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Abstract

Witness protection is a significant arm of Australian justice and the programs are an essential element in the fight against serious and organised crime. Although witness protection is a vital part of the criminal justice system, it has only been legislated for since 1991 in Victoria and 1994 in the rest of Australia. Prior to this, witness protection programs operated under administrative arrangements in most Australian states and territories.

The operation of these programs in all Australian police forces consumes considerable resources. Despite the expenditure there has been no attempt to critically and systematically assess these programs since legislation was passed in 1994. This thesis seeks to address that deficit by undertaking research grounded in the six primary themes highlighted by the report of the Parliamentary Joint Committee on the National Crime Authority in 1988, which ultimately informed the development of the current Australian legislation.

At the outset it is necessary to define what witness protection is and what a witness is for the purposes of the programs. The thesis then examines the origins of witness protection in the United States of America and its emergence in Australia and in other countries. It considers the legislative frameworks that now support it; the policy issues that generated the decision to establish witness protection in Australia; and the implementation and operation of programs at the Commonwealth, state and territory levels, since inception.

The thesis questions whether the programs are achieving intended outcomes, and identifies strengths, weakness, gaps and issues in extant protection and assistance arrangements. This frames discussion on the adequacy of legislation and operations and to what extent reforming the existing legislation and other arrangements would improve the overall delivery of witness protection in Australia. The thesis proposes the adoption of a uniform witness protection act covering all Australian witness protection

programs, an alternative model for the delivery of witness protection in Australia and improved accountability measures.

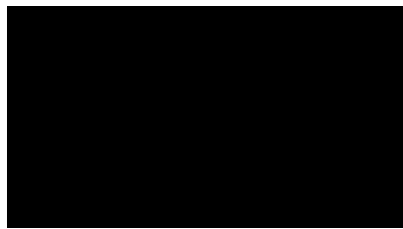
The research adopted a mixed methods approach, using qualitative and quantitative methodologies, to gather data and triangulate the analysis. A thematic examination of the available documents on witness protection was used in addition to an online survey of the Australian legal professions. A request to law enforcement agencies was put forward in order to gather information on the effectiveness and efficiency of the Australian programs. One limitation of this study was that empirical information was limited due to poor responses. It is suggested that the reach of the secrecy provisions is unnecessarily broad and unduly impairs any attempt to assess the programs that are in place. The research was constrained by the limited availability of information on the public record and that gathered through empirical research.

It is argued that more robust reporting arrangements are required and that legislation mandate more comprehensive annual reporting by all protection providers in Australia.

Certification

I certify that the substance of this thesis has not already been submitted for any degree and is not currently being submitted for any other degree or qualification.

I certify that any help received in preparing this thesis, and all sources used, have been acknowledged in this thesis.



Philip Neil Kowalick

To find where the truth resides, in these matters of equality and justice, is a very difficult task. Nevertheless it is an easier task than that of persuading men to act justly, if they have power enough to secure their own selfish interests.

Aristotle (384-322 BC)

Table of Contents

ACKNOWLEDGEMENTS	II
ABSTRACT	IV
CERTIFICATION	VI
TABLE OF CONTENTS.....	VIII
LIST OF ACRONYMS	XV
LIST OF FIGURES	XVI
LIST OF TABLES	XVIII
TABLE OF CASES	XX
TABLE OF STATUTES	XXII
CHAPTER 1. INTRODUCTION	1
1.1 THE CONTEXT: WHAT IS WITNESS PROTECTION?.....	4
1.2 THE RESEARCH PROBLEM	9
1.3 THE BACKGROUND TO THE RESEARCH	9
1.4 THE AIM AND PURPOSE OF THE RESEARCH.....	10
1.5 OUTLINE OF THE THESIS	11
CHAPTER 2. HISTORY OF WITNESS PROTECTION	14
2.1 BACKGROUND	14
2.2 WITNESS PROTECTION IN THE UNITED STATES OF AMERICA	18
2.3 THE CANADIAN EXPERIENCE WITH WITNESS PROTECTION	27

2.4	THE EVOLUTION OF WITNESS PROTECTION IN BRITAIN	32
2.5	THE DEVELOPMENT OF WITNESS PROTECTION IN AUSTRALIA	39
2.6	THE UNITED NATIONS OFFICE ON DRUGS AND CRIME AND WITNESS PROTECTION	50
2.7	A CHRONOLOGY OF WITNESS PROTECTION ARRANGEMENTS	52
2.8	CONCLUSIONS	54
CHAPTER 3. REVIEW OF THE LITERATURE		57
3.1	THE PREVIOUS RESEARCH IN THE UNITED STATES OF AMERICA	58
	<i>Enforcing judgments against participants.....</i>	<i>61</i>
	<i>Children and witness protection.....</i>	<i>63</i>
	<i>Adjusting to a new life.....</i>	<i>64</i>
	<i>Alternative witness protection arrangements</i>	<i>66</i>
3.2	RESEARCH CONDUCTED IN THE UNITED KINGDOM.....	68
	<i>Witness Intimidation.....</i>	<i>69</i>
3.3	CANADIAN RESEARCH INTO WITNESS PROTECTION	74
3.4	RESEARCH IN EUROPE	76
	<i>Harmonising witness protection.....</i>	<i>76</i>
3.5	RESEARCH IN SOUTH AFRICA	77
3.6	A SIGNIFICANT GAP IN THE RESEARCH AND KNOWLEDGE.....	79
3.7	CONCLUSION	80
CHAPTER 4. OFFICIAL AUSTRALIAN INQUIRIES AND REVIEWS		84
4.1	INQUIRIES INTO WITNESS PROTECTION IN AUSTRALIA	85

<i>The Parliamentary Joint Committee (PJC) on the National Crime Authority</i>	87
4.2 REVIEWING WITNESS PROTECTION PROGRAMS IN AUSTRALIA	92
<i>The Western Australian Reviews</i>	93
<i>Review of the New South Wales witness protection program</i>	98
<i>The Review of the Victorian witness protection program</i>	100
<i>The Parliamentary Joint Committee on the National Crime Authority 2000</i>	105
4.3 WITNESS PROTECTION AND THE FAMILY COURT OF AUSTRALIA.....	106
4.4 COURT CASE MANAGEMENT	115
4.5 CONCLUSIONS.....	117

CHAPTER 5. AUSTRALIAN WITNESS PROTECTION LEGISLATION

120

5.1 ESTABLISHING A WITNESS PROTECTION PROGRAM	121
5.2 COMPLEMENTARY WITNESS PROTECTION LEGISLATION	122
5.3 THE LEGISLATION BY STUDY THEME.....	124
<i>Cross-jurisdictional coordination</i>	124
<i>Inclusion in a witness protection program</i>	126
<i>Identity documents</i>	137
<i>Confidentiality</i>	139
<i>Fast Tracking</i>	144
<i>Governance and Accountability</i>	145
5.4 CONCLUSIONS.....	146

CHAPTER 6. POLICY ISSUES IN WITNESS PROTECTION	148
6.1 THE ISSUES – EVIDENCE AND ANALYSIS.....	148
6.2 THE ROLE OF WITNESS PROTECTION PROGRAMS IN THE CRIMINAL JUSTICE SYSTEM.....	149
6.3 PROTECTION OF WITNESSES.....	150
6.4 COOPERATION BETWEEN POLICE FORCES IN AUSTRALIA.....	161
6.5 ELIMINATION OF DUPLICATION.....	163
6.6 CONFIDENTIALITY VERSUS OTHER SECRECY CONTROLS.....	164
6.7 POLICY IMPLICATIONS AND RECOMMENDATIONS.....	167
6.8 CONCLUSION	169
CHAPTER 7. THE RESEARCH METHODOLOGIES.....	171
7.1 METHODOLOGY AND DESIGN	171
<i>Collection methods used.....</i>	<i>173</i>
<i>The cohorts for the empirical research.....</i>	<i>175</i>
<i>The research questions.....</i>	<i>181</i>
<i>Parameters of the research.....</i>	<i>183</i>
7.2 RESPONSES TO THE EMPIRICAL RESEARCH	184
<i>Consent.....</i>	<i>185</i>
<i>Jurisdiction of respondents.....</i>	<i>186</i>
<i>Bona fides.....</i>	<i>187</i>
7.3 THE ANALYSIS.....	188
7.4 THE REQUEST FOR INFORMATION.....	189
7.5 ETHICS, LIMITATIONS AND SECRECY AND ITS IMPACT	191

<i>Ethical considerations</i>	191
<i>Limitations</i>	192
<i>Secrecy and its impact on the research</i>	193
7.6 CONCLUSIONS.....	197
CHAPTER 8. RESULTS OF THE EMPIRICAL RESEARCH	199
8.1 ANALYSIS OF ONLINE SURVEY RESPONSES.....	200
<i>Issues in the court</i>	200
<i>Cross-jurisdictional coordination of witness protection</i>	205
<i>Inclusion in a witness protection program</i>	213
<i>Identity documents</i>	217
<i>Governance and Accountability</i>	220
<i>Witness protection and the Family Court of Australia</i>	221
<i>Expediting cases involving protected witnesses</i>	225
8.2 CONCLUSIONS.....	228
CHAPTER 9. DISCUSSION	229
9.1 THE ADEQUACY OF CURRENT AUSTRALIAN WITNESS PROTECTION ARRANGEMENTS	230
<i>Strengths and weaknesses</i>	230
9.2 CROSS-JURISDICTIONAL COORDINATION.....	233
9.3 INCLUSION IN A WITNESS PROTECTION PROGRAM IN AUSTRALIA.....	242
9.4 IDENTITY DOCUMENTS	244
<i>Issues to do with changing a participant's identity</i>	246

9.5	CONFIDENTIALITY	247
9.6	FAST TRACKING CASES INVOLVING PROTECTED WITNESS.....	248
9.7	GOVERNANCE AND ACCOUNTABILITY	249
	<i>External oversight and review.....</i>	<i>250</i>
9.8	THE EFFECTIVENESS AND EFFICIENCY OF AUSTRALIA’S WITNESS PROTECTION PROGRAMS.....	254
9.9	FUTURE THREATS	260
9.10	CONCLUSION.....	262
CHAPTER 10.	CONCLUSION	
	264	
10.1	WHAT THE THESIS FOUND	266
10.2	WHY IS IT NEEDED?	267
10.3	CAN WITNESS PROTECTION BE DONE BETTER IN AUSTRALIA?.....	268
10.4	THE BENEFITS OF REVISED METHODOLOGIES AND LEGISLATION	280
10.5	THE FUTURE OF WITNESS PROTECTION	281
BIBLIOGRAPHY	I	
ANNEXURE 1 – A WITNESS PROTECTION SCENARIO	XII	
ANNEXURE 2 – DEFINITIONS AND USEFUL TERMS.....	XVI	
ANNEXURE 3 – A CHRONOLOGY OF THE DEVELOPMENT OF WITNESS PROTECTION	XX	
ANNEXURE 4 – LEGISLATION MADE COMPLEMENTARY	XXIV	

ANNEXURE 5 – LEGISLATIVE AMENDMENTS.....	XXV
ANNEXURE 6A – COHORT POPULATION FOR THE ONLINE SURVEY EXPLANATORY MEMORANDUM.....	XXXVII
ANNEXURE 6B – COHORT POPULATION FOR THE ONLINE SURVEY	XXXIX
ANNEXURE 7 – SURVEY QUESTIONS AND DATA DICTIONARY.....	XLII
ANNEXURE 8 – QUANTITATIVE DATA COLLECTION – FREQUENCY TABLES	LV
ANNEXURE 9 – THE REQUEST FOR INFORMATION	LIX
ANNEXURE 10 – RESULTS OF DATA COLLECTION ON PARTICIPATION AND COSTS	LX
ANNEXURE 11 – AN ALTERNATIVE WITNESS PROTECTION MODEL	LXVII
ANNEXURE 12 – A UNIFORM WITNESS PROTECTION ACT.....	LXXI
ANNEXURE 13 – REPORTING REQUIREMENTS	LXXX
ANNEXURE 14A – AUSTRALIAN WITNESS PROTECTION LEGISLATION COMPARISON CHART, EXPLANATORY MEMORANDUM.....	LXXXI
ANNEXURE 14B – AUSTRALIAN WITNESS PROTECTION LEGISLATION COMPARISON CHART	LXXXII

List of Acronyms

ACC	Australian Crime Commission
AFP	Australian Federal Police
APMC	Australian Police Ministers Council
CCC	Corruption and Crime Commission
CMC	Crime and Misconduct Commission
MOU	Memoranda of Understanding
NCA	National Crime Authority
NPRU	National Police Research Unit
NWPLC	National Witness Protection Liaison Committee
NWPP	National Witness Protection Program
OPI	Office of Police Integrity
JSCCC	Joint Standing Committee on the Corruption and Crime Commission
PCCMC	Parliamentary Crime and Misconduct Committee
PJC	Parliamentary Joint Committee
RCMP	Royal Canadian Mounted Police
UNDCP	United Nations Drug Control Program
UNODC	United Nations Office on Drugs and Crime

List of Figures

FIGURE 1 - RESPONDENTS TO THE ONLINE SURVEY	185
FIGURE 2 - ISSUES IN COURT FROM THE APPEARANCE OF A PROTECTED WITNESS	200
FIGURE 3 - ARE COURT PROCESSES AFFECTED BY THE APPEARANCE OF A PROTECTED WITNESS AT TRIAL?	201
FIGURE 4 - WAS THE TRIAL STRATEGY OF THE DEFENCE OF PROSECUTION AFFECTED BY THE APPEARANCE OF A PROTECTED WITNESS AT TRIAL?	202
FIGURE 5 - DID THE ACCUSED RECEIVE A FAIR TRIAL?	202
FIGURE 6 - WAS THE DOCTRINE OF THE RIGHT TO A FAIR TRIAL AFFECTED BY THE APPEARANCE OF A PROTECTED WITNESS AT TRIAL?	203
FIGURE 7 - WAS THE DEFENCE ABLE TO TEST THE CREDIBILITY OF THE PROTECTED WITNESS?	203
FIGURE 8 - IS THE WITNESSES CREDIBILITY AFFECTED?	204
FIGURE 9 - ARE CURRENT WITNESS PROTECTION ARRANGEMENTS EFFECTIVE?	205
FIGURE 10 - WOULD ONE NATIONAL WITNESS PROTECTION PROGRAM BE MORE EFFECTIVE?	206
FIGURE 11 - IS A NATIONAL WITNESS PROTECTION LIAISON COMMITTEE REQUIRED?	211
FIGURE 12 - WOULD A NWPLC BE REQUIRED IF ONE NATIONAL PROGRAM WAS OPERATING?	212

FIGURE 13 - ARE EXISTING SAFEGUARD SUFFICIENT?	213
FIGURE 14 - IS THE MOU SUFFICIENT?	214
FIGURE 15 - SHOULD THE MOU BE STRENGTHENED?	215
FIGURE 16 - SHOULD THE MOU REQUIRE THE PARTICIPANT TO GIVE EVIDENCE TO THE BEST OF THEIR ABILITY?	216
FIGURE 17 - ARE CURRENT IDENTITY DOCUMENT PROCEDURES SATISFACTORY?	217
FIGURE 18 - IS SUPREME COURT SUPERVISION REQUIRED FOR BIRTH CERTIFICATES?	218
FIGURE 19 - SHOULD THE ANOMALY FOR DEATH CERTIFICATES BE REDRESSED?	220
FIGURE 20 - IS EXTERNAL OVERSIGHT OF THE PROGRAMS REQUIRED?	220
FIGURE 21 - ARE CURRENT OVERSIGHT ARRANGEMENTS SUFFICIENT?	221
FIGURE 22 - IS GREATER SCRUTINY OF WITNESS PROTECTION PROGRAMS REQUIRED?	221
FIGURE 23 - IS THE FAMILY COURT OF AUSTRALIA BEST PLACED TO CONSIDER SECURITY IMPLICATIONS OF CONTACT ORDERS?	222
FIGURE 24 - ARE LEGISLATIVE AMENDMENTS REQUIRED IN RELATION TO FAMILY LAW?	225
FIGURE 25 - SHOULD CASES INVOLVING PROTECTED WITNESSES BE EXPEDITED?	225
FIGURE 26 - WOULD EXPEDITING CASES INVOLVING PROTECTED WITNESSES AFFECT THE RIGHTS OF THE ACCUSED?	226

List of Tables

TABLE 1 - WITNESS PROTECTION OPERATIONS AND COSTS.....	260
TABLE 2 - DEFINITIONS USED IN THE THESIS.....	XVI
TABLE 3 - WITNESS PROTECTION CHRONOLOGY.....	XX
TABLE 4 - DECLARED COMPLEMENTARY LEGISLATION.....	XXIV
TABLE 5 - LEGISLATIVE AMENDMENTS - <i>WITNESS PROTECTION ACT 1994 (C'TH)</i>	XXV
TABLE 6 - LEGISLATIVE AMENDMENTS - <i>WITNESS PROTECTION AMENDMENT BILL 2002 (NSW)</i>	XXVI
TABLE 7 - LEGISLATIVE AMENDMENTS - <i>WITNESS PROTECTION ACT 1996 (SA)</i>	XXIX
TABLE 8 - LEGISLATIVE AMENDMENTS - <i>WITNESS PROTECTION (WESTERN AUSTRALIA) ACT 1996</i>	XXXI
TABLE 9 - LEGISLATIVE AMENDMENTS - <i>WITNESS PROTECTION ACT 2000 (TAS)</i>	XXXI
TABLE 10 - LEGISLATIVE AMENDMENTS - <i>WITNESS PROTECTION ACT 1991 (VIC)</i>	XXXII
TABLE 11 - POSSIBLE COHORT POPULATIONS AS A PERCENTAGE OF THE AUSTRALIAN POPULATION	XXXIX
TABLE 12 - THE POSSIBLE NUMBER OF RESPONDENTS BY COHORT	XL
TABLE 13 - THE PERCENTAGE OF RESPONDENTS WHO PARTIALLY ANSWERED OR ANSWERED THE SURVEY FROM THE POSSIBLE RESPONDENT POPULATION	XLI

TABLE 14 - AN EXPANDED WITNESS PROTECTION ROLE	LV
TABLE 15 - THE COORDINATION OF WITNESS PROTECTION IN AUSTRALIA	LV
TABLE 16 - BIRTH CERTIFICATES	LVI
TABLE 17 - EXTERNAL REVIEW AND OVERSIGHT OF WITNESS PROTECTION PROGRAMS	LVI
TABLE 18 - THE CLASH BETWEEN WITNESS PROTECTION AND THE FAMILY COURT OF AUSTRALIA.....	LVII
TABLE 19 - FAST TRACKING CASES INVOLVING PROTECTED WITNESSES	LVII
TABLE 20 - SUFFICIENT SAFEGUARDS FOR COMMISSIONERS DECISIONS	LVIII
TABLE 21 - THE MOU	LVIII
TABLE 22 - NATIONAL WITNESS PROTECTION PROGRAM STATISTICS.....	LX
TABLE 23 - QUEENSLAND WITNESS PROTECTION PROGRAM STATISTICS	LXII
TABLE 24 - SOUTH AUSTRALIAN WITNESS PROTECTION PROGRAM STATISTICS.....	LXIV
TABLE 25 - WESTERN AUSTRALIAN WITNESS PROTECTION PROGRAM STATISTICS	LXV
TABLE 26 - WITNESS PROTECTION LEGISLATION COMPARISON TABLE	LXXXII

Table of Cases

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