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Media Report

The media and Lindy Chamberlain, and reporting criminal matters in the Northern Territory today

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Richard Aedy: What's it like nowadays reporting criminal matters in the Northern Territory? Actually, more interestingly, what's it like from the other side, from the perspective of the lawyers who see their clients and their cases reported every day? Russell Goldflam is the president of the Criminal Lawyers Association of the Northern Territory and he's based in Alice Springs.

Russell Goldflam: Some of the...particularly the print media, sometimes get carried away with their sensationalism. I can give you an example from a prominent murder trial that was heard in Alice Springs only last year or the year before last. In the committal proceedings before that trial there was a...what you could fairly describe as a screaming headline on the top of page one of our local paper, the *Centralian Advocate*, 'DNA found on knife', which if read by itself might suggest that there was some sort of incriminating evidence on a knife, implicating people charged with the murder. In fact, the DNA was the DNA of the victim, belonging to the blood of the victim, which not surprisingly was on the knife which the victim was stabbed with, so it didn't really prove anything about who had stabbed anybody.

Richard Aedy: Now, obviously the Alice is a small place, but all of the Northern Territory, despite its vast physical size, it's a small place too in a way.

Russell Goldflam: Yes, that's right, it's a very small population. The total population of the Northern Territory is less than that of some municipalities in our metropolitan centres.

Richard Aedy: So, what sort of media exists? So you're dealing with, what, a couple of print journos and a radio reporter?

Russell Goldflam: Yes, that's a fair summary of your average coverage of legal events in either Alice Springs or Darwin, but if there's a high profile trial on, then we get converging film crews from all over the country. That happened most recently when there was a mention of a case involving a well-known Alice Springs identity who's an AFL footballer who's on some charges, and I had to fight to get into the courthouse there were so many journalists from all over Australia standing around the steps with their cameras.

Richard Aedy: So, when that happens, does that influx of interstate media make the reporting better or worse, because it does change the culture?

Russell Goldflam: Well, to be frank I don't follow the interstate media and the commercial news TV footage of these sort of events myself, so I can't really say whether it makes it better or worse, but my gut feeling is that when you get crews that fly in to record a few moments of somebody walking in and out of court you're unlikely to get any particularly profound analysis coming out of it.

Richard Aedy: So, what, from your perspective crews from outside report the stereotypes of the Northern Territory?

Russell Goldflam: That does happen, and it certainly can often happen. On the other hand, with some of the cases that I've been involved with over the years, which have involved issues of national interest, journalists have flown up, sat in court for days on end and have written some very thoughtful analytical pieces, so I don't want to draw everybody with the same broad brush...

Richard Aedy: Give us an example.

Russell Goldflam: There was a case some years ago where a young Aboriginal girl, she was about 14, died, and she actually died of natural causes, it was ultimately found, after leaving hospital without being treated, but

before she died she was unconscious, lying on the footpath with her feet protruding into the roadway, and various people passed by without helping her, and then three or four young Aboriginal fellows ultimately pleaded guilty to attempting to rape her. Horrible set of circumstances, she'd also been assaulted earlier that night by some other people that she knew. So that case aroused a great deal of public interest right around Australia, and there were some very thoughtful, penetrating and quite harrowing accounts of the sort of background situation of that young woman and her family living in a town camp in Alice Springs, and the sort of circumstances which led to these awful events.

Richard Aedy: Yes, of course she was young, you mentioned, she was 14, and one area of media reporting of the law that you are highly critical of is identifying children. Now, as I understand it, you can't do that in most of the country.

Russell Goldflam: That's my understanding as well, the various juvenile justice enactments in most parts of Australia simply quite unequivocally protect the privacy of young people, and that's in accordance with the international standards for juvenile justice. Australia's a signatory to what's called the Beijing Rules, it's a UN standard minimum rules for the administration of juvenile justice, and they provide that children's names should not be published. But the Northern Territory law doesn't go so far as forbidding that to occur, and so in many cases we find that our media are publicising the names, even publishing pictures of juveniles even if they haven't necessarily been guilty of anything but are simply charged with offences and before the court.

Richard Aedy: There was a recent case in the Territory, of course, which involved a number of children who were alleged to have broken out of juvenile detention, and they were named and their photos were included.

Russell Goldflam: That's correct, and there have been concerns expressed about that by people who work with youth services in Alice Springs. I suppose that's an example where it's...you can understand that there is a public interest in publishing a photograph of somebody who's on the run. A more egregious example of this sort of media behaviour was a few weeks ago when the *Northern Territory News* published the name of a sixteen-year-old girl charged with some offences who applied for but was refused bail, and they published her name and then they put it in their online version of the paper as well, and then you get, as often happens these days, what appear to be unmoderated all sorts of comments coming in from interested readers of the online version attacking this girl whose identity is now out there in the public domain, and who knows what sort of impact that could have on her and her family in months or even years to come.

Richard Aedy: How well generally do journalists understand the law, do you believe, Russell?

Russell Goldflam: If you're in a small town, then typically the people doing the court reporting aren't very experienced in doing it, and they're learning the ropes. I've found that it's very helpful as a criminal lawyer to talk regularly to the local journalists and explain to them what the processes are, how the system works and what stage we're up to and that sort of thing.

Richard Aedy: Right. Can you recall examples of bad journalism perhaps leading to bad legal outcomes?

Russell Goldflam: Well, the murder trial that I mentioned before when I was talking about this bad headline 'DNA found on knife', which was completely misleading. In that same case, on the second day of the jury trial—and I might just say that jury trials are horrendously expensive affairs, so if a trial has to be aborted because of some problem, then it's a huge amount of public money down the drain. Anyway, on the second day of this particular murder trial the front page of the *Centralian Advocate* reported that one of the jury members was related to one of the accused. Now, this was an innocent mistake by an inexperienced journalist, but it resulted in that journalist and his editor being dragged in front of the judge the next day and being told that they were going to be charged with contempt. Well, fortunately eventually the judge decided not to charge anybody with contempt; it was a mistake, it was rectified with an immediate retraction, and the trial wasn't aborted, but it came very close to being aborted, and that would've been a real catastrophe from the point of view of the administration of justice. So there's a lot at stake, it's very important that criminal proceedings—any court proceedings but particularly criminal proceedings—be reported with the utmost accuracy.

Richard Aedy: Well, given that concern and given other concerns that it's how juries are affected by how an alleged crime is reported, is there a case for judge-alone trials, then?

Russell Goldflam: Well I...I believe that there is. I don't know that all that many people in the legal profession or all that many judges in the Northern Territory at least would agree with me, but in four states of Australia out of...well, three states and one territory, the ACT, there is provision for judge-alone trials, and in a small town like Alice Springs where you've got a very high profile, very controversial case with blanket local media coverage, then the accused may just feel that even if the media coverage hasn't been blatantly prejudicial, but just the saturation of it, could really mean that they feel they can't get a fair trial, and the only remedy for that at the moment in the Northern Territory is to apply to have the trial moved up to Darwin, but another sort of remedy

would be for the accused to be able to have the right to elect to be tried by a judge alone who the accused might feel is not so vulnerable to having their mind distorted by inaccurate reports in the media.

Richard Aedy: But...well, two things occur, Russell. One is, surely judges are human too; they are media consumers as much as juries are. The other thing is, the idea of a trial in which you're judged by your peers is at the heart of our system.

Russell Goldflam: Yes, and don't get me wrong, I'm not suggesting we should do away with jury trials, and in almost all cases the protection of the jury system which has been tried and found a very effective way of assessing facts over many centuries will be in the best interests not just of the accused but of everybody, the community as well, but there are occasional cases, occasional cases where there's such a huge amount of publicity there's a real concern about the capacity of jurors to be able to separate the evidence that's admitted into court from all the stories about what the evidence is that are circulating elsewhere.

Richard Aedy: Overall, since that day when the media converged on Alice in 1980 for that first inquest, have things improved in terms of media coverage of legal events?

Russell Goldflam: Things have improved. I know that because I was just reading the other day a report from a case back in almost exactly the same time as the Chamberlain case got going, a case involving a police killing of an Aboriginal man in central Australia at a little community called Ti Tree, and a judge who was sitting involved in that case was so appalled by the blatantly prejudicial coverage by the local media then that he moved the trial up to Darwin. The local paper back then had published a highly inflammatory, as the judge found it to be and prejudicial and mischievous as he found it to be, account defending the police (this was before the trial had even started, and saying that we should all stand behind our police, and they were just doing their job and to accuse them of being racist is an outrage and so on). Now, you wouldn't get that anymore in our print media, and there's been many steps taken to improve the objectivity, the fairness, the impartiality of the reporting; it's certainly not perfect, but I think we've come a long way in those 30 years that have elapsed since the Chamberlain case first hit the headlines.