial requests.

Arresting Officers

19. The arresting detectives were embarrassed at the situation when I spelt it out. Even faced with being arrested, I still didn't imagine that DSC Davis had so unabashedly lied to me. I was still fully trusting his honesty. So much so that I repeatedly insisted, assuming there must be some misunderstanding, that they ring DSC Davis. They did so and subsequently confirmed that I was to be arrested. Det Senior Constable Katrina Sherlock (one of the arresting detectives – seemingly the one that had the lead role) said it was obvious that I had been "blindsided."

20. As it turned out, weeks later when the arresting officers' statements (on what they would be prepared to give as sworn evidence) were provided, it became evident that they also had been lied to by DSC Davis.

21. In their statements, both arresting officers attest that that DSC Davis had told them that I was coming to Dubbo by appointment to be arrested. That made it obvious why they were so confused and embarrassed by my reaction. They also – as I – had taken DSC Davis at face value.

22. In addition to attesting that DSC Davis had told them that I was coming to Dubbo by appointment to be arrested, DSC Sherlock, in her statement, also quotes me as saying that it

had been a ruse, thus being prepared to give sworn evidence corroborating what I was told by DSC Davis.

23. Their statements corroborate the fact that I had been lied to by DSC Davis and that he also lied to his own colleagues, in addition to leaving them to hang out to dry in the ignorance of the deceit that was being perpetrated by him.

24. On the other hand, the conduct of the arresting officers was impeccable. At all times they were courteous, respectful and professional. I can say the same about all the policing and custodial staff in Dubbo. Except for the police prosecutor – see below (para 25).

DUBBO LOCAL COURT

25. Having been detained in the Dubbo Police lock-up for the night, I was brought before the local court presided over by Magistrate Gary Wilson. The police prosecutor, Jonathon May, made two blatantly dishonest interventions. In seeking to have bail refused, he first claimed that the letters I had written to Kevin and Rebecca (cited above) were sent to make them feel guilty – not having, of course, any notion about the context or my real intentions, as explained above; and then attempted to have the magistrate make such a serious inference from a reference to a medical visit by Lachie that he should refuse bail. There was, of course, absolutely nothing in anything the prosecutor had that would justify such an inference; or justify his inviting the magistrate to make such an inference. On both accounts, he was dishonestly presenting fictions he had invented.

26. Aggravating the disrepute of the administration of justice brought about by the police actions the previous day, as described above, the prosecutor (with or without the connivance of the magistrate) brought the reputation of the Dubbo local court into further disrepute.

FAMILY AND COMMUNITY SERVICES

27. On Friday 27 October 2017, I received a phone call from a private number from a person who introduced herself as Louise Hambly who said she was from a tripartite arrangement or organisation involving (I'm not sure) Community Services, Police etc. She, in fact, was from the then-named Dept of Family and Community Services.

28. She said they keep a register of people whom they consider "dangerous" because of child abuse offences or accusations. She said they had on record the accusation against me and this was my opportunity to put my view on the record.

29. I explained briefly what had happened as I had done previously in letters to Kevin and Rebecca (Lachie's parents) and in the recorded interview with Dubbo police.

30. As soon as I had finished, she rather abruptly said that their onus of proof was not the same as the courts' and that she believed I did what I have been accused of. She would therefore proceed to list me as a dangerous person. The process she "administered" was nothing short of the archetypical Stalinist show trial: superficial evidence moulded to suit a predetermined outcome; and a pretence at a hearing followed by the already determined

conclusion – based, in this case, on a somewhat perverse jurisprudence of their own devised (but unexplained) 'onus of proof.' Most manifest was her total abrogation of one of the key principles of our justice system: the presumption of innocence.

31. She then asked if I drank alcohol or took drugs; and whether I was drunk at the time of the alleged offences. I replied that this question was obviously prompted by my daughter-in-law's allegations that I had drunk too much because I missed a chair when sitting down later that evening (she had implied that I was drunk at the time in a phone conversation with her on 12 October). I made two points in reply: (1) Although I had had a couple of glasses of wine, I'm finding since a bad accident a year ago that I frequently get momentarily disoriented if I get up and move quickly. On this occasion I had done that and moved back to sit on the chair; and (2) the alleged incidents had supposedly taken place in the afternoon before I had anything to drink.

32. Hambly had obviously been informed of my previous intention to go to Brisbane and the reasons for doing so – and I also might have mentioned it – and said she would need to get Qld community services people involved. I said that I was already prevented from being with my 3-year-old step grandson because of AVO and bail conditions. To which she impulsively (and with unprofessional delight) replied "good!"

33. I didn't pursue issues any further but I thought it beggared belief that bureaucrats could be conducting their own version of a modern day Star Chamber with a totally abhorrent non-juridical burden of proof and with such personally-emoted and prejudicial enthusiasm.

34. This is the same person who was alone with Lachie for the 23 min break between the two sessions of his interview by DSC Davis on 13 October 2017. This is stated by Davis in his interview of Lachie and by Hambly herself in her signed statement. She was also in radio contact with Det. Davis while he was interviewing Lachie; and thus able to prompt Davis with questions to ask. All this time she had, in all likelihood, already judged and declared me guilty (assuming predictably that her attitude was an automatic reaction to the accusations even before her telephone conversation with me).

35. While not necessarily implying there might have been any deliberate or overtly improper intervention on her part in her dealings with Lachie, the fact that a person who had such an uncompromising pre-conceived conviction of my guilt – contrary to all the jurisprudential basics of our justice system – was in such close interaction with Lachie – including alone – was potentially prejudicial to me; and a conflict of interest, to the disrepute of the prosecution process.

DELAYS IN LOCAL COURT

36. On 28 March 2018, in the Local Court in Newcastle, five months after laying the charges (in Dubbo on 23 October 2017), the prosecution sought an adjournment "to allow time to obtain advice from Crown Chambers." The adjournment was unopposed by us. It was granted by Magistrate Stone until 2 May 2018. His Honour emphasised the need to have the matter proceed to committal at that time.

37. On 2 May 2018, in the Newcastle Local Court, the prosecution sought a further adjournment on the basis that they are "expecting to lay additional charges." No information about the so-called new charges was offered to either the court or to us. We opposed any further adjournment on the basis that Magistrate Stone had made it clear on 28 March 2018 that matter should proceed to committal. Magistrate Brennan granted a further adjournment to 13 June 2018.

38. It was not until 15 May 2018 that we were advised that no new charges will be laid and there will not be any further documents (meaning in addition to the documents accompanying that advice, as described below – para 40).

39. What had been taking place within the prosecution then became evident.

40. The documents provided to us at that time consisted of some forty pages of statements and as much again of various attachments – all provided by two former spouses. The statements were not related to the charges and provided no basis for any new charges. They consisted of forty pages of what could only be described as vituperative vitriol reflecting no more that the contemptuous and vindictive agendas of my former wives.

41. In retrospect it became obvious that the prosecution had been totally captivated or captured by a party or parties hell-bent motivated to have me convicted of anything. For the prosecution to be caught up in such a vindictive vortex outside its professional conduct brought the process into disrepute enough; but worse was to come once the documents were tabled.

42. At that stage it became evident that a more responsible element of the prosecution process belatedly became aware of the futility and damage to the Office of the DPP of continuing to succumb to another's or others' ill-motivated agendas. It would also appear that this was known by the time Magistrate Brennan was being told the prosecution was "expecting to lay additional charges," making that statement a misrepresentation to the court. This observation is based on the following timeline:

43. The statement of one of the former spouses was taken on 18 April 2018. Although it was signed only on 8 May 2018 (she lives in Victoria), the content, as described above in paras 40-41, was obviously known within the prosecution process by 18 April 2018 – two weeks before telling Magistrate Brennan on 2 May 2018 that the prosecution was "expecting to lay additional charges."

44. The statement of the other former spouse was dated as having been made on 14 May 2018; and was also signed on 14 May 2018. Both sets of documents and advice that there would be no additional charges or further documents were delivered to us the very next day on 15 May 2018, further underling the fact that they had made an earlier judgement about the total inappropriateness of this avenue of pusuit..

45. It is evident that at the time Magistrate Brennan was being told that additional charges were expected to be laid, there was no cogent or credible basis for any such expectation; and this would, in fact, have been known to the prosecution. The fact that one statement had been taken two weeks earlier and the rapidity with which the other statement had

been made, transcribed, signed and despatched (obviously with no serious consideration) points to the realisation that the exercise was tantamount to bringing disrepute to the office of the DPP and the whole prosecution process.

46. Presumably stemming from the same vortex in which the prosecution process was seemingly caught, my sisters were contacted (I hesitate to say pursued or harassed) in the search for incriminating information of any sort. At least one of my sisters was able to inform me that she had received a phone call (her number had obviously been passed to the prosecution). The other was in permanent care. I agonised over how much she might have been harassed by phone calls she wouldn't have understood (she still had a mobile phone, so her number was likely passed on as well).

PRERECORD AND NO BILL APPLICATION

47. The prerecord of Lachie's evidence took place in Newcastle on 2 November 2018. The intervention of Christmas holidays caused some delay in getting the transcript. A no bill application was lodged on 22 March 2019.

48. The case then got caught up in call-overs and super call-overs. At a super call-over on 15 May 2019, the court became aware that there had not as yet been any response to the no bill application although made some eight weeks previously. In response to my intervention to the court on 15 May, we were advised just two days later on 17 May 2019 that the no bill application was rejected – not surprisingly given the delay and the need for court intervention to extract a response.

MOBILE PHONE

49. Then came a curious development relating to my mobile phone.

50. At the prerecord on 2 November 2018, we had provided and shown several videos and still photos that I had taken on the day of Lachie's birthday party (the same day as the alleged offences supposedly took place). These were all taken on my phone. That would have been evident. They were all subsequently provided again as annexures to the no bill application.

51. However, it wasn't until 22 May 2019 – a few days after the rejection of the no bill application – that a search warrant relating to the phone was applied for and obtained from Magistrate Morrison. ACT Policing (Federal Police) executed the warrant at my home on Saturday 25 May 2019.

52. The warrant focussed on two items: (1) my mobile phone and (2) the password/key to unlocking it. The federal police officer in charge asked for both of these and I willingly and cooperatively gave her both. This was all voice recorded as was a subsequent conversation about the seizure.

53. I would assume the phone and its password would have reached the prosecution by the following Tuesday or Wednesday 29/30 May 2019.

54. Some five weeks later, on 2 July 2019, we received an enquiry from the prosecution about the password. I immediately contacted the lead police officer who executed the warrant for the phone and password (Senior Constable Lucy Evans, Criminal Investigations, ACT Policing) to confirm that the phone and the password were actually sent to the requesting NSW officer. She confirmed that everything had been recorded and the recording had been sent with the phone as requested by the warrant. Not only did the phone sit for five weeks without any interest on the part of the prosecution in accessing it, but they did not realise they had the code and made no attempt to verify that with the ACT Police.

55. Following the conclusion of the juridical process, it took a couple of requests to retrieve the phone. The first was made in an email to Mr David Henschell of the ODPP. Having received no reply or acknowledgement, I then emailed police customer service on 21 May 2010. I subsequently received an email from DSC Davis dated 25 May 2020, presumably in response to mine of 21 May 2020 since I had mentioned him by name as the relevant officer. The phone was returned.

56. Unfortunatley it was internally damaged (software-wise) seemingly having been hacked into because the relevant officer had overlooked his possession of the code; and had not sought to follow-up with ACT Policing, presumably because of the five-week delay. I had to pay to get it fixed and suffer the loss of data, including lots of photos; and got a totally uncooperative response from DSC Davis about the issue.

TRIAL

57. In a District Court trial running more than a week, the jury delivered a unanimous verdict of not guilty on two charges (rubbing his penis and putting my finger in his bottom on one occasion) but after being given directions about allowing a majority verdict and further deliberation by the jury, a verdict was delivered of guilty of putting my finger in his bottom on one occasion.

58. The verdict was curious at best. The inconsistency and lack of logic in the jury's dismissal of two charges and adoption of a third was puzzling. This is analysed in more detail below. It's also, it would seem, relevant to actions and comments by the trial judge as indicated at a few places below.

59. The first hint of the judge's reaction to the verdict was his refusal to accept a prosecution request that I be detained pending sentencing; and this despite the serious nature of the offence carrying a sentence of up to life imprisonment.

SENTENCING

60. The trial judge (Mr Justice Smith SC), when presiding over the sentence hearing made two curiously pertinent points. His first stated that this was "a very difficult case." The prosecution seemed to ignore the comment to the point that the judge felt the need to repeat it. It seemed to be a sort of *read my lips* repeat. It seemed as though he was trying to convey a message; perhaps along the lines he had to accommodate a worrying jury verdict. I believe his second, similar intervention, immediately before delivering the

sentence, was driven by the same motivation. He prefaced his sentencing with the comment "I have thought about this very carefully." As with the first comment, it seemed to be ignored by the prosecution to the point where His Honour again felt the need to repeat himself: "I have thought about this very carefully."

61. He also had before him references written by my elder son and my daughter-in-law (parents of my two eldest grandsons); my stepdaughter (mother of my youngest grandson); and my two eldest grandsons themselves. They were very supportive of my record of care and looking after grandchildren.

62. Justice Smith handed down an eighteen-month community correction order.

63. He proceeded with this sentence despite being advised by both prosecution and defence counsel that there should first be a report from the community corrections authorities as to my suitability for community service under such an order. When the court officers later sought to process his ruling as if he were waiting for such a report before the sentence should take place, his associate intervened to clarify and ensure the sentence was processed as intended and delivered by His Honour.

64. Notwithstanding a finding in the Appeal Court that His Honour had erred in not waiting for the report before finalising the sentence (and the Appeal Court's finding the sentence to be inadequate), it would strongly seem that His Honour (Mr Justice Smith SC) knew exactly what he was doing; and why he was doing it. At the second stage of the sentencing process, having received the report relating to community service, His Honour was adamant that his sentence of a community corrections order would stand notwithstanding no community services were possible in the circumstances.

APPEAL TO NSW COURT OF CRIMINAL APPEAL

65. An appeal to the NSW Court of Criminal Appeal (CCA) was heard on 23 March 2020. On 22 April 2020, the CCA dismissed my appeal against the conviction on the basis of its being open to the jury to bring in a verdict of guilty on the one account notwithstanding its verdict of not guilty on the second count of exactly the same alleged offence.

66. The appeal court judgement alluded to a statement by the High Court that the role of the Appeal Court is to satisfy itself that "either by reason of inconsistencies, discrepancies or other inadequacy; or in light of other evidence," the jury ought to have entertained a reasonable doubt as to proof of guilt. The prosecution case contained several inconsistencies and discrepancies. Most of these were not specifically mentioned or alluded to by the Appeal Court except in a generic way; but having done that, the Appeal Court chose to explain them away; and it made no reference in this context to the substantial "other evidence" on my part given in considerable detail in the police interview and correspondence (although alluded to in another part of the judgment).

67. In my view, the court didn't deal adequately with the High Court's quoted description of the role of the Appeal Court, as set out above; nor the concern expressed in a recent High Court case that there was a "significant possibility that an innocent person has been convicted

because the evidence did not establish guilt to the requisite standard of proof" even though the Appeal Court claimed otherwise.

68. My more detailed analysis of the appeal court's judgement is at **Attachment B.**

69. As to the sentence, while the Appeal court put on record that they thought the sentence was inadequate and spelt out what an appropriate sentence should have been, it stated that doing so satisfies the legal issues involved. It then used its "residual discretion" not to interfere with the sentence, alluding to my age, health and COVID-19.

AFTERMATH OF NSW CCA APPEAL

70. Despite an initial court order of suppression of names to protect Lachie, the outcome of the appeal case received some public attention from three (at least) sources. It was publicised on a seemingly vexatious website called (with ironic appropriateness) "Kangaroo Court of Australia;" by a Channel 10 News First journalist, Lia Harris, despite being counselled against doing so by the defence lawyers; and in vindictively mendacious Facebook postings by the owner of a travel company, World on Wheels (formerly Ferris Wheels) with whom I had had several dealings (all very positive except for the last one).

71. These episodes are set out in more detail at **Attachment C.**

APPLICATIONS TO HIGH COURT

72. With the rejection of my appeal by the NSW Court of Criminal Appeal, my only further course of action was to seek special leave to appeal to the High Court of Australia.

73. On 28 April 2020, I approached my legal representative suggesting, for reasons which I outlined, that it would be fitting and appropriate for them to agree to prosecute such a case on a *pro bono* basis. On the same day I received a reply that advised that, while they at times have taken matters to the High Court on a *pro bono* basis, the difference between those matters and mine was that they believed there were good prospects in those matters. They further advised that the current financial climate also discourages them from taking on *pro bono* work at the time, let alone the complex work involved in a special leave application to the High Court. So, a refusal to assist.

74. Then began a long and arduous process to find my own way through the maze of rules and processes in seeking special leave to appeal to the High Court. My application for special leave was lodged with the High Court registry on 12 June 2020. Ultimately, it wasn't successful but the process exposed for me several anomalies that exacerbated the disadvantages for a self-represented applicant. My experiences of managing the application processes are set out at **Attachment D**.

75. As indicated in Attachment D, an outcome of correspondence with the High Court Registry was helpful advice from the registry that led to my preparation of a second application for special leave to appeal to the High Court. My application in this instance set out in more detail my case for special leave, in addition to having to justify consideration of a second application. My application is at **Attachment E.**

76. A telling aspect of my case for special leave to appeal to the High Court was the "brain washing" Lachie had obviously been subjected to about anybody touching his privates. This was most clearly evident in the statements made by Lachie's mother of 13 Oct 2017 setting out what she was prepared to give in sworn evidence[2].

77. During the trial, the jury asked to have access to this statement but that was disallowed because it had not been submitted as such as evidence. This aspect escaped me in preparing the application. The jury was, in fact, not specifically aware of the points made above. She was not cross-examined specifically on this aspect. The reality remains that Lachie was, indeed, somewhat brain-washed on the issue and was offered no alternatives to the scenario adopted by his mother as set out in her interview.

ADVICE TO DPP AND AG

78. By way of an aside, after the first application to the High Court was dismissed, I wrote by name to the Director of Public Prosecutions, Mr Lloyd Babb; the Solicitor for Public Prosecutions, Mr Craig Hyland; and the Newcastle DPP Representative, Mr David Henschell sending them a copy of an earlier version of this document. The only comment or reply came four days later in a three-line email from Newcastle from the complaints department.

79. In the face of what I judged to be a peremptorily dismissive response, I wrote to the NSW Attorney General. The response from the Department of Communities and Justice on behalf of the Attorney General did not address the core issue of the reputation of the administration of justice (an appropriate area of responsibility of the AG), but a tangential (and misconceived) assumption that the issue was intervention relating to the outcome of the court. It was nothing of the sort.

80. These sets of correspondence are at **Attachment F.**

COMMENT

81. It is my belief that my grandson, Lachie, has been badly let down by no doubt well-motivated people, but nonetheless people who allowed their personal and/or professional agendas to cloud their judgements. It wouldn't be going too far to suggest that self-obsessed agendas by people, whom Lachie had every right to trust, allowed those agendas to take precedence over Lachie's welfare. The objective was to get a conviction no matter what the cost to honesty, objectivity, professionalism, integrity or ethics. Or to the reality of the situation. Or to the personal damage to many beyond the principal target. Or to the reputation of the office of the DPP and the prosecution process.

[2] Attachment E at pages 7-8 from line 14 on p7