

# CRIMINAL LAW JOURNAL

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**Appealing Convictions of Former Clients of Nicola Gobbo in Victoria: Some Issues and Perspectives** – *Chris Corns*

The case of Nicola Gobbo (also referred to “Lawyer X”, “EF” and “Human source 3838”) has been the subject of extraordinary media coverage and a significant number of appellate judgments concerning attempts to suppress the identity and role of Ms Gobbo as a human source for Victoria Police. More recently, a number of former clients of Ms Gobbo have challenged their convictions in the Victorian Court of Appeal (COA). This article considers the grounds upon which those convictions have been challenged and the operation of s 317 of the *Criminal Procedure Act 2009* (Vic) under which the COA can order the production of documents and other material required by an applicant/appellant. Objections by Victoria Police, and other agencies, to the disclosure of documents on the basis of public interest immunity is also considered. .... 77

**Appellate Review of Fact Finding on Sentence in the New South Wales Court of Criminal Appeal** – *Edward McGinness*

For over 30 years, review by the Court of Criminal Appeal of factual findings on sentence has been guided by the deferential approach of *R v O’Donoghue (O’Donoghue)*, preventing appellate intervention so long as the impugned factual finding was “open” to the sentencing judge. This deference has survived recent challenges mounted by the majorities in *Clarke v The Queen* and *Hordern v The Queen*, despite their identification of a lack of “reasoned justification” for the approach. This article supports a departure from *O’Donoghue* in arguing that it finds little support in the nature of an appeal under s 6(3) of the *Criminal Appeal Act 1912* (NSW), and, that coherence in the law should compel a more nuanced standard of review based instead on the nature of the impugned factual finding. .... 94

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