



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

MEDIA RELEASE

STATEMENT FROM LLOYD BABB SC, DIRECTOR OF PUBLIC PROSECUTIONS NSW

15 December 2017

I refer to the Media Statement from the President of the NSW Bar Association dated 14 December 2017.

I agree with the President that:

“Appropriate concessions by both prosecutors and defendants in criminal trials have an important role to play in assisting to deal with the real issues in proceedings. Without appropriate concessions, the length of sentence proceedings in criminal courts would be extended, leading to further delays in our court system which cause unnecessary distress to victims and witnesses who are awaiting matters to be dealt with”.

The two internal emails sent on successive days by the Senior Crown Prosecutor were not publicly released by me or my Office, but were provided by an unnamed source.

Mr Moses SC is correct when he states:

“[A media] article presents two emails sent from the Senior Crown Prosecutor on successive days as being consistent and that together they comprise an initiative by the Senior Crown Prosecutor to remind prosecutors of their obligations. As a matter of fact, the second email of 8 December 2017 was intended to withdraw the previous instruction to prosecutors regarding concessions and emphasise the discretion of counsel to make appropriate concessions and exercise independent forensic judgment in the course of a criminal trial or sentence.”

The second email followed a letter from the Bar Association and a meeting between myself, the President of the Bar, the Senior Crown Prosecutor and other Senior Counsel. The Bar Association expressed serious concerns about the first email. We all agreed that the concerns raised by the Bar Association should be addressed and agreed that a second email would be sent withdrawing the first and emphasising the discretion of counsel to make appropriate concessions and exercise forensic judgment in the course of a criminal trial or sentence. The first email did not intend to suggest otherwise. That second email was sent and made it clear that the first email was withdrawn.

I also agree with Mr Moses SC that:

“The article also contains criticisms of Crown Prosecutors which is unfortunate because it unfairly impugns their conduct and performance.....”

I wish to make it clear to the public of NSW that Crown Prosecutors act appropriately in accordance with their obligations and duties. Insofar as the article suggested the making of inappropriate concessions was a recurrent failing, I make it clear that that is simply not the case.

It is only on a rare occasion that inappropriate concessions are made. Two recent examples led to the issue being raised with the intention only of providing internal guidance, which the Senior Crown Prosecutor gives from time to time.

I value the excellent and important work done by Crown Prosecutors on behalf of the people of New South Wales.

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