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ARTICLES

Deterring Corporate Crime through the Use of Deferred Prosecution Agreements: An Analysis of the Proposed Australian Deferred Prosecution Agreement Regime – *Mark Lewis*

Deferred Prosecution Agreements (DPAs) offer a new tool for combatting corporate crime. In addition to helping authorities detect, investigate and prosecute misconduct, DPAs can deter violations by incentivising companies to voluntarily self-report misconduct, co-operate with authorities and take internal remedial action. This article examines the proposed Australian DPA regime from a deterrence perspective, and considers recent developments in the United States and the United Kingdom in this area. 76

Bail, Risk and Law Reform: A Review of Bail Legislation across Australia – *Lorana Bartels, Karen Gelb, Caroline Spiranovic, Rick Sarre and Shannon Dodd*

In January 2017, six people were killed and at least 30 injured when Dimitrious Gargasoulas drove his car into pedestrians on Melbourne’s Bourke Street mall in an apparently deliberate attack. In the aftermath, community shock turned to outrage when it emerged that Gargasoulas had been released by a Victorian bail justice only days before. Within days, the Victorian Government announced changes to the State’s bail system, as well as a major review of Victoria’s bail laws, to be undertaken by former Director of Public Prosecutions, Justice Paul Coghlan, currently a judge in the Victorian Court of Appeal. Following the Coghlan review, Victoria’s bail laws are arguably the most onerous in Australia. This article presents a discussion of recent reforms to bail laws around Australia. It argues that amendments to bail legislation across the country reflect shifting views on the purposes of bail and the principles underlying the bail system. 91

A Spoiled Mixture: The Excessive Favouring of Police Discretion over Clear Rules by Queensland’s Consorting Laws – *Carmel O’Sullivan and Mark Lauchs*

Queensland’s organised crime legislation grants police wide discretionary authority to issue consorting warnings which can criminalise associations. The Act does not require evidence that the association is connected to a criminal activity before the warning can be issued. This article applies Schneider’s theory of discretion and rules to these laws to demonstrate that they lack the appropriate “mixture” of the two. They excessively favour discretion, creating a substantial risk that the disadvantages of discretion will eventuate and the advantages of rules will be undermined. Moreover, it is likely that vulnerable groups will be disproportionately affected by the laws. A clear rule requiring a nexus between the association and a criminal activity would mitigate these risks, while still facilitating police in preventing serious and organised crime. This finding is relevant to Queensland and other Australian jurisdictions that have or are considering implementing comparable consorting offences. 108

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