

'Refund costs to innocent people'

23/8/2008

By Bret Christian

People who face massive legal bills to prove their innocence in court should have their legal bills paid by their state governments, says a national legal body.

The present situation, which saw many innocent people financially devastated, was wrong and required reform, said Tom Percy QC as he opened the state conference of the Australian Lawyers' Alliance this week.

"There is no justification for not repaying these costs," he said. "People should not be financially destroyed when they have done nothing wrong.

"We're not talking compensation, just the basic costs of defending yourself in court against an unproven allegation."

High-profile murder cases where families have paid more than \$1 million in legal costs have highlighted the problem.

Canadian Rory Christie faced two trials, totalling 10 weeks, plus an Appeal Court hearing before being cleared of the Darglish murder of his former wife Susan.

He said his legal costs were almost \$1 million.

He has not received a cent from the WA government.

The Walsham case involved a coroner's inquest, an appeal and two trials totalling 16 weeks before three young men were cleared of killing Phillip Walsham in Stirling.

Their extended families were crippled by the legal costs of their exoneration.

Attorney-General Jim McGinty wrote to them refusing to pay a cent of their legal costs.

Any cost reimbursement or compensation is at the discretion of the Attorney-General.

John Button was paid \$400,000 compensation and \$60,000 for his legal expenses, and the government contributed to some of the legal costs of Darryl Beamish.

Andrew Mallard has so far received \$200,000, and there have been several other payouts.

In Britain, an independent board of jurists assesses costs and compensation and when injustice is proven, makes large payouts - up to \$1000 a day for unjustified imprisonment.

Mr Button spent five years in jail, Darryl Beamish 15, Andrew Mallard 12, Rory Christie 41^{1/2}, and the Walsham three 21^{1/2}.

Brothers Peter and Ray Mickelberg spent eight and six years, and have received \$1,654,000 million, including \$500,000 each in compensation.

But hundreds of defendants have not, including Mr Christie and Mr Beamish.

"In our view this is the most glaring injustice that confronts the justice system in Western Australia at the present time," said Mr Percy.

"It's a disgrace." Australian Lawyers Alliance national president, Melbourne lawyer Clara Davies, said that in the UK and the US successful defendants had their costs paid by the state.

"There's no reason why it shouldn't occur here," she said. Mr Percy said that in the magistrates' courts in WA the government already paid these costs.

"The scheme works well, and must be extended to the higher courts," he said.

"The Australian Lawyers Alliance believes no one should lose their house in the process of asserting their innocence."

The alliance represents over 1500 lawyers Australia-wide.