

## Ep 40: HH Magistrate Rob Stary

**voice over** [00:00:05] This is William and Lonsdale, a podcast about the legal ecosystem and the fascinating people who make it tick. Today, your host, Michael Green, speaks with His Honour Magistrate Rob Stary. Rob grew up in the western suburbs of Melbourne and has remained deeply connected to the area throughout his life and career. From starting the first community legal centre in the western suburbs with his lifelong friend and colleague Peter Gordon, to serving on the board of his beloved Bulldogs, he is deeply proud of his roots and it has no doubt shaped his life in the law. Rob is probably best known for his long and often highly publicised career as a criminal defence lawyer, having been engaged by the likes of Tony Mokbel and Carl Williams. Generally he's able to separate his work and personal life, a trait which has served him well. But during the notorious gangland wars in Melbourne, he admits there were times when things got a little too close to home.

**Rob Stary** [00:01:00] There's only one time I actually felt unnerved by it all, and that's when the Hodsons, who had become police informers, they were providing intelligence to the police about the role of corrupt police. And they were killed, it's said, by a contract killer, Rod Collins, who was said to have been engaged by either Williams or Mokbel. And I was acting for the Hodson. So I didn't know any of this at the time, didn't know any of the interrelationships between the parties and when the Hodsons had been executed in their family home in Kew. I got a phone call from the Homicide squad that night saying to me guardedly that I better lock the doors and I don't think I slept very much that night. And so it was unnerving.

**Michael Green** [00:02:10] Rob, you've had a long career as a practitioner in criminal law. You acted too many clients really have been charged with very serious offences and sometimes quite horrendous offences. And yet you've persisted in doing that work all the time. Was there an underlying philosophy which guided you and made you want to take that path and not deviate from that path?

**Rob Stary** [00:02:31] Well, that's certainly true. Over over a 40 year period I've worked as a solicitor and I've always been ideologically or philosophically or even politically driven, so I've always wanted to represent accused people. And that really stems from my childhood, probably from my Catholic background. I was a member of the Young Christian Workers the YCW, as they were known, whose motto was See Judge Act, and so they were all, even I'm an atheist now, hate to say it, but I am an atheist. But they were all really the driving forces behind me working as a criminal defence lawyer.

**Michael Green** [00:03:09] So take us back to your childhood. You grew up in the western suburbs. Your dad is an immigrant from Europe. Mom I think is a generational Australian. What was it like? What was your childhood, your siblings, your education?

**Rob Stary** [00:03:23] Well, I'm one of six and there were four of us born in five years dont know how yy mother did it.

**Michael Green** [00:03:28] It sounds like a Catholic family.

**Rob Stary** [00:03:30] Yeah, she did it. Grew up in pretty much grew up in Footscray from the age of five. And my parents went into a really a forelorn hope that they could run a successful grocery store. And it was in the time, 1961, when they bought the store - the opening of supermarkets, and that was really the death knell. And so they struggled for six years. We lived in rented premises. In fact, when I grew up, we never owned a home, probably like a lot of people, but never owned a home. And then in 1967 we moved to Maidstone, which was a public housing area, and then that's where I grew up, left home, got married like most people did then. But it was, you know, it was tough. We didn't have money, but we did have a loving home environment. My parents were gentle; my mum was a really kind person, my father was a gentle person. Having survived the Second World War, having been a prisoner of war in the Soviet Union, having been captured in the Ukraine, never, ever knew anything about it. He passed away 45 odd years ago, never spoke about it like most people who had experienced war. And so all those things were in the background. My mum actually came from a comfortable family in Williamstown, married a non-English speaking middle European Catholic, and she was just completely alienated. So I

didn't really have a close relationship, I really didn't even know my maternal grandfather. I knew my aunts and uncles to a lesser degree, but it was tough and because my father had no relatives in Australia. One thing about the Hungarian community, they seem to have dissipated throughout the whole community. They didn't congregate together in any way. So in that sense we didn't have any close family around us.

**Michael Green** [00:05:20] And that doesn't sound like the typical background to lead into a career as a lawyer. So how did that come about? Did it happen young? Or did it happen after you'd finish school?

**Rob Stary** [00:05:29] Well, you reflect on those things many years down the track. Of course, my father had studied law and.

**Michael Green** [00:05:35] In Europe before the war?

**Rob Stary** [00:05:37] In Hungary, in Transylvania, actually, and he was conscripted in his last year in 1944, to be sent to the Eastern Front.

**Michael Green** [00:05:48] So conscripted by the Germans to fight against the Russians?

**Rob Stary** [00:05:52] Yeah they were allies of the Germans. And his whole view of the war was one of war against the Soviet Union. It wasn't against the Western allies. So their focus was of course against the Russians. So he'd been conscripted, He'd lived a fairly comfortable life because my grandfather had been a crown prosecutor in Hungary and then a judge. So those things must have permeated through to me. I'd grown up through the Christian Brothers initially, my first six years were with the Christian Brothers. So all of those things must have played a part. And my parents were religious. My mother had become a convert and so they were religious. In fact, we always thought that she was the most devout of all of us. And then critically, really what was an important aspect was having a lawyer teaching us in Braybrook at St John's College. Rowan McIndoe, who hadn't practised, I don't think as a lawyer that stage, he'd done his articles. He was an extraordinary man. He'd come to teach in Braybrook and taught us and said to us, when I say us, Peter Gordon, who is a contemporary of mine, said, You've got the capacity to to go well and you should aim a little bit higher than what we'd set our aspirations on and really encourage us to pursue a career in law.

**Michael Green** [00:07:10] So you get good enough marks to get into law at Melbourne University. There seemed to be some confusion with the school as to whether your marks are good enough or not?

**Rob Stary** [00:07:18] That's true. In those days, the marks had been sent to the school and then distributed from the school. And when my marks had been sent there, I was told to wait because there was clearly an error and I just had to wait for it to be corrected.

**Michael Green** [00:07:32] Because you couldn't be that good?

**Rob Stary** [00:07:34] Well, that's what I said. But I had been a reasonable student, so I waited for two weeks. They weren't corrected and got into Melbourne Uni was like going up our land.

**Michael Green** [00:07:46] In your second year at uni, You and Peter Gordon, now we should, Peter Gordon's best known, of course, in the southern states of Australia, being the former president of the Footscray Football Club - not for being a leading lawyer.

**Rob Stary** [00:07:58] Yes, he should be put on a pedestal for that as well.

**Michael Green** [00:08:02] I think he might've been president when they won their second ever premiership.

**Rob Stary** [00:08:05] Yes, that's true.

**Michael Green** [00:08:06] You and Peter started a legal service in the western suburbs as literally kids. You must have been just your late teens?

**Rob Stary** [00:08:13] Yeah. Well we thought we were mature adults, then, but well, Fitzroy had opened Springvale Legal Services and opened possibly one or two, but not more than a handful of other legal services. And we knew that the western suburbs were under-resourced. We'd already determined at that stage we were going to open our own practice together and we'd identified a shopping centre in Braybrook. We would have generated enough work to, by the way, but we knew that the area had been underserved and so what we thought we'd do, we'd approach lawyers, people like Tony Hanbury, famous defence lawyer in Williamstown, Graham Marsh.

**Michael Green** [00:08:51] Who's son's currently on the county court I think?

**Rob Stary** [00:08:53] Just left recently.

**Michael Green** [00:08:54] Oh did he?

**Rob Stary** [00:08:55] So we thought, well, we'll have a referral service and an advice service. And we we set up a legal service relying on other local practitioners.

**Michael Green** [00:09:06] Being the mature adults that you were. How did you get premises?

**Rob Stary** [00:09:11] We shared premises with what was called the Newport Resources Centre, so we knew that the served that centre didn't operate at night time. So if we pitched the service as a night service, we were confident we could persuade Williamstown Council to provide that resourcing. It was it was really bare bones resourcing.

**Michael Green** [00:09:33] But I'm assuming there was an influx of work?

**Rob Stary** [00:09:35] Oh yes. So we knew before we started that there'd be a demand because we knew that Sunshine Legal Aid was the only other legal aid service in the West. You know, remembering, of course, it had a population the size of Tasmania, 500,000 people. So we knew it was poorly serviced and yes, we did. We got a lot of work.

**Michael Green** [00:09:55] How did you balance that with illegal studies? And I'm thinking at some time around that you get married.

**Rob Stary** [00:10:02] Yeah, Married at 21.

**Michael Green** [00:10:03] Yes. How did you juggle all that?

**Rob Stary** [00:10:05] Yeah, well, we did juggle it and had good support in our community and our families.

**Michael Green** [00:10:11] You said you studied law part time, I think, after that. Yeah. Being married, you got a job and. Yeah. I mean, part time law wasn't common then, and. And having a part time job wasn't that common?

**Rob Stary** [00:10:21] No, it was a full time job.

**Michael Green** [00:10:23] I wasn't really?

**Rob Stary** [00:10:25] Full time job, euphemistically called the Department of Productivity. It was the old ammunition factory in Footscray. And then had my first child before it finished. Yeah.

**Michael Green** [00:10:34] So before you'd finished, before you would finish your degree.

**Rob Stary** [00:10:38] I'd say I think I'd just started articles in Footscray, a place called Jones and Kennedy, which was later subsumed in a big Slater and Gordon Banner.

**Michael Green** [00:10:49] But you actually ran a trial. It can't be called criminal trial at that time. Yeah. Which came out of the western suburbs Legal Service.

**Rob Stary** [00:10:56] Well, that was that was later the most famous of the trials that we ran, of course, from the western suburbs legal service was the Jack Thomas trial, Jihad Jack, that was the most famous, but we'd run once I started working Footscray the work just for just started to come in because we knew and everybody knows that if you treat people civilly and decently, you'll always generate work, even if you're not the the brightest lawyer on the block. But if you if you treat people well, you'll always generate work. And that's what we did.

**Michael Green** [00:11:28] So when you say we, you and Peter Gordon are asked to open a Footscray office for Slater and Gordon.

**Rob Stary** [00:11:34] Yeah, that was a little bit later in 1984 and I'd worked for three years at by that point at Legal Aid and Peter had started his articles with Mike Higgins at Slater's. I remember when he went to and he told me this when he went for his job interview there, he said to them he thought it was a bit presumptuous that they'd already adopted the name Gordon in the practice. He still got the job despite that. It was always his and my ambition to work together. And 1984, that's right, Slater's invited me to come and work there, and I did yo open an office in Footscray, which was always my, in a sense, short lifelong dream.

**Michael Green** [00:12:13] Now I just want to go back to you working for the Victoria Legal Aid because I assume that's where you cut your teeth, as a criminal lawyer?

**Rob Stary** [00:12:21] As a duty solicitor initially in an indictable crime practice.

**Michael Green** [00:12:25] Yeah. Okay. And so as a duty solicitor, you're turning up to the local magistrates Court and taking whatever walks in the door.

**Rob Stary** [00:12:31] Yep, that's right. Prahran Court, Melbourne Magistrates Court. They were the two main courts.

**Michael Green** [00:12:36] As a young lawyer, did you have sufficient experience and knowledge to pick up cases on the fly and just go and. In front of a magistrate and plead your client's case.

**Rob Stary** [00:12:46] At the time, I thought I did. And some people would say it had more front than Myers, but it was better than having no representation. And at least there was a safety net and worked with a lot of good practitioners at that stage. You know, Rubber Richter was seen in the early eighties as the up and coming leader of the Young Turk, so to speak, people like Phil Slade, that's where I met Rob Maliseca, other people who've established strong criminal practices and they were all very, very helpful. Yeah. One thing about the profession, which is remarkable, really. There might be various rivalries at different times, but when you're at court and you're confronted with an issue, everybody's helpful.

**Michael Green** [00:13:29] You know, that's one of the very nice features of the legal profession, isn't it?

**Rob Stary** [00:13:32] Yeah.

**Michael Green** [00:13:36] So after your time at the VLA, I guess while you're at the VLA, Slater and Gordon approach you and Peter Gordon to open a Footscray office for them.

**Rob Stary** [00:13:44] Yeah, Peter had been working there since his articles.

**Michael Green** [00:13:47] With Slater's?

**Rob Stary** [00:13:48] With Slaters. He'd been there for a couple of years. I'd been working in crime, and they were happy for me to run a crime practice, which we did successfully. Then having set the practice up, that's where Peter really commenced his major torts practice. That's

where the Wittenoom cases, the asbestos cases, were first run from the Footscray office with a handful of people. And he really championed the cause of those injured workers.

**Michael Green** [00:14:16] Who was that Wittenoom case the first or one of the first class actions in Victoria or maybe Australia?

**Rob Stary** [00:14:23] I think it was. I think there'd been various attempts to run individual claims. But David Ashley, former Supreme Court judge and QC and Jack Rush QC and former judge as well, they were they were the team that had been brought together when the first case got a unsuccessful was were unsuccessful, got a rejection in the in the claim and then Slaters had to make a decision about whether they'd appeal it. I remember this clearly. The partnership and I became a partner of the firm at that point and that partnership was split as to whether we should expend tens of thousands of dollars running an appeal. And Jonathan Rothfeld, who was the managing partner at the time, had the casting vote. And he said, Yeah, let's pursue it. Largely on Peter's insistence that it was a meritorious appeal. And of course, the rest is history.

**Michael Green** [00:15:19] Did it go all the way to the High Court?

**Rob Stary** [00:15:21] It didn't go to the High Court, went to the Western Trial Court of Appeal, and then that being successful. Then really there was a flood of injured workers who were labouring under mesothelioma and other lung diseases, asbestosis, all joined in action to to be properly compensated. At that same time, Peter was running cases, including contaminated blood cases. And I think there was a case in the Supreme Court here, Red Cross, where the supplies of the contaminated blood changed the way in which that whole process of the utilisation of blood resources were then used. And that's really he, I think more than anyone, he initiated those sorts of class actions and been successful ever since; phylidamide, all those cases where if you looked at them individually, you'd say, well, are they worth running? But if you look at them collectively, I'm biased of course, but they proved to be successful.

**Michael Green** [00:16:19] So that's running out of the Footscray office which is being run by you and Peter Gordon at the same time as, so Peter is doing those class actions, you're running a crime practice. It interested me, uou attracted bright young lawyers who were prepared to accept a low wage to do the work.

**Rob Stary** [00:16:34] Yeah. Well, I wasn't in the King's ransom at Legal Aid, but I did take a \$10,000 cut. I think I went from \$35,000 to \$25,000 a year to work at Slater's because I wanted to work in Footscray. At that time for instance, you could actually buy a house because the houses were cheap, have a child dependant, still buy a house, have a modest wage and get by.

**Michael Green** [00:16:59] And pay the mortgage.

**Rob Stary** [00:16:59] Pay the mortgage, which is what we did.

**Michael Green** [00:17:01] It's very, very interesting that, that you were able to do that. Yeah. Stephen Aisling - he was a someone you represented here while running the, the practice, the Footscray practice of Slater and Gordon Yeah. What was that about? What, what was the trial about? What was he charged with and what was the outcome?

**Rob Stary** [00:17:17] Yeah, that was probably my first really big case. That was three men who were charged with armed robberies, payroll, armed robberies, and it was an armed robbery of Tullamarine Airport. And it was important because the police were aware of the armed robbery, all the plans. There was another person who was never charged, who effectively was not an infiltrated, but he'd become a crown informer, not charged, never called upon, never required to give any evidence. And the police had sat off them for three months knowing that they're about to commit this armed robbery. They were professional armed robbers. One of them was a person called Normi Lee, Normi Lee was executed when they were arrested, and then there was an attempted execution of a third person, Stephen Barchie, I say that because the coroner, held the head of the Armed Robbery Squad at the time said that they were responsible for the deaths. And so it was important to me, firstly because it was a it was a major case that involved homicides of two people in circumstances where they could have intervened at an early stage.

**Michael Green** [00:18:28] They being the police.

**Rob Stary** [00:18:31] Yeah. And it just really showed to me that really the police were a very powerful institution. And they could pretty much at that time do what they what they liked, really.

**Michael Green** [00:18:40] So they weren't accountable, well certainly at that stage, have things improved if things got better?

**Rob Stary** [00:18:45] I think things have. You know, I think the one thing I could say and across those 40 years is that things have improved immeasurably because then of course there were the Flemington Kensington shootings after the Walsh Street and each of the people who identified in the Walsh Street murders were killed.

**Michael Green** [00:19:01] In circumstances where nobody was ever blamed or charged for the killings.

**Rob Stary** [00:19:05] No, people were charged with killing Graeme Jensen in Dandenong Graham Jensen Jensen was said to have had a revolver in his possession. It was said that the revolver had been planted after, after he was shot. There was another person, Gary Abdallah, who was killed in the dark, said to have been reaching for a rifle, it was a broom and there were others that were killed, as people can see in that famous film Animal Kingdom, starring Jacki Weaver, that was a pretty accurate portrayal of what had happened. So those things, those things really emboldened me in terms of why it was necessary to have a vigorous defence of people and to try and make sure police were accountable. And as I said, to their credit, they are much more accountable. The force, I would say, is much more professional. Their recruitment practices, their training and their structure is much better and reinforced by what then happened in the gangland wars.

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**Michael Green** [00:20:32] After I think it was a ten years or so at Slaters, you leave to commence your own practice. Why did why was the parting of the ways between you and Slaters?

**Rob Stary** [00:20:41] It was amicable, but it was in circumstances where we were acting for high profile offenders because our practice had grown and grown, as you know, the more horrendous the crime, it's a mark of success when you represent people, and we were representing some pretty unsavoury customers, sexual assaults and things of that nature, and Slaters were changing the way that the practice had moved from a traditional partnership had become corporatized, and they were focusing on mass litigation. And so they had a view that that's what they should pursue. And I really wanted to be able to represent people without fear or favour and so we parted company. Then I opened a practice in Footscray.

**Michael Green** [00:21:27] As a sole practitioner?

**Rob Stary** [00:21:28] I bought the criminal team from Slaters with me. That was, in a sense, my equity in the business. So Steve Myall, who was a magistrate and and other people.

**Michael Green** [00:21:39] You're doing these high profile criminal cases where in some of the press, I guess your clients are being demonised.

**Rob Stary** [00:21:47] Oh yeah, yeah.

**Michael Green** [00:21:48] Did any of that rub off on you? Where you seen to be, you know, the lawyer for the mob and therefore this guy's you know...?

**Rob Stary** [00:21:54] Well, I was a firm adherent to the to the principles of the criminal law. That is presumption of innocence, right against self-incrimination, crown bearing the onus of proof. All of those fundamental cornerstones were were actually important to me. I was a firm believer in the

rule of law. I would make sure that police were accountable. And it was always in a context, as you know, Michael, where statistically 90% of people actually plead guilty and it's about ensuring that they receive a fair outcome. And most work, of course, is dealt with in the Magistrates Court. The high profile cases are in the court, in the in the high courts. But the bread and butter is the Magistrates Court work and that's where people need to be represented most really.

**Michael Green** [00:22:41] In a jurisdiction like, say, Melbourne, not just Victoria, but specifically Melbourne and in the criminal world again, which is a relatively assume, it's relatively small world I haven't been a part of it. Is there a risk of you becoming compromised by knowing too much?

**Rob Stary** [00:22:56] Well, I was always very strict about that. I never I can't ever remember and I'm certain this is the case, getting someone to plead not guilty if they'd told me that they were guilty and if I thought that they were guilty or if I thought the evidence was overwhelming, I'd say that to them and I'd give them advice that I think they should plead guilty. But in circumstances where they insisted on pleading not guilty, if there was any inkling that I could be compromised, I referred them.

**Michael Green** [00:23:24] You wouldn't you wouldn't take the case.

**Rob Stary** [00:23:26] Wouldn't hold the case.

**Michael Green** [00:23:27] Were there ever any cases which were so horrendous? You mentioned sexual abuse, rape, leading to murder, all the worst things you can think of which made you think, I don't think I can do this case?

**Rob Stary** [00:23:38] There were plenty of cases that were challenging. And, you know, I'd had a number of children at that stage, I've got six children myself now. I never have liked doing child sex offence cases. I just I'd been to a Christian Brothers school where some of the brothers had been in trouble and I'd seen how they'd preyed on, you know, mostly vulnerable kids. I just didn't like doing them. I always either got someone else in the firm to do them or we briefed for.

**Michael Green** [00:24:04] Yeah briefed them to a barrister

**Rob Stary** [00:24:06] Yeah, they didn't have to carry the case for a long time.

**Michael Green** [00:24:09] Yes.

**Rob Stary** [00:24:09] So there's those cases. And famously I looked up to Mario Schembri, who was charged with the murder of him, Herman Roc-A-Fella, a multimillionaire who was living a double life and Herman Roc-A-Fella, went missing, presumed killed and I remember receiving a call to go to the homicide squad to give this Mr. Schembri some advice. I might say he's since been deported back to Malta. What had happened in that case was that the police had formed the view that there was a remote possibility that he was buried alive. And so I really put some pressure on me to persuade Mr. Schembri to give them the information as to where he was buried. You know, the fact of the matter was that he was never buried either alive or dead, in fact, he had been incinerated. I did say to Mr. Schembri at the time, in terms of my advice to him that he could be charged with murder with or without a body, and that there were two things that were important. One is that if he assisted in identifying where the body was, that would bare heavily in his favour if he was found guilty or pleaded guilty. And the second thing which bore equally heavily upon me was that his wife appeared on TV nightly, pleading for information for his return. She was a completely innocent party to it and it was distressing. So I said to him, just as a matter of common decency, if you're involved in it, I don't think I've ever said that before or since - you should identify with the body is, and ultimately he did that. That became important because the police had been consulted. The family accepted a plea offer to manslaughter as opposed to murder. And he received a modest sentence.

**Michael Green** [00:25:59] To someone who has no experience in the higher realms of the criminal law. That sounds like a very good outcome for Mr. Schembri to me.

**Rob Stary** [00:26:07] It was a very good outcome for him, but there would be many of my colleagues that would say, Say nothing, let them prove everything.

**Michael Green** [00:26:17] Rob, you mentioned earlier the gangland wars. They're a bit historical now because it's probably close to 20 years since they were on the front page of the newspaper every day for months, if not years. Could you give us a background? What were what were the gangland wars? Who were the main players? And then tell us about what your part in them was.

**Rob Stary** [00:26:36] Well, it was certainly through a dark chapter in the justice system that they erupted, and I think they erupted as a result of a turf war about distribution of drugs. The drug distribution had pretty much been dominated by what was known as the Carlton Crew. They were people who said to be connected with the Italian mafia. But they only operated under the watchful eye of senior police as a consequence of that I might say that there are 40 odd police officers that were charged with corruption offences, including the head of the drug squad. And when those police officers were charged, including the head of the drug squad, things began to unfold. They played a supervisory role in the distribution of drugs in Melbourne and when they were forcibly moved out of the scene, then the new group that is the Mokbel Williams group moved in and they started to challenge the geographical distribution of drugs and it became a turf war. And so it was the Carlton crew versus the Young Turks from the western suburbs, Mokbel, Williams and others.

**Michael Green** [00:27:46] And there were, those wars led to multiple homicides...

**Rob Stary** [00:27:49] Yeah, absolutely blood terrible bloodletting. There was no sanctity of human life. People were killed for really comparatively minor transgressions.

**Michael Green** [00:28:01] And you acted on behalf of some of those players in those in the gang wars, and some of the some of the people who are charged with homicide?

**Rob Stary** [00:28:07] Well, historically, we'd always looked after people in the western suburbs. That was our base. And so that's what we did. We represented at the end of the day, people like Williams and and Mokbel.

**Michael Green** [00:28:18] Who ultimately were all convicted?

**Rob Stary** [00:28:20] Yeah or pleaded guilty.

**Michael Green** [00:28:22] Yeah. And because that was such a violent time in our history here in Melbourne and as you said, people were there was no sanctity for human life and those people were killed for the most trivial of reasons. Did you ever personally feel unsafe?

**Rob Stary** [00:28:35] There's only one time I actually felt unnerved by it all. And that's when the Hodsons, who had become police informers, they were providing intelligence to the police about the role of corrupt police, and they were killed, it said, by a contract killer, Rod Collins, who was said to have been engaged by either Williams or Mokbel. And I was acting for the Hodson. So I didn't know any of this at the time, didn't know any of the interrelationships between the parties and when the Hodsons had been executed in their family home in Kew, I got a phone call from the homicide squad that night saying to me, guardedly, that I better lock the doors. Of course I couldn't tell my wife and children that I'd received that call. And I don't think I said very much that night. And so it was unnerving.

**Michael Green** [00:29:25] You said that they were going to give evidence against corrupt police.

**Rob Stary** [00:29:29] Yeah.

**Michael Green** [00:29:29] There was no suggestion that corrupt police were involved in their execution?

**Rob Stary** [00:29:33] Well, I don't know. I still don't know to this day whether they were. They were in the background for sure. I'm certain of that. But they didn't pull the trigger. And whether they facilitated it, I just don't know. But I'm obviously suspicious.



**Michael Green** [00:29:51] You also were involved defending people charged with terrorism offences.

**Rob Stary** [00:29:55] Yeah.

**Michael Green** [00:29:56] That also is an area which is we as a community are very frightened of.

**Rob Stary** [00:30:02] Yeah, understandably.

**Michael Green** [00:30:04] The possibility of terrorist attacks. And who, who are your clients in the area and do you think, is it reasonable for others or was it reasonable for us as a community to feel vulnerable and possibly open to an attack, a terrorist attack?

**Rob Stary** [00:30:16] Well, it was all, of course, post-9-11. And in July 2002, sorry, July, in 2002, the Commonwealth government had enacted at that stage something like 40 separate pieces of legislation to deal with terrorism, the threat of or the spectre of terrorism offences. And what it did was to really challenge the notion of firstly, presumption of innocence. Secondly, the onus of proof that the right to a fair trial, right to open and public hearings. And it really was an assault on all of those things that we as a criminal law fraternity had held dearly. So looking back on it now, do I think there was overreach? I definitely think there was overreach. Was there a threat? My criticism of the way the intelligence community and the police handled the matter was that they didn't play enough of a role in disruption. They were prepared to infiltrate a group. Sit with the group for a year or a year and a half. Offer to purchase weapons offered to deploy tactics that would terrify the community, whether it was the Federation Square alleged massacre or it was something else. I don't think and this is my own view, of course, that they did enough to disrupt. And most of those suspects were young first offenders. Most of them lived in their family homes. Most of their parents had no idea what they were doing when they had been radicalised. And I don't think we did anywhere near enough to engage the Islamic community. And I don't think we did anywhere near enough to, as I say, play disruptive role. You know, one one minor example, the most notorious of the groups was said to be the Benbrika group. When they were incarcerated, they were all put in the same holding cell together. And so that just reinforced and enabled their radicalised views to be further propagated. In fact, the Islamic community or some sectors, small sectors of the Islamic community, thought that here are people being charged because of what they talked about and what they thought rather than what they did. And that's the thing about terrorism offences. You can pre-emptively arrest and charge people because of what they think or talk about rather than what they actually do.

**Michael Green** [00:32:38] Does that sit comfortably with you? I mean we've got those rights, the rights you talked about the Crown's duty to prove a case beyond a reasonable doubt, the presumption of innocence, etc. Those rights are built up over 800 years or more, starting with Magna Carta. Does it sit comfortably that there are now and it's not just these are other offences, too?

**Rob Stary** [00:32:56] Well, probably the most graphic example of that was acting for the Tamil Tigers. There was a war raging in Sri Lanka. It was a war that was based on geography, ethnicity and religion. The Tamils being the Hindus, the Sinhalese being the Budist. And it was a war that had raged for 40 years. And what we did was charge members of the Tamil community here who were providing humanitarian relief to all war torn areas of the north of Sri Lanka, and a trial proceeded over a three year period before Justice Coughlan and ultimately all the terrorism charges were dismissed. But it destabilised the Tamil community so significantly that the humanitarian relief that they were providing, mostly by subscription, by individual families, that just dried up overnight. And the prosecution had been initiated at the behest of the Sri Lankan government who were fighting the Tamil Tigers. And so why Australia ever got involved in a prosecution of people involved in one side of a conflict of an internal civil war, I do not know. They're one group. More recently we acted for the Kurdistan Workers Party and the PKK represents 40 million Kurds in Syria, Iraq, Iran and Turkey. And just by dint of history and geography, they they've never had the homeland separately identified because Western powers never saw fit to give Kurdistan or recognised Kurdistan as a separate state. And so people who went and fought in the conflict in Syria on behalf of the Kurdish people and this is a whole irony,

the Kurds were allies of the West fighting Islamic State - we prosecuted them. I just couldn't understand. I just couldn't.

**Michael Green** [00:34:52] What was the outcome when the prosecution?

**Rob Stary** [00:34:54] Charges were defeated. But the Kurds were our natural allies. And so, as I said, I never understood that.

**voice over** [00:35:03] Lives in the Law is proudly sponsored by City Maps illustrated. Their recent publication, The Melbourne Map is a celebration of our wonderful city. This stunning hand-drawn illustration, which took more than three years to create, is available as an art print, jigsaw puzzle and calendar the perfect acquisition for your home office or corporate gifting.

**Michael Green** [00:35:30] Rob, we're getting a bit of a history lesson here about criminal law. A lot of the major criminal law cases in Victoria in the last 20 odd years in terms of the gangland wars and in terms of terrorism cases. It all started in the early 2000 with a man who is popularly known as Jihad Jack. That started your practice in looking after people who were charged with terrorism offences. Who was he? How did that come in?

**Rob Stary** [00:35:53] Yeah, well, Jihad Jack, as he was known, or Jack Thomas, had been a convert to Islam.

**Michael Green** [00:35:59] He wasn't a middle Eastern person. He wasn't an Asian person.

**Rob Stary** [00:36:01] Grew up in the western suburbs. His dad taught a Williamstown North Tech. His mum was a worked in aged care I think, they were just the quintessential middle Australia family and Jack had had this convert and in the early 2000s having converted to Islam because many of his friends in the West who come from a Lebanese background were Islamic and they were always caring and thoughtful towards him. He decided to adopt the religion after the Russians had been expelled from Afghanistan, there was a call to people to help in the reconstruction of Afghanistan, and he, along with other friends, including the famous David Hicks, who ended up in Guantanamo Bay, they went over to Afghanistan for that purpose. His mum and dad came to see me and they said, Listen, we're worried about him. We see what's unfolding there. We think he should be brought back to Australia. And of course, after 911, where the government, with the United States had decided to focus on locating Osama bin Laden and ensuring that all their Western citizens had been repatriated from Afghanistan. They asked us to help bring him back home. That stage, David Hicks had been sent to Guantanamo Bay and we were worried that Jack Thomas was heading in the same direction and we made representations to the various consular officers through Pakistan, which was the closest point to where to bring him back. And of course, he ultimately was arrested in Pakistan and brought back to Australia.

**Michael Green** [00:37:36] Arrested by Australian authorities?

**Rob Stary** [00:37:38] Arrested by Australian authorities in a sense, because he was ostensibly was travelling on a false visa, a visa that had been issued by Afghani Taliban officials. They came back to Australia. He wasn't charged at all for the first 18 months. He'd actually cooperated with the intelligence community in terms of telling them where he was and what he'd been doing. But then he was charged and we think he was charged for a particular reason. That was because they wanted to deter people from converting to fundamentalist Islam, Wahhabi Salafi Islam sponsored by Saudi Arabia. They wanted to deter people from engaging in support for those groups, particularly in Afghanistan. And he was charged and then ultimately acquitted of terrorism offences and guilty of the visa violation. But he'd spent eight months in jail in really austere conditions, isolated solitary confinement, couldn't communicate with his family very easily. And I think it had a profound impact upon him, even though he was, as I said, ultimately acquitted.

**Michael Green** [00:38:47] And from that case, then the other cases on behalf of the Benbrika and the Tamil Tigers and the Kurdistan Workers Party flowed?

**Rob Stary** [00:38:55] We'd been identified as establishing a niche market, really pretty much only because of Jack's parents. And, you know, at one point, for instance, I'd gone to Dubai to

represent someone who was said to be the arms procurer for the Tamil Tigers and a money launderer. He was in a prison in Dubai, which I might say was pretty horrendous in its own right.

**Michael Green** [00:39:20] An Australian citizen?

**Rob Stary** [00:39:22] Not an Australian citizen, a Sri Lankan citizen. And there was an Interpol warrant and the Interpol warrant had to be acted upon if it was to remain effective. It wasn't acted upon, and he was discharged from prison in Dubai. Now I got the reflected glory for that, and that just reinforced this view that we were we were the go to people for terrorism offences.

**Michael Green** [00:39:45] Rob, while you were doing these sorts of things. I'm assuming you've got a large team in Footscray handling what might be called the day to day crime that comes through the door.

**Rob Stary** [00:39:56] Yeah, well, we'd expanded the practice, we would open the city office, we opened another office in Sunshine, which I called my spiritual home in Werribee. So our focus was on the West, but we had to be in the city simply because we were doing a lot of trial work at that stage.

**Michael Green** [00:40:12] And you had a partner or partners in the firm?

**Rob Stary** [00:40:15] Yeah. Steve Myall, who later became a magistrate, he tragically passed away and Sharon Smith, another person who became a Magistrate, Belinda Wallington, another magistrate, Paul Grant, who became a judge in the County Court. Gerard Mulally, judge in the county court. So we had a lot of good people with us.

**Michael Green** [00:40:32] With obviously a very busy expanding practice, working under enormous stress with the cases you are running. You suffered a heart attack.

**Rob Stary** [00:40:42] In 2019, in January. I'd just come back from a nice little holiday in New Zealand with my family, you know, and I was feeling it's dumb of me to say this now, but had pain in my arms, across my chest constricted, I was struggling with shortness of breath. And of course, I didn't put two and two together and got back to Australia, came back I think we had three or 4 x 40 degree days in a row. I'm running around the garden in Macedon and then that night I pretty much collapse and thankfully, immediately I had an ambulance arrive and took me to Royal Melbourne and fix me up.

**Michael Green** [00:41:16] Do you think it was stress related? Work related?

**Rob Stary** [00:41:19] Not sure. I when when you go through rehab, they say, well, there there are a number of contributors and these things one is smoking and then, you know, stress and diet and things like that. But half are hereditary. Half of all heart attacks are result of hereditary deficiencies. And I think I'm in that category because because I always even though I did a lot of work, I seemed to cope with it reasonably well because I had this sort of view about the rule of law and about my role in it. And I hadn't been over born by cynicism or anything like that. I just thought, I'm pretty sure it was a hereditary thing, but now a monitored, you know, be more careful about things.

**Michael Green** [00:41:59] Did you ease off on your work? Share some of the load and give it to other people?

**Rob Stary** [00:42:04] I made a decision that really I'd changed my life and I then started to map out a road to retirement because I've got four grandkids and I've got six kids. And, you know, I just really thought it's about time I started spending more time with them. That was a forelorn exercise because later that year, various people that encouraged me to look at the different options. And I like many people, it's it's just not whatever income you generate, it's about your obligations. I'd had a free education, completely free. I had opportunity. I was really lucky. I was able to buy a home when I was 20. It was modest, but I could do all those things. So I thought, Well, I'll give something back. And I applied to be a magistrate.

**Michael Green** [00:42:46] And you are now a magistrate?

**Rob Stary** [00:42:47] Yeah.

**Michael Green** [00:42:48] Are you enjoying it?

**Rob Stary** [00:42:49] Yeah, it's challenging, but I do work with terrific people. One thing that's really struck me is how committed people are to the justice system. Therapeutic justice, all the things that I've been historically interested in. And I work with some old colleagues who I admire and respect, people who I, in a sense grown up within the legal profession. So I really think I've been privileged.

**Michael Green** [00:43:13] Before you became a magistrate, you've had 40 years in the system, the criminal justice system, passionately working on behalf of clients. So you are a player and a big player in the game overnight. You become the umpire. You no longer are out there chasing the ball. You're the umpire. Is it an easy change?

**Rob Stary** [00:43:31] No, it's not so easy. No, no, no, because I can't keep my mouth shut. So it's not it's not easy, but it's an important role. Diverting young people away from the justice system. You don't want them contaminated. You've got to ensure that people receive a fair hearing. And that's one thing that's reinforced and reinforced in the court. We've got a good leader in the court that good people to work with, as I said, many of whom I'd work with professionally over a long period of time. But, you know, I'm a flawed individual. So as I said, sometimes I just got to learn to hold my tongue a bit more. My son, who is an umpire in amateurs, when I'm at the footy and I'm carrying on about the fair go that we're not receiving - the Bulldogs. He gives me an elbow in the ribs and says, You're an umpire now, so I just lay off. Anyway, I do enjoy it and I do enjoy the people I work with.

**Michael Green** [00:44:23] The accused people who come before you and then the convicted people who come before you and their legal representatives might assume you're a soft touch because you acted for such people for 40 years.

**Rob Stary** [00:44:33] Yeah, well, I am as you appreciate, Michael. I'm the the stereotypical - as my daughter tells me who practises in crime - she says to me, God, you've turned. Because I do take, I'm a bit intolerant occasionally. I don't like violence. I don't like I don't like gratuitous violence. I don't like seeing vulnerable people preyed upon. That's all part of who I am I suppose. So, yeah. I'm not a soft touch.

**Michael Green** [00:45:04] Now, Rob, let's get to the actual heart of the matter, the most important part of your personal and professional life, which of course, is the Footscray Football Club.

**Rob Stary** [00:45:11] Absolutely.

**Michael Green** [00:45:12] And you have been a board member there.

**Rob Stary** [00:45:15] I was a board member in the two years before they won the premiership in 2006. And I left the board only for one reason, because I'd been representing the players and various things, tribunal hearings and a few minor transgressions, because as we know, all young men drive badly. They're all drive over powered cars. They go to night clubs and get into a bit of trouble. And so when I represented them, of course, there was a client confidentiality issue. And so I couldn't say anything to the board. And so I thought it was better that I not continue to participate on the board when I'm representing those individuals.

**Michael Green** [00:45:54] I understand that is a correct and proper professional position to take. But do you regret not being on the board when they won their second ever premiership in 2006?

**Rob Stary** [00:46:04] No. Look, I was invited to many of the functions because I do look after some of the players and it was just fabulous. It was the highlight of my professional and personal career.

**Michael Green** [00:46:17] Can I confess to something here, which I don't normally confess to, but as a child, before I played football myself, I barrack for the dogs.

**Rob Stary** [00:46:25] Well, I thought you were a fundamentally decent human being, Michael, so that doesn't surprise me.

**Michael Green** [00:46:30] And my, my hero was and still is, Johnny Schultz.

**Rob Stary** [00:46:33] And, and a wonderful person. And really, I know Teddy Whitten get all the accolades, but John Schultz, I think, has stood the test of time.

**Michael Green** [00:46:42] Absolutely.

**Rob Stary** [00:46:43] Wonderful person. Well, you're welcome back to the fold too I might say, Michael, the door is open.

**Michael Green** [00:46:48] I think it's closed for me that I'm happy to stay on the other side of the Yarra with the black and yellow. Rob, it's been wonderful having you here this morning, telling us about your career in the law and the important role that people in your position play in defending people charged with serious offences. It's absolutely critical part of our criminal justice system and for you to tell us about it and you two have done it for 40 years in such a way. Credit to you and great for us this morning to hear about it. Thanks for coming.

**Rob Stary** [00:47:14] It's been a real pleasure. Thank you, Michael.

**voice over** [00:47:24] Show notes from today's episode can be found at [greenslist.com.au/podcast](https://greenslist.com.au/podcast). There you'll find links to things we've talked about in this episode, a transcript of the show, and some wonderful photos of our guests. If you're enjoying Lives in the Law, please tell your networks, subscribe, rate and review the show. Your host is former lawyer and Greens List clerk Michael Green. Our show is produced and edited by me, Catherine Green, mixed and mastered by Windmill Audio and recorded by Alex Macfarlane, who also wrote and performed all the music for the series. We're coming to you from the iconic Owen Dixon Chambers on the corner of William and Lonsdale Streets in our beautiful city of Melbourne. We acknowledge Wurrungari people of the Kulin Nation as the traditional custodians of this land and pay our respect to their elders past and present. There is no doubt that conversations about justice have been taking place on this land for thousands of years and we are privileged to continue that discussion here today.