

Your **VOICE** for the future

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Chairman's Report

COURTS ON TRIAL

Victims Voice Frustration With Out-of-Balance Court Process

Our annual Victims Rights Conference with the theme of 'Courts ON Trial' was held in Taupo 19th /20th September and was an amazing success.

We would like to thank all the sponsors, helpers and associated organizations and people whose generosity enabled this to happen.

Turning the spotlight on the Courts was a revealing exercise, run along the lines of an imitation Court. The large number of victims present were able to identify the failures of the Courts from their own personal experience. One such issue is Victim Impact Statements.

Originally Victim Impact Statements were intended to address a systemic imbalance and give Victims their ONLY opportunity to address the offender and tell them the effect the crime had on them.

But, true to tradition those within the offender friendly - criminal centered - industry were worried the criminal's feelings might be hurt if they were forced to listen to an aggrieved Victim. Victim Impact Statements have become a farce and instead of offering relief to the Victims, are adding further stress and anxiety.

Once again it appears the criminal friendly element within the industry have seized control of the whole process and rendered Impact Statements worthless.

New Zealand's Criminal Justice System has gradually been diluted to the point where it has become an **INDUSTRY** that simply goes through the motions of administering Justice. In reality it more resembles an assembly line in a factory that mass produces criminals.

The continuing escalation in violent crime is just one of the symptoms.

The recent speech from the Chief Justice Sian Elias saying that there was too great a focus on Victims of crime and suggesting that 'executive amnesties' should be considered is the sort of nonsense that has helped the Criminal Justice **INDUSTRY** to evolve.

Dame Sian Elias full speech can be found at: http://img2.scoop.co.nz/media/pdfs/0907/Shirley_Smith_2009_lectureBlameless_Babes9_July_2009.pdf

Executive amnesties in the form of Parole have been tried in various forms for years. Automatic parole, 2/3rds Parole, 1/3rd Parole. What hasn't been tried is holding criminals fully accountable and responsible for their crimes. The whole criminal justice **INDUSTRY** is designed to prevent criminals going to prison. If they are unlucky enough to be sentenced to prison they can rest easy knowing that legislation is in place to get them out at the earliest possible opportunity.

While challenging and changing the Court system may seem daunting - too big - we are not intimidated. The Sensible Sentencing Trust has already proven there is no such thing as **can't** and many of our ideas and policies have been and continue to be implemented.

The 2010 Victims Conference will be in Wellington with an agenda to instigate an overhaul of the Court System.

I would like to take this opportunity of thanking our members whose continued support has made this incredible journey possible.

Garth

Brian and his wife Lynn lost their beautiful daughter Natasha at the hands of recidivist offender Michael Currin in 2005



RIGHT TO SILENCE

Words by Brian Brown

It is my view that the "Right to Silence" has done its time in N.Z. law and should as a matter of fairness to taxpayers, victims and possibly the perpetrators of crimes themselves, be removed from our statutes.

I believe that most trials would be over in a much shorter time if the "Right to Silence" were to be removed and the long suffering taxpayer who funds the majority of these trials via the legal aid system deserves a say in this.

It is one thing for the perpetrators of these crimes to tell their stories/lies to his/her defence lawyer, who then has the task of embellishing these same stories/lies in a way only defence lawyers can, to putting ones hand on the Bible and swearing the oath like all the witnesses have to do and explain to all and sundry how he/she became the focus of the prosecutions case. Being confronted in a public way by a competent crown prosecutor, questioned and having it sheeted home to him/her the enormity of what they have done may mean that they would be less likely to re-offend in the future. From a victims family standpoint this could be quite cathartic and aid tremendously in their healing process as well.

To the nay-sayers, when the "Right to Silence" was introduced, hanging was the consequence of being found guilty of murder and some less serious offences whereas today this is not so. Serious fraud, Maritime Law and Civil Aviation Law has no "Right to silence" yet the consequences of being found guilty under these laws can exceed those handed down for murder/manslaughter convictions. This in turn begs the question of do we trust the jury system or not.

Lets face it, if the right to silence is removed the criminals would still have the appeal process to fall back on if anomalies were to occur.

After receiving Brian's Right to Silence article, he emailed us with what he really wanted to say.

"In Currin's case a lying evil piece of shit who didn't give a toss about anyone. Sitting smugly in his box marvelling at how well his QC lawyer is doing, laughing with his family and the guards infuriates me. If he had to get in the stand he would inevitably fall on his own sword and it would add a bit of balance at the same time"

ARE VICTIM IMPACT STATEMENTS A FARCE?

Words from Harry Young whose daughter was murdered in Edgeware Road in Christchurch. I was told that if I did not go along with the censorship, the Police/Crown would not even present the Victim Impact Statement to the Judge.

I inserted a photo of Jane in the statement, which was cut out, because it was "too emotional" Damn right it was emotional. I wanted Sila to see he had killed a gentle 43kg child, not a 100kg brute like himself. (He had killed Jane and another 16 year old girl at random with a car, because he had lost his temper. He had never met her and I still do not know if he has ever seen a photo of her).

There should be no restrictions whatsoever in the statement. The law operated on the murderer's side in censoring us. It was a violation, like mental torture or severe bullying and is the opposite of what a VIS purports to do -

1. Give us our say to the killer and
2. Allow the judge to take it into account.

I would never make a VIS again and have actually advised others not to. It took me over 40 hours of tortuous slog. The stress, despair, grief and feeling of powerlessness was compounded by censorship and then the Judge gave the minimum sentence he was allowed to in law even giving credit for remorse which was non existent!

So the VIS worked against me in both functions. That sickened me and I hold the Judge, his court and the system in utter contempt.



Harry Young

VICTIM IMPACT STATEMENTS

Words by Gil Elliott - Father of Sophie

Enacted in the Victims Rights Act of 2002, , section 17, victim impact statements (VIS) have allowed victims, or families of a dead victim, to express their feelings in court at the time of sentencing of the offender.

This would appear to be a break through in terms of input for victims into the legal process. These statements can be read in court in front of the judge or 'handed up' so only the judge, the prosecution, the defence lawyers and the offender can read them. If the latter is done, then the public including the victim's family, never get to hear the impact that those statements might have had on the offender and the court.

However a victim or spokesperson **cannot** say everything they want to in court. What is read in court is at the judge's discretion. The judge can make an order prohibiting the disclosure of information in a VIS, although this is done rarely in fact. What happens in reality is that the judge censors the VIS so that it is fairly bland and does not presumably upset the offender too much. The accused has the right to silence, but also has the right to go on the stand and tell their side of the story. This means the accused either directly or through their lawyer can say just about what they like, including embellishments of the truth and even lies.

The victim/family on the other hand must sit mute in court and listen to 'stories' told by the offender or their lawyers. The New Zealand Bill of Rights gives a lot of rights to the accused/offender. This is so in our legal system because until the judge or jury say the accused is guilty, the accused is innocent.

If we look at a murder, then it is even worse, as the accused can choose what lawyer they want to defend them and probably on legal aid. Murder is a 'crime against the state' (interestingly not the victim who has suffered), in the Westminster system of justice

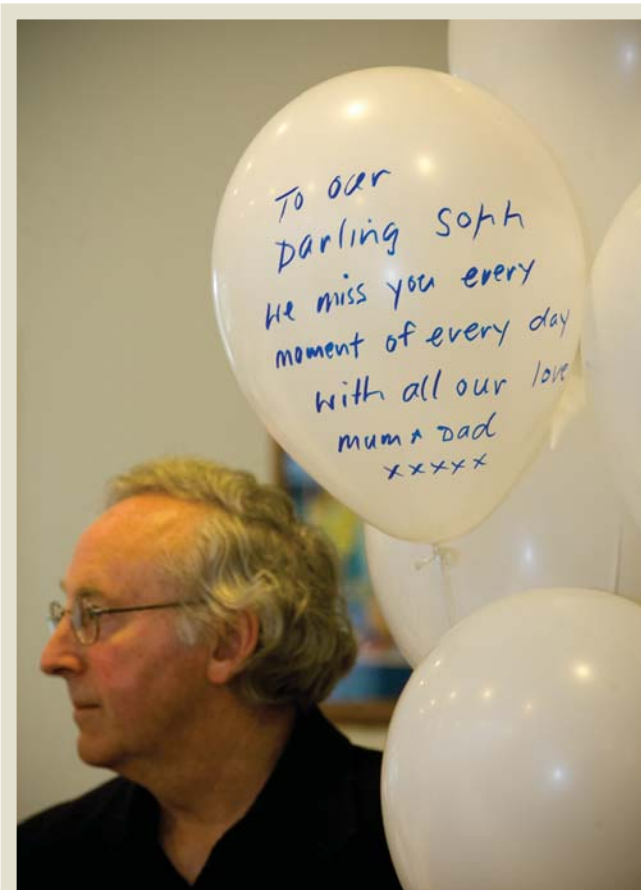
as practiced in New Zealand. What this means is that there is no choice of lawyer for the victim. The prosecution lawyers take over the prosecution of the case.

If this was on behalf of the victim's family in the case of murder, it would not be so bad. But in fact it is not, because the prosecution is representing the crown (the state) and the victim's family are basically excluded from everything unless the family insists on seeing the prosecution. Auckland's prosecutor Simon Moore is the exception to this.

What does this mean in terms of the VIS? Well, the victims family think at least they will be able to have their say at sentencing, only to find that they can't say everything they want to and that their VIS has been 'edited' by the police/prosecution on order of the judge.

This must change, because the VIS is one of the few rights that victim's families have. It is really a hollow gesture to victims families and to make matters worse the judicial officer is able by law to determine the weight (**if any**) he or she will give to the VIS in sentencing.

That is, you may go to a lot of trouble writing and delivering a VIS and unbeknown to you the judge has already made up his or her mind prior to looking at your VIS (if it was indeed looked at) and may have completely ignored your statement. However the victim's family will never know this no matter what the future holds for the VIS.



My own experience is recent, where one quarter to one third of my VIS was inked out with black felt tipped pen and received by me from the police late the night before sentencing. I, like most 'victims' had spent a lot of time preparing the VIS, only to have (with great difficulty) to read through and around the inked out bits in court. I strongly objected to this, but what could I do. I didn't want to be in contempt of court for reading my original statement.

On reflection I should have been strong like Brian Brown and read my uncensored version - the one I had practiced and had wanted to express in front of the murderer in court. Everything I had stated in my VIS apart from being true, had impacted on me.

" EACH TIME A MAN STANDS UP FOR AN IDEAL OR ACTS TO IMPROVE THE LOT OF OTHERS OR STRIKES OUT AGAINST INJUSTICE HE SENDS FORTH A RIPPLE OF HOPE"

ROBERT KENNEDY

VICTIMS RIGHTS CONFERENCE TAUPO 2009

5th Annual Victims Rights Conference

The Sensible Sentencing Trust held its 5th Annual Victims Rights Conference in Taupo 19/20th September. Sadly, this was the Trust's biggest ever Conference, with over a hundred family members attending.

All the families involved had experienced the loss, devastation and suffering that violent crime brings. Not only do they have to deal with the grief and trauma of losing a loved one in the worst possible way, their suffering is increased by having to navigate their way through a Justice system that is more focused on defending the rights of the criminal than protecting the rights of the victim.

The focus of this year's conference was "Courts on Trial". Victims shared their horror stories, not at the hands of the criminals, but at the hands of our Court system.

Workshops and a mock court gave the victims the opportunity to state their case and put the failings of our Court system under the

spotlight. A report is being compiled on the workshop results which will be delivered to various Ministers seeking their comments.

One of the greatest gains from the conference was the strength and support that the families receive by being in the company of others who truly understood the unenviable journey many of them have travelled and others are yet to undertake. These people have suffered the most odious of crimes, yet none are seeking any form of revenge or punishment. What they are all seeking is a justice system that delivers them justice and treats them with the dignity, respect and courtesy they so rightly deserve.

We wish to thank the families for their involvement, our sponsors and all those people who generously donated their time, services, skills and expertise in so many different areas which contributed to the overwhelming success of this years Conference.

Wendy Pedler

The Hon Judith Collins, Minister of Corrections and Police gave a well received address and welcomed questions from the families.

"Criminals have been able to shelter behind laws that protect their rights. I believe that when you commit a serious offence against a person or their property, when you undermine communities and cause people to live in fear, then you lose some of those rights.

Part of the problem is that there are some people, who are not criminals themselves, who have made an industry out of making excuses for criminals. The Government wants to put the brakes on that industry.

I have very little sympathy for criminals, they become criminals by their own actions. So they should suffer the consequences of those actions.

There is nothing we can do to take away the pain of victims of crime, but there are things we can do to place the needs of victims at the centre of the justice system. We believe the central purpose of the criminal justice system is not the welfare of the criminal, but the protection of law abiding people and the creations of a better, safer New Zealand for us all."

(Abbreviated comments taken from Ministers speech, not in order of delivery)
For full speech refer www.sensibleentencing.org.nz

Special thanks and appreciation to :

SPEAKERS

Garth McVicar

Hon Judith Collins - Minister Police and Corrections

Mayor Rick Cooper - Taupo

Stephen Franks - Legal & Justice Advisor

Tony Paine - CEO Victims Support

Megan McPherson - Spokesperson
Cross-Roads Group

Eva Bradley - Media Consultant

Louise Parsons - Dale Carnegie Training

Wendy Pedler - National Secretary SST

John and Val Hargreaves - Victim Rights
Advocates

VIPs

Anne McVicar - Event Organizer

Barnett Family - Taupo Co-ordinators

Brian Brown - Entertainment

Regan Johnston - Guitarist

Kelly Pigott - Singer/Guitarist

Don Rider - Piper

Hadleigh Pedler - Report Writer

Thank you also to Alan, Sally, Tash and Graham for your continued help with our Conferences.



Debbie, Ida, Kelly and Bevan 'On Tour-Taupo'

VICTIMS RIGHTS CONFERENCE TAUPO 2009

The conference was officially opened with a Remembrance Ceremony in the presence of Taupo Mayor Rick Cooper and the Minister of Corrections and Police the Hon Judith Collins. This was an emotionally moving event, a lone piper played while the families released white balloons to the sky carrying messages written to their loved ones.



Photo courtesy Eva Bradley Photography

Garth McVicar addressing Conference



Comments from the weekend...

"Everyone we spoke to on the weekend came out with the same thing in their conversations as us and that was that they look forward to Conference each year. I guess it is the camaraderie that you get in any group that have one thing in common. It is a real bonding of people who struggle on a daily basis internally, to fit back into normal society, but never feel you quite slot back in where you fitted in before. Every time I come to Conference I almost feel a peace and am very comfortable among these wonderful, brave people".

"Thanks for allowing me to attend last weekends Conference, I can't express what being there has done for me on a personal level. No counseling could have helped more than attending this event, I am forever grateful".

"The best thing for me about the Conference was spending time with people I consider friends now and gaining more strength to try and get through another year".

"The best thing for me about the Conference was the learning experience and fellowship with others who understand because they've walked the same road".

"Thank you all at SST, where would we be without you. Thank the sponsors for the wonderful weekend".

Facilitator Louise Parsons putting our 'COURTS ON TRIAL'

Time to reflect



COURTS ON TRIAL

Below are some of the suggested solutions that came out of the Conference workshops.

- Greater accountability for judges/lawyers
- National protocol for the courts on how they should treat Victims
- Make 'Truth' the central issue

- Remove the offender's right to silence
- Disclosure of previous convictions
- Truth in sentencing. The sentence given is the sentence served
- No spurious appeals. Any frivolous appeal means the defense lawyer is penalized and the offender gets an increased sentence

PAROLE - Is it a Right, a Privilege, or a Sham?

After reading the New Zealand Parole Board's Annual Report 2008/09 it appears they have created their own bureaucratic empire. The Board's functions are to consider the suitability of criminals for parole and set parole conditions.

The Report states;

"Parole is a process. In most cases everyone involved knows that the offender is unlikely to be released. Indeed when asked, offenders acknowledge that they do not expect to be released. For a few offenders the reality is that because of their history and their risk, they will not be released on parole before their sentence expiry date. In those cases all the Parole Board can do is to set conditions for the six months after their release in the slim hope those conditions may reduce their risk of reoffending"

We have to ask why resources are allocated to an area which does little, or nothing, to rehabilitate or manage criminals. Of those who are released on parole many go on to commit further crimes. (See graph below on the number of Parolees re-imprisoned) Note that this graph does not necessarily indicate the number of offences Parolees have committed, but the number of offences Parolees have been caught, convicted and re-imprisoned for.

Parole should be abolished. Why inflict such a farce on the tax payer and traumatise victims, who, unlike

the Parole Board and everyone else involved, do not know that the offender is unlikely to be released and consequently suffers through the annual charade of parole hearings?

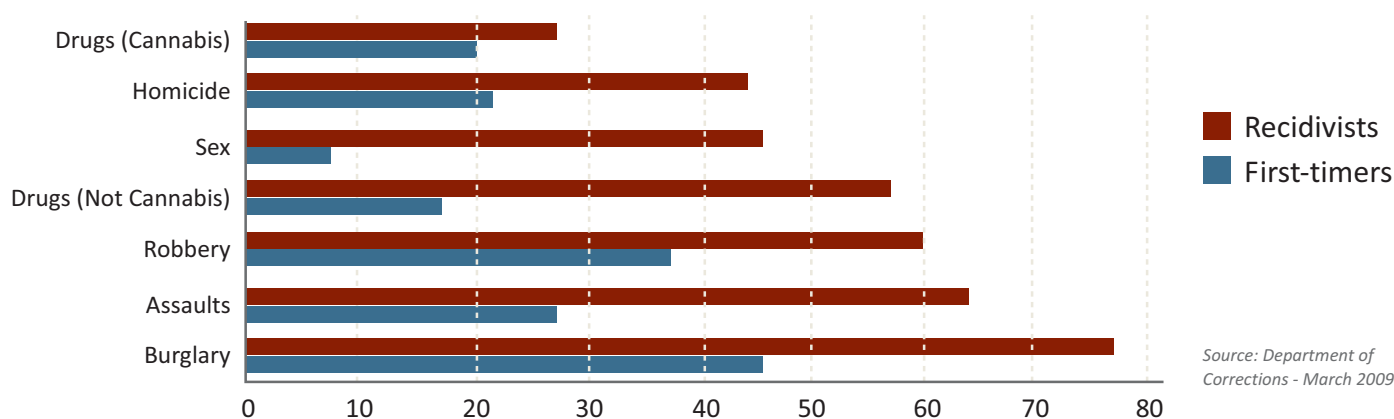
The present process of Sentencing and Parole misleads the public into believing an offender will serve the Judge given sentence, when in actual fact a nine year prison sentence may be reduced to a three year sentence by the offender obtaining parole. The Parole Board should not have the power to determine the length of sentence a criminal serves.

If Parole was abolished victims would have certainty of the Judge given sentence and be able to factor this into their lives. Parole mocks justice, deceives the tax payer, does little to rehabilitate criminals and re-traumatise victims.

The money saved by abolishing Parole would be better spent providing Corrections and Probation Services with the necessary resources for reintegration programs back into the community once offenders have served their full Judge given sentence.

Wendy Pedler

Parolees re-imprisonment rate - First-timers vs Recidivists



A Parole Submission Written By a 9 Year Old

You took Steven away from me and I am never going to see him again. Now I will only see him when I am up in heaven with God. Steven was my very best friend, he was like a brother to me a special big brother, my feelings are hurt and I think it's only fair that you go back to Jail.

Because of you he is killed and I will never get to see him again, and I miss him so, so much. You were really mean to him and I want him back. You are very mean and that is why you should still stay in jail, I am sorry

if you think it is unfair but it is because of you that my cousin was killed. So you should stay in prison and he should still be alive.

My Mum has told me that you don't have to do all of your time in jail because that is the way the law is. But that seems silly if I get in trouble and put in time out I am not allowed out before my time is up. You know what you did was wrong and you are a grown up so you should get punished properly and stay in your time out until your time is up, that's how we learn our lesson.

I will never forgive you. End of story.

Excerpts from Press release

Dame Sian, Peter Williams and many politicians are out of step with what the country wants.

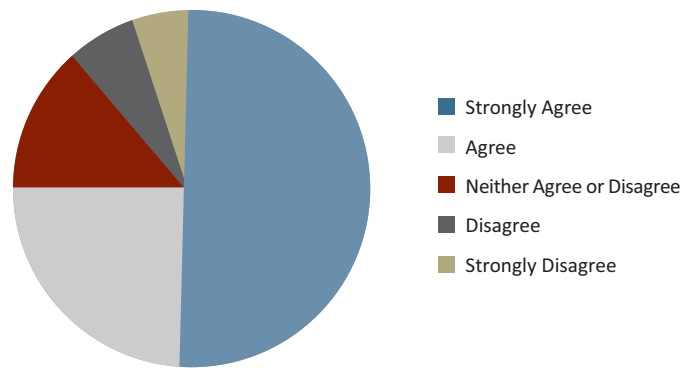
Kiwis want all parts of the law and order process toughened up, including the lengths of prison sentences.

Three quarters of New Zealanders believe current prison sentences are too light to be an effective deterrent to crime, which again shows the gulf between the public and the people charged with setting and implementing the law on their behalf.

“Life should mean Life” and “the longer the criminals are in jail, the longer our community is safe”, are comments we regularly hear from people when we ask them about law and order in New Zealand says Paul Epplert, Senior Client Service Director at Research International. “Executive Pardons as proposed by Dame Sian Elias therefore, completely ignore the will of the majority of New Zealanders.

Prison sentences are currently too light to be effective deterrents to crime.

- Three quarters agree with the statement
- Only 12% of the population disagree with this statement
- People feel that justice is not being served appropriately and therefore there is no deterrent. They also feel that harsher consequences are needed, particularly with the perceived rise in crime rate in New Zealand.



The purpose of the research was to investigate New Zealanders attitudes to a range of key issues facing us as individuals and as a country. This research project took place across New Zealand in June/July 2009.

LEGAL AID: - Is Legal Aid Being Abused?

The Minister of Justice has initiated a Review of the Legal Aid System, to be chaired by Dame Margaret Bazley DNZM. The discussion paper which forms the basis of the review highlights:

- The spiraling cost of Legal Aid, and the quality of the service provided
- The demand for Legal Aid has increased 23 percent between 2003 - 2008, most of this increase being driven by criminal Legal Aid
- Criminal grants increased by 51 percent from 2003 - 2009
- Legal Aid business is unattractive to good experienced lawyers on account of the poor pay rates, and the administrative burden it involves
- Inexperienced or bad lawyers take up this Legal Aid work, but manage it badly, thereby delaying the court process and increasing the cost of the legal aid
- **Repayment of Legal Aid grants in criminal cases is minimal. (\$14 million granted; \$1.2 million repaid)**

Multiple grants:

- 10% of claimants have 6-9 applications
- **30% of claimants have 2-5 applications**

High Cost Cases:

- 45% of the legal aid budget is spent on 5% of the cases
- Top 100 cases (.17% of all claimants) consumed 17 percent of the total expenditure on Legal Aid

YES THE LEGAL AID SYSTEM IS BEING ABUSED.

The issues as identified are impacting severely on the provision of effective, timely, affordable justice and **change is urgently needed.** The Sensible Sentencing Trust has made submissions to this Review. We look forward to having further input when proposed changes are presented to Parliament.

Alan Monk

GOLF 2010

Following the success of our September Victims Conference in Taupo we plan to hold another Conference in Wellington next year.

Part of the funding for this comes from our Annual Golf Day held in Hawkes Bay each February.

We are asking businesses to put forward a team of 4 for this fun filled day. Individual players are also very welcome.

Should you wish to donate team prizes, enter or sponsor a team for the tournament please register your interest by phoning Annette 027 2081550 or emailing louiseparsons@xtra.co.nz

Date: Friday 12th February 2010 (the day before the Mission Concert)

Venue: Hill Country Estate Golf Course, Havelock North, Hawkes Bay

Our Members Have Their Say!

*We encourage you to write to us.
We always look forward to hearing from you
as you give us the inspiration to go on.*

“Keep up the brilliant, determined and courageous work, Thank you”.

North Shore

“Thanks again for your sterling work for all law abiding Citizens”.

Tauranga

“Thanks to you Garth and your team – you are doing a wonderful job so please continue with the good work. What a wonderful letter, from that little girl Molly Adams. Congratulations to her. Should a lot more young folk follow her example New Zealand would become a better and safer place to live”.

Manawatu

“I am a disabled war Veteran. I am disgusted with our current judicial system. It is not what I served in the armed forces for. I fully support what you are doing. Go for it”.

Northland

“Thank you SST for the outstanding work that you do. I support you, I applaud you. Well Done!”

Auckland

Thank you for your overwhelming response to our May newsletter. Your valuable support and generous donations help us continue our fight for a safe NZ.

PHONE 0900 72 33 69 to make a \$20 donation.

A STAR

Congratulations to Molly Adams the Founder of our SST's new Youth Division due to be launched March 2010 - we wish her all the luck.



Peter - NZ



Ross
Australia

Once again a big thank you to...

Peter our Website Manager and his assistant Ross Crosby. The hours given voluntary to this fantastic website is amazing.

We are very proud of the website which is used world-wide and extensively by the media.

URGENT!!!

NATIONAL PLAYING VERY DANGEROUS GAME

National got elected on the promise to get tough on Law & Order. Recent polls have clearly indicated that the public want David Garrett's 3-STRIKE law introduced.

BUT National is playing dangerous games with this!

National has proposed diluting the legislation to the point where it would have no effect for 15 years!!

Over 1000 people have been murdered since the Government ignored the Law & Order referendum in 1999 and many others raped and maimed. If history repeats itself over 1500 people will be murdered before Nationals version of 3-Strikes starts to kick in!!!

Are they deaf or is it simply that innocent people being murdered do not matter to politicians and their advisers?