

## A CONVERSATION WITH HIS HONOUR CHIEF MAGISTRATE PETER LAURITSEN

SIMON CAMPBELL\* AND NIKO KORDOS\*

**VULJ:** Chief Magistrate, thank you for taking the time to speak with us. To begin with, we'd like to ask you some general questions, before moving onto some discussion points regarding the legal profession in Victoria. We would then like to touch on some questions that relate more specifically to the Magistrates' Court of Victoria, along with other questions that relate more directly to your role and experiences as Chief Magistrate of Victoria. Chief Magistrate, you are extremely busy. When you do find yourself with spare time, do you have any particular personal interests or activities that you enjoy?

**CM:** Yes. I like reading fiction and nonfiction. There was a time when I was mainly interested in nonfiction, but 15 years ago I joined a book club that focused entirely on fiction, which I've now come to enjoy. The book club meets every two months.

I'm reading a book entitled 'Americanah' by the Nigerian author, Chimamanda Ngozi Adichie, about a young Nigerian woman who goes to America, finds work there, then after 15 years goes back to Nigeria. It's quite an interesting book. Part of the reason she's going back is that before she left Nigeria she had a relationship with a man who has now married and has children. He never left Nigeria, whereas she has had relationships in America and is breaking up a relationship to go back to Nigeria. I think the book is exploring whether they resume their former relationship, given its earlier depth. It's interesting the way the story is told because only as you go along is it revealed how they broke up their relationship in the first place, how it is they came apart. It will be interesting to see how they either come together again or don't.

I also cycle during the week and on weekends, and I like walking with my wife. She is the only one who will walk with me. I occasionally play golf, although I'm no longer a member of a club. I used to play cricket with my children. That photograph is of my oldest boy who works as a lawyer in England. It was taken at Highclere Castle where they film Downtown Abbey. The present owner is a very keen cricketer and has his own cricket team. The firm of solicitors that my son worked for would send a team each year for a one-day match against this man's team. When I show you the photograph in greater detail – it was taken by my son's fiancé who is now his wife – she has remarkably caught him coming down the wicket.

The ball is in the right-hand edge of the picture and the wicketkeeper standing back is in the left-hand edge. He's come down the wicket and hit a fast bowler over his head for six. His style is classically wonderful. Head down, following through. It's one of the best cricket photographs I've ever seen. You'll have to inspect it closely and make the appropriate noises. Whether you enjoy cricket or not you'll have to make the appropriate noises.

**VULJ:** Chief Magistrate, if you could meet a judicial figure from any era or place, who would it be and why?

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\* *VULJ* editor.

Interview with the Chief Magistrate of the Magistrates' Court of Victoria conducted on 10 July 2015 at the Magistrates' Court of Victoria in Melbourne.

**CM:** When I was doing the law, in the 1970s, the figure that bestrode university law faculties was Lord Denning. In the 1970s, he had been the Master of Rolls since about 1964. He'd previously been a Lord of Appeal in Ordinary in the House of Lords and had made a huge impact. When I was studying the law his decision in the High Trees case was still much talked about.

When I was doing law, there had been the English decision in the House of Lords of *Hedley Byrne & Co Ltd v Heller & Partners Ltd*, which was then followed by our High Court in *MLC v Evatt*. The change in the law regarding negligent misstatements in *Hedley Byrne & Co Ltd v Heller & Partners Ltd* in the early 1960s owed much to the dissenting judgment of Denning LJ in *Chandler v Crane, Christmas & Co* in 1951.

He was a very significant figure in the common law world. His style of judgement writing or giving judgements was very attractive to students and lawyers because it was deliberately aimed at the general audience. He opened usually, even in his early days, with a story. He would set the scene in a conversational manner that engaged you from the beginning. He very much liked the short sentence, which contained a single idea so it was easy to understand. From a student's point of view, he was bold.

He said things that courts usually did not say of other cases or decisions. For instance, *Candler v Crane, Christmas & Co* was a negligent misstatement case. There had been a decision in the 1890s from the English Court of Appeal that said you had to decide these cases where there wasn't liability for these misstatements. In those days, the English Court of Appeal followed its earlier decisions. Referring to the 1890s decision, Denning LJ said there were two fundamental mistakes in the common law at the time.

How many people would say that in 1951, having only recently been appointed to the Court of Appeal? It's dramatic stuff and that's his style. His influence now I suspect is much less. I'm not sure how many courts still follow or apply High Trees or the principle that came out of High Trees, but he still is, for me, a very important figure.

**VULJ:** Do you think we've had any forthright Australian judicial figures in the same vein or tradition?

**CM:** Yes. There are a lot of very fine judges about. The High Court in the days of Mason CJ was a very forthright court.

**VULJ:** Chief Magistrate, what attracted you to join the legal profession? Are there any events or instances in your life that contributed to this attraction?

**CM:** At one stage I was interested in science and geology, but as I reached my equivalent of Year 12 I realised that my strengths were much greater in the non-science area as opposed to the scientific area.

I had a liking for law and legal issues, so I decided I'd go into law. I suppose it was a realisation of where my strengths lay. There's no road to Damascus moment. I came from a school where only one or two other boys from my year – it was a boy's school – went into law. There was an emphasis on science. Some people went into medicine. Others went into broader areas of science. My father was an engineer. He couldn't understand why I would do law.

**VULJ:** Chief Magistrate, what should law students focus on to ensure they are able to make a positive contribution to the legal profession?

**CM:** I think most students undertake law out of a desire to further the interests of justice. Yes, you want to get a profession, you want to get a job, but when people go in originally, that's what they seek to achieve – to do something positive in this broad concept of justice. I would be no more specific than that. Do whatever you can to achieve that end because it is a profession in the context of the larger system that will allow you to do certain things in that regard, to pursue interests of justice, whether it be you get a job in one of the city firms doing commercial or corporate work, but devote time, say as a volunteer to a community legal centre or something like that. There are a lot of lawyers, young lawyers, or not so young lawyers, who are doing that.

**VULJ:** Chief Magistrate, no doubt you've been aware in recent years that there have been new law schools emerging in Melbourne, the most recent being Swinburne. Are there too many law schools?

**CM:** I'm not in a position to answer that. I simply do not know. It's a cry that I've heard over the years. I was a solicitor until 1987 so it was a cry that I heard when I was a solicitor. For a number of years I was a member, a courts representative on the Council of Legal Education, which governs the establishment of law courses. It was talked about there and I always thought 'Yes, there had been more law schools, yes, there had been more graduates, but they do seem to be able to find their way in the world.' Whether the percentage of those persons who go into the law as graduates are any greater than they were in my day... And not everyone went in. About 60% actually practice law after graduating. That was the percentage years ago anyway. People with a law degree, even if they're not intending to practice, because it's a disciplined way of looking at things and thinking, are still sought after in other areas.

**VULJ:** Chief Magistrate, what are some of the particular weaknesses that you have seen in advocates representing clients in the Magistrates' Court that students, or all practitioners, should be mindful to avoid?

**CM:** I have been impressed with the quality of young lawyers, young advocates, appearing in the Magistrates' Court for a large number of years. I look at young advocates and try to visualise how I would have been at that stage and I'm impressed. They understand the jurisdiction they're in and its practices, the law that's applicable and seem to be well prepared.

For those who don't seek to have an understanding of the jurisdiction, young advocates who go into a particular court or a tribunal without having sought beforehand a knowledge of the matter they're dealing with, the law that would be broadly applicable and the nature of the tribunal itself and its judicial offices, their client is placed at a disadvantage.

You don't have to drill down too far. The best way is to sit in beforehand and watch how cases are determined. Watch a variety of judicial officers and what they tend to require of practitioners.

You just have to spend the time and once you do, you get a pretty fair idea. For example, when we introduced early neutral evaluation into our armoury of alternative dispute resolution ('ADR') I caused my Chief Magistrate of the day to issue a practice direction. It was more than a practice direction because it spelt out how the whole matter would run, how it would be conducted in the courtroom, and touched on issues of confidentiality. Then when we had people coming in, they were the practitioners, not just young practitioners. They were all well prepared.

They had all read the practice direction. They made enquiries of people within the court structure as to what went on. Some of them even came and sat in. I thought that was very professional. They weren't necessarily young practitioners, but they met a fairly novel concept and came to grips with it.

**VULJ:** Chief Magistrate, given the 2015 Federal budget did not increase funding to community legal services, what do you think the legal community can do to help protect the vulnerable? Is the answer more funding or perhaps more involvement from the private sector?

**CM:** I think the private sector does a lot already. I was at the Law Institute of Victoria at an awards gala about a month ago. One of the categories awarded was for firms of solicitors larger than 50 partners. That's a pretty big firm. The firm that won it was said to have since the inception of their involvement in pro bono work, devoted 500 000 hours.

**VULJ:** Clayton Utz.

**CM:** That's right. When you think about it, it's more than a decade, but that is a huge amount to be placed. I'm not sure whether the profession has the capacity to provide more. They may have. One thing that's particularly interesting to this court is the family violence space. There is a Royal Commission into family violence and we hope there are a number of recommendations that the government will take up that will help address the problems in relation to family violence from a court perspective. One of the earliest issues is that both applicants and respondents are properly represented by lawyers.

Another area that has impacted us is that a couple of years ago Victoria Legal Aid, for budget reasons, tightened the eligibility of persons whom they would represent, both at a duty lawyer level and more broadly in criminal matters.

It means that the Magistrate, when presented with an accused person representing himself or herself who wants to plead guilty has an obligation to explain a number of things and ensure that the person understands the nature of the charges and the ingredients. Understands what a plea of guilty is, has a broad idea of the penalties that could be imposed, including the more unusual penalties, confiscation of property and disqualification of licences, and so on.

You can imagine in our heavy lists how well that can be done. My colleagues do their best, but it's no substitute for a lawyer speaking to somebody and going through these issues. The person will actually be listening, whereas often you get the impression that their eyes are glazing over when you start talking to them about these things.

It is clearly a question of resourcing, which can only come through sources external to the court, but it places a huge burden on my colleagues, which they do their best to discharge, but it's always going to be a second best because the best will come through a lawyer privately consulting with a client and giving advice.

**VULJ:** Chief Magistrate, are any reforms required to ensure unrepresented litigants and accused defendants are treated equitably?

**CM:** Yes, I have touched upon it. I'll distort this question slightly to the question you should have asked. We, in the Magistrates' Court, have a number of specialist programs or courts that are unique to the state, which are highly effective and very limited in their catchment areas.

For example, our drug court or drug court division, which was established in 2001, still operates out of the court at Dandenong. It has not been expanded, so that if you live in its catchment area and you're charged with serious offending which will merit imprisonment and you associate that with a serious drug issue then you may be accepted into the drug treatment order program. You may certainly benefit from it, as will the community, but outside of that area, it doesn't help you.

I saw it yesterday, sentencing a man to imprisonment because he was in Melbourne, but there was a possibility he might have been suitable for a drug treatment order and may have benefitted from it.

The same applies to our mental health court, which we call the 'assessment and referral court list' or the 'ARC list'. That only applies in Melbourne, taking people with distinct mental health issues or intellectual disabilities and creating plans to treat them so that they no longer become offenders. It hasn't been expanded.

From my perspective these programs work but there's very little point in creating them and then leaving them treading water. Once you realise they work they should be expanded so that Victorians generally can be the subject of these programs.

**VULJ:** Chief Magistrate, does the legal profession in Victoria provide sufficient pro bono support? Does this vary from your experiences in the Northern Territory?

**CM:** I can't answer whether it's sufficient or not. I gave you the example of Clayton Utz, which was staggering. When I was a solicitor I used to volunteer for community legal services, West Heidelberg, Coburg. I was a solicitor in Preston. I even volunteered for services that existed before the community legal services existed. A lot of lawyers did that. I imagine there are a lot of solicitors and barristers who continue to do that.

As for the Northern Territory, from my memory of the Northern Territory, which is 1987 to 1989, there was very little pro bono, but that was many years ago. I dare say they have a very good system now, but I don't know.

**VULJ:** Chief Magistrate, what in your view is the biggest law reform issue today and how would you like to see it approached?

**CM:** I've almost hinted from this court's perspective that the biggest law reform issue could be family violence, but not in the sense of a lawyer's law reform. What's needed is resourcing into the provision of services.

Law reform can be easy to do, but to make it effective you have to resource it. I go back to the example of the drug court. I would imagine the drug court's not been expanded because it's considered too expensive to expand it. Here's a significant area of law reform by the creation of a specific type of sentence: a drug treatment order. This is a very effective order, put in place many years ago, but not expanded beyond the Dandenong area. So for law reform, making changes in the law is one thing, it is another implementing them broadly.

The legislation in family violence is a very good piece of legislation passed by the Parliament in 2008. The real issue facing the state is resourcing the components, not just courts, police and people in the sector in these behaviour change programs. It's all of those things. Resourcing them so that they do the job for which they're designed to do in the context of the legislation.

**VULJ:** Chief Magistrate, when appointing a new Magistrate what do you consider the most critical attributes that candidate should possess?

**CM:** I don't appoint Magistrates. That's an appointment by the Governor in council and it's on the recommendation of the executive government. In my view, the qualities of a Magistrate should be these: Firstly, impartiality. That is the *raison d'être* of a judicial officer. Secondly, a soundness of judgement. Thirdly, a working knowledge of the law and practice of the jurisdictions that apply in this court. Fourthly, a judicial demeanour and an ability to communicate effectively and courteously in all circumstances. And from a purely Magistrates' Court point of view, an applicant should be willing to work in country Victoria, because unlike the other courts or even VCAT, we have a permanent presence in country Victoria.

I have a significant number of Magistrates who live there. The other courts just go there for the period of a circuit. We need people being appointed who are genuinely willing to go and work there. Not forever if they're not a country person, but for a period of time.

**VULJ:** Should they be from a different place?

**CM:** If you're a solicitor in a provincial town then it becomes difficult for you to sit in that town for a period of time. You could ultimately return there. Would you, sitting in your old hometown, in every second case be disqualifying yourself because you know one or other of the players? Generally speaking, if you were appointed and were asked to go to a country area, it would be somewhere other than from where you came.

**VULJ:** Chief Magistrate, given the extraordinary volume of matters that come before the Magistrates' Court, how do you support Magistrates in maintaining a work-life balance?

**CM:** I involve Magistrates – and this is part of our structure – to a large extent in the decision-making processes of the court. It has an element of democracy and I welcome my colleague's views, which are usually well thought-out and sensible.

We are acutely conscious of the need to look at issues relating to our colleague's wellbeing. We have an internal human resources committee. We also have an occupational health and safety committee. We're exploring a program that exists in the county court and also in the coroner's court of providing assistance to ensure judicial wellbeing. There is a need to assist our colleagues to cope with the work they're doing, which means looking at issues outside the court.

**VULJ:** Chief Magistrate, many of the cases that come before the Magistrates' Court, particularly criminal matters, involve personal tragedy or arise out of distressing personal circumstances. Is there a program to support Magistrates to cope with the stress of their role?

**CM:** There's always been a counselling service made available through the previous Department of Justice and now through Court Services Victoria for judicial officers who are experiencing stress. The program being developed is an advance on that.

**VULJ:** Chief Magistrate, how adaptable do Magistrates have to be in dealing with changes in the law, society and technology?

**CM:** We have to be reasonably adaptable and sometimes that's caused by events. For example, Magistrates keep abreast of the law. The law applies to them. Magistrates are a part of society so they understand what goes on in their own communities.

Magistrates have been, by dint of circumstance, forced to make changes more rapidly than might otherwise have been the case. I'll give you an example. In the latter part of 2013, for the first time in the history of this Court, persons in custody, who were due to appear in court, were not being brought to court. I call it 'nonproduction of persons in custody'. The prison population and the number of people on remand had risen dramatically because of changes, especially parole changes, so they weren't being brought into courts.

We brought in a number of interim measures. For instance, we established weekend sittings in the Court in Melbourne. That occurred in November 2013 and still exists. A Magistrate sits each day in Melbourne, downstairs in Court 1, and hears applications or hears cases relating to people who have been arrested from 3.30pm Friday onwards.

The second measure was that with the help of the Chief Judge of the County Court, we were able to use two of the courtrooms in the County Court building and its cell facility. The County Court has a custody centre, which has a certain capacity and we were using some of their cells.

The longer-term solution was that too many people in custody were coming into our courtroom too often and the answer was to bring them in through an audio-visual link. We have an audio-visual system that was installed in the 1990s. It's old and slow and clunky. We received money during the course of last year as a first stage to replace some with a modern Internet-based system. We received money in the last budget to roll it out statewide so that we will now be developing a capacity for a significant number of people who don't have to come into court physically. It's ultimately the decision of the Magistrate as to whether the person does or not come in, but in a large number of cases they will not have to do that. That's a change that Magistrates have to come to grips with because we've all been brought up with you, as the accused say, appearing in court. You're seeing the lawyer rushing back and forth getting instructions.

This is a new way of doing business that's partly been forced upon us by circumstances well and truly beyond our control. We've got to adapt. The law's got to adapt. How we look at matters has got to adapt, but Magistrates will take it in their stride.

**VULJ:** Do you think we will recognise the Magistrates' Court in 20 years in the way that it operates? What elements do you think will persist?

**CM:** The audio-visual will be a difference. For instance, we are exploring whether in the family violence space applicants can appear in the application, say, for an intervention order via an audio-visual link between the court and an organisation in the community that is prepared to do that.

We've already started it as a pilot program. That's another way of creating greater safety in relation to these people, that we can't really guarantee in our court buildings because most of our court buildings were built at a time when family violence as a concept wasn't recognised.

You might be surprised by the number of people who are not appearing in court, but who are appearing audio-visually. If you went down to Court 1 now you would see about five or six audio-visual links each morning, interspersed with other cases. On a Saturday or Sunday morning, you would probably see one or two applications where the police person who has arrested someone in the Dandenong area, is coming in via audio-visual, Skype, into Court 1.

The accused is already in the court. His legal representative, who is usually legal aid, is in the court but the police person who is giving evidence has not left the police station at Dandenong. They're doing that in Broadmeadows as well. It's an example of how courts will change by virtue of necessity.

**VULJ:** Just to clarify – is the audio-visual software Skype?

**CM:** The video-conferencing system is moving to an internet-based system. Skype's just used for the weekend court from Dandenong. We wouldn't use anything as insecure as Skype for these other matters.

**VULJ:** There is a law report about technology and dialling into courts in the States. They played an excerpt of an expert giving evidence over Skype saying that the world is now available to any courtroom. When the expert was dialling in, his computer was pinging the whole time because he was getting other notifications, emails. Every time he was talking it was pinging, to the point where the judge said, 'You're going to have to call back another time.' It was just too disruptive.

**CM:** We used Skype in this instance because it was inexpensive and has the capacity to be run out more broadly, because we weren't really funded for it in the first place, but in relation to mainstream activities it's not Skype.

**VULJ:** Chief Magistrate, in late 2014 you were appointed as Chair of the Family Violence Task Force. What can you tell us about the group and the progress it has made?

**CM:** The Family Violence Task Force was an idea developed between me and a former president of the Law Institute. We thought it would be a good idea if we got together a body of the major players in the family violence space that could work through issues.

It wasn't with a view to the Royal Commission, but we established it not long before the election occurred and the Royal Commission was established. It was a good way of bringing everyone together and seeing if we had common ground.

We had a series of meetings and the focus, as the Royal Commission was established, moved to what this group would say. The taskforce has made a submission to the Royal Commission. It will be on their website. It contains a number of broad principles that everyone in that group is prepared to adhere to. It was not just the court; it was not just the Law Institute; it was not just the Bar Council; it was also community legal services and women's legal services. There were organisations involved in domestic violence – Domestic Violence Victoria. The Victoria Police were involved. We were hoping that because such a broad group of people were



expressing these views that they would have an impact on the Royal Commission. So that was the purpose of the taskforce. It continues to have a purpose clearly, although since our last meeting, which settled on our submission to the Royal Commission, we've gone into hibernation briefly to recover.

**VULJ:** Chief Magistrate, do you believe the Magistrates' Court is sufficiently equipped to respond to defendants with mental illness?

**CM:** At the moment we're probably the only court, of the three courts in this state, which has a distinct mental health list. That was the ARC list I mentioned before. It is a very fine functioning list that does extremely good work, but it hasn't been expanded. So yes, we do, but to a limited extent. The learnings from the ARC list are conveyed more broadly to my colleagues so there's a learning experience, but it's only the first few steps along the way.

**VULJ:** Chief Magistrate, do you believe that Magistrates should be provided with more sentencing options when it comes to criminal matters, or are the current laws sufficient?

**CM:** That's a tricky question because it's buying into an area of policy. Certainly the Magistracy did not overly welcome the abolition of the suspended sentence of imprisonment that occurred in this court on the first of September of last year.

My colleagues saw merit in a form of suspended sentence; whether or not the same as the one that was abolished, I think they would have seen more benefit in a more upgraded sentence. Interestingly enough, out of necessity, there's been a greater focus into the community correction order.

The last parliament in its dying days made some amendments to legislation to suggest that you could look at an appropriate community correction order as a substitute for a suspended sentence of imprisonment in certain cases. Interestingly enough the Court of Appeal in December of last year gave its first ever guideline judgment and that was in the use of community correction orders in a case called *Boulton's Case*. *Boulton v The Queen* has had a dramatic impact because of a number of things said by the Court of Appeal in the guideline aspect of that judgment.

It's well worth reading. It's had a dramatic impact in some of the sentencing or sentences imposed in this court. I think we would be interested in other sentencing dispositions and we still see merit in a suspended sentence in some form as a group of people, but it's interesting to see how the community correction order plays out. Again, that's a question of resourcing. It's one thing to have an order with beautiful conditions set down by law. It's another thing to have an order that works and works appropriately.

**VULJ:** Chief Magistrate, the year of your appointment was also the year that the Early Neutral Evaluation Program was taken from its pilot stage and introduced into the Magistrates' Court of Victoria, with effect from 1 July 2012. Can you provide our readers with a brief overview of the program? Is it successful as an alternative dispute resolution method in the context of the Magistrates' Court?

**CM:** Yes. It's had a reasonable degree of success. With early neutral evaluation we aimed to identify cases that might not settle through any other ADR process, specifically mediation. We tried to find the difficult cases.

We looked at the pleadings and tried to identify factors we thought would render this case difficult. This process is very labour intensive. It means a Magistrate like me spends three hours on a particular day listening to the parties and then evaluating what they have to say by the strengths and weaknesses in cases that are probably reasonably evenly based. It's not as if we have cases where one side is clearly going to win and the other side is clearly going to lose. These are more tightly based.

It was an advantage having the type of person who would actually hear this case if it didn't settle along the way, giving you their nonbinding evaluation earlier on. The costs were quite low and it had a slow start in the sense of resolution. It built up to quite an extensive resolution rate. It's come back a bit but it compares favourably with mediations and as a percentage of resolution overall.

**VULJ:** Chief Magistrate, currently VCAT cannot enforce an order. To enforce an order one must file a VCAT order within the Magistrates' Court. Do you believe that VCAT should be given the power to enforce its own orders to avoid unnecessary delays in the dispensation of justice?

**CM:** If it's a monetary order you've got to register it in one of the courts with the appropriate jurisdiction, be it us, the County Court or the Supreme Court. If it's a non-monetary order it's registered in the Supreme Court. Why did this happen? It's not because of any limitation in the Service and Execution of Process Act because that recognises tribunal orders. I don't know why it's happened this way and I suspect the reason is resources.

You create a body like VCAT that brought together a number of earlier tribunals, small claims tribunal, and residential tenancies tribunal. You create the body. You effectively place them in one spot although they visit elsewhere. They have staff in one spot but you've got a structure around the state, mainly concentrated in my court, but other courts lever off it that have an administrative structure.

Why wouldn't you, to save money, rather than duplicating it, use the existing structure, which is what this is? That's my suspicion. I don't know if that's ever been stated in parliamentary debates because no one's going to admit they haven't got the money to do something.

It's a convenient structure and probably that's why it will continue. It doesn't cost you anything more as a state to get them to register. It doesn't answer your question of whether it should happen. All I'm saying is if my suspicion is right, then it's not going to change.

**VULJ:** Chief Magistrate, are there any areas of law that you find particularly challenging to deal with as a Chief Magistrate?

**CM:** I don't know about particularly challenging. Sentencing can be a difficult issue. Bail applications can be difficult because of the legislative requirements. I have a preference for the civil jurisdiction, although as a solicitor and a Magistrate elsewhere I have extensive experience in both areas. I do prefer the civil area.

I find civil very interesting and if I had the chance I'd prefer to do it but the administrative tasks involved in being Chief Magistrate limits the amount of time I could give to people with civil cases.

It's awfully difficult to say to the practitioners in a civil case, 'You've got a five-day case. Look, I'll give you two days this week and three days next week or three days the week after.' That does not go down very well. So, no, I don't find it challenging except in the sense that some of the decisions cannot be intellectually difficult to make, but just difficult to make because of the implications of what you're doing and the importance of what you're doing.

**VULJ:** Chief Magistrate, who has been the biggest influence on your legal career? What lessons did they teach you?

**CM:** I don't think I could identify any single person. I've benefitted from interaction with my colleagues as Magistrates and as fellow lawyers. I've benefitted from my wife's advice.

My wife was a solicitor and I discuss matters with her. I don't discuss them in front of the children because they think I'm boring, but I'd say the biggest single influences apart from my wife would be some of my magisterial colleagues whose advice I do seek, whether in this position or whether as a Deputy Chief Magistrate.

I was Deputy Chief Magistrate for over nine years before I became Chief Magistrate. I seek their advice. I evaluate their advice. I don't always follow it, but at least I get a point of view from someone whose judgement I do trust.

**VULJ:** Chief Magistrate, what is the most significant challenge you would like to conquer in your remaining time as Chief Magistrate?

**CM:** I think the Magistrates' Court faces two challenges which could be, to an extent, conquered in the time I've got left as Chief Magistrate. The challenges are to really accommodate the people who need to work within the court buildings and to ensure the safety of people who come to our court, including court staff and Magistrates.

Safety is not a well-addressed issue on several levels. If you go outside of the metropolitan area there is a large number of courts or courthouses that have very little, if no security. Even for the staff or the Magistrates.

There's limited security or safety in relation to litigants. I'll come back to the family violence. It's created a whole body of litigants for whom there can be a significant degree of tension which can be translated into real danger for people.

Accommodating people is another issue. If you said to me today, 'We'll give you in the next couple of months 75 additional people to spread across the state in our major venues', I would have difficulty accommodating them because most of our venues are full of people. And the numbers grow as the level of work grows and as we deal with the matters before us.

If I could make a significant step to overcoming both of those problems in my remaining time I think I would have done reasonably well.

**VULJ:** Chief Magistrate, what lessons have you learned from your role as Chief Magistrate?

**CM:** Since about 2009, there has been a desire by governments to introduce a judicial complaints commission. The previous Labor government, under its Attorney General, organised a working party to look at it.

I was a member of that party. It developed a discussion paper. Legislation was introduced. It lapsed when parliament was dissolved for the election in 2010. The current government, the previous Coalition government did the same thing. It didn't have a discussion paper but it brought in a bill in its last year of government. It had not got past the second reading stage when the parliament was dissolved. I dare say the current government would be looking at the issue again.

My experience in relation to complaints about Magistrates and the way they deal with matters is that it's rare to have a complaint that is of a sufficiently serious nature that you could contemplate removing the person as a Magistrate. They're pretty rare. You might have one every few years. The rest of the complaints are of a lesser nature and the vast majority of them are complaints that don't have much substance in them at all. Often you do nothing more than refer the text of the complaint to the Magistrate for his or her information. There are occasions where the complaint raises issues and you have a discussion with your magisterial colleague about what's in the complaint.

I've come to the position after all these years that a judicial complaints commission is unnecessary. I doubt whether the politicians will be listening to me because I think it's a waste of money to set up a separate body to undertake this exercise.

Where it's an extreme issue, there are already provisions in the Constitution Act of the State to deal with it. Elsewhere it can be dealt with on a level with the Magistracy through the head of jurisdiction.

**VULJ:** Chief Magistrate, have you contemplated any activities you'd like to pursue after your role as Chief Magistrate comes to an end?

**CM:** I'd like to become a reserve judicial officer, a reserve Magistrate. It's not so easy when you've been chief to become a reserve, but I think I have an attachment to your university already and I like talking to students about areas that I know. But it seems to me that if you retire or cease to be a judicial officer and you cut your links with the practicing law then what you've got to say diminishes rapidly.

You become, within three years, significantly out of date and lose your impact. If I was to continue in an association with a university and talk to students about issues that they want to know about that are current in a court circumstance, then I think it's important that you remain practicing, because if you stop practicing after a short while they rightly lose interest in you.

**VULJ:** So, never stop practicing.

**CM:** Well, no. Not quite that. You reach a time when you've had enough all round and everyone has had enough of listening to you, but let's hope that's a few years after you retire.

**VULJ:** Chief Magistrate, thank you very much for your time today. It's been fantastic.

**CM:** It certainly was. It was interesting. Now you'll have to inspect the photo.