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EDITORIAL – *General Editor: Professor Mirko Bagaric*

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The High Court on Crime in 2019: Analysis and Jurisprudence – *Stephen Odgers*

This article discusses the High Court decisions in 2019 that relate to criminal matters. It examines the principles that derive from these cases and identifies jurisprudential themes from the decisions. It also discusses the significance of the cases and the possible wider consequences of the decisions.	5
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More Scope for Murder: Reckless Indifference in Queensland’s Criminal Code – *Joseph Lelliott, Andreas Schloenhardt, Lauren Causer and Madeleine Skeen*

In 2019, the element of “reckless indifference” was added to the offence of murder under s 302 of the Criminal Code (Qld). As a consequence, some unlawful killings that were previously charged as manslaughter now constitute murder and attract a mandatory sentence of life imprisonment. This article explores the background and rationale of this amendment, examines the meaning of recklessness, draws comparisons to other Australian jurisdictions, and demonstrates that the imposition of mandatory life sentences for reckless murder is unfair and unsustainable.	19
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Respects of Character – *Greg Taylor*

The uniform evidence legislation, unlike the common law, allows the accused to claim a good character in a “particular respect” and, if that is done, limits the Crown to rebuttal evidence relating to the “particular respect”. The varieties of good character evidence that may be given are already enormous, and this “particular respect” idea multiplies the combinations even further by allowing, for example, not merely the accused’s lack of criminal convictions as a whole to be proved, but also their lack of convictions in any selected field. But what can constitute a “respect of character”? There is no help at all in the legislation. This article shows that the problem can, however, be solved by reference to the already established principle that the accused cannot raise character except intentionally. It is therefore the accused’s delineation of the “respect”, properly understood, that defines it.	32
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The Futility of a “Hug” from the Commonwealth: Property Restraining Orders and the Fight for Victim Compensation under the Commonwealth Proceeds of Crime Legislation – *Natalie Skead, Sarah Murray and Tamara Tulich*

Over the past 20 years Australian proceeds of crime confiscation legislation has become increasingly robust, reflecting the widely accepted aim that “crime does not pay”. In recent years much has been written on the potentially harsh and unjust impact of Australian proceeds of crime legislation on innocent third parties. Most commonly, concern in this regard has focused on the risk of financial hardship to a criminal wrongdoer’s close family

members and dependants. However, it is not only close family members and dependants that are impacted negatively by rigorous proceeds of crime legislation. The recent Victorian case of Richard Hogg involving the *Federal Proceeds of Crime Act 2002* (Cth) provides a stark example of another category of affected innocent third parties previously not encountered or, at least, not reported – the victims of the criminal activity giving rise to the confiscation of the offender’s property. Using Hogg’s case as an illustration, this article explores this category of third parties impacted by proceeds of crime legislation and identifies the reforms needed to ensure that confiscation of proceeds of crime legislation operates fairly and equitably for victims of crime. 43

Sentencing Developments in the United States in 2019: Shifting from the “Tough on Crime” Mantra to (Seriously) Contemplating the Abolition of Prisons – Mirko Bagaric, Gabrielle Wolf and Daniel McCord

Although the number of prisoners in the United States has declined over the past decade, the rate at which incarceration levels have diminished has been slow. Moreover, imprisonment rates in the United States are still at least three times higher than those of other developed countries and are the highest in the world. The “tough on crime” policy that has driven increased incarceration in the United States is, however, finally receding and quite dramatically. There is now widespread agreement among politicians and the community generally that too many Americans are in prison. This concern is so pronounced that it has even led to some influential Americans recommending the abolition of prisons. This article examines this shift in attitude as well as recent changes to sentencing law and practice in the United States, and considers their implications for possible future developments in Australia. 54

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