

WILLIAM & LONSDALE – Lives in the Law E 35: Ali Besiroglu

Voice Over [00:00:07] This is William and Lonsdale, a podcast about the legal ecosystem and the fascinating people who make it tick. Before I introduce our guest, a warning to Aboriginal and Torres Strait Islander listeners that this episode includes the names of Indigenous people who have died. Today, your host, Michael Green, speaks with Ali Besiroglu principal lawyer at Robinson Gill and head of their crime and advocacy department. In recent years, Allie has been involved in some incredibly significant and high profile cases, not least of which is the recent coronial inquest into the death in custody of Veronica Nelson. Ali has had a fascinating and dynamic career so far. And as we hear today, he feels very personally connected to many of the people he advocates for, in part because he too knows what it's like to feel unseen and underestimated.

Ali Besiroglu [00:00:58] You know, growing up in Collingwood and then going to Kew High School at the time, I think there was certain expectations. So I learnt about labelling theory afterwards.

Michael Green [00:01:08] And by that you mean because you came from Collingwood, you were labelled as a low achiever?

Ali Besiroglu [00:01:14] Correct. So I remember being in year nine when I went to my English teacher at the time and I said, how do I turn this B to an A-plus or an A? And she said, It's it's beyond your capacity. She said, I'm sorry, Ali, but it's beyond your capacity. And, you know, my journey has been about people placing brick walls in front of me. And it was about for me, it's always been about climbing over and then making the other person on the other side realise, you know, they shouldn't have put the brick wall up in the first place.

Michael Green [00:02:07] Our guest this morning in Lives in the Law is Ali Besiroglu, a partner at the firm of Robinson Gill in the eastern suburbs of Melbourne. Good morning, Ali.

Ali Besiroglu [00:02:17] Good morning, Michael. Thanks for having me.

Michael Green [00:02:19] It's our pleasure to have you, Ali. Tell us a bit about Robinson Gill. You're a partner there. It's a suburban firm in Melbourne. What sort of firm is it? Is it a typical suburban firm doing conveyancing and probate and leases, etc.? Or it's it got a specific niche that it works in.

Ali Besiroglu [00:02:38] Robinson Gill is a multi-disciplinary firm. We're considered a mid-tier law firm, if I can put it that way, with about 30 lawyers. We've got separate departments looking after all different areas of practice. But I think Robinson Gill does aspire to be a unique suburban firm that presents an alternative to the top tier firms that are out there. Do we have a niche? Absolutely. I think our, you know, quite famous for our police misconduct matters, representing clients in that capacity. And that was the capacity in which I went to Robinson Gill. And through the evolution of that police accountability practice, I created a separate department, which is the crime and advocacy department, which is what I'm in charge of right now. I should say this we're an incorporated legal practice, and I can't refer to myself as a partner because it's technically a director is a partner. So I'm a principal lawyer, which in the old sense would have been referred to as a salary partner.

Michael Green [00:03:44] Can I just clarify? You said your area within the practice is crime and advocacy. That's not doing typical criminal law work on behalf of people that are charged with criminal offences. Is there something particular about crime advocacy that's a bit different?

Ali Besiroglu [00:03:59] Yeah, absolutely. So the evolution of the police misconduct team was that we were also getting a lot of inquiries with respect to crime and other relevant areas where community had complaints. So when I went into Robinson Gill at that time we didn't do any coronial inquest. I had, through my experience at VALS, had run a number of coronial inquests. So I proposed that we look into coronial inquest work and we ran our first coronial inquest there. So the crime and advocacy in particular, we do not only crime but a crime, coronial inquest intervention orders, royal commissions, IBAC public hearings as well.

Michael Green [00:04:40] And how many are in your team doing this work?

Ali Besiroglu [00:04:42] There's three of us in our team at the moment, so there's a further senior lawyer, Sarah Condon, that we've got and we've got another trainee lawyer that's commencing, but it's looking to quickly expand. We've just got ourselves on the legal aid panel to take on the legally aided work as well.

Michael Green [00:04:56] When you first came to Robinson Gill, you had a case in mind that you wanted to pursue on behalf of young woman whose name might not have been Beck.

Ali Besiroglu [00:05:06] Yes. Yes.

Michael Green [00:05:07] So that was your very first thing as an employee at Robinson Gill? Yeah. What was that case about?

Ali Besiroglu [00:05:12] So while I was while I was at the Victoria Aboriginal Legal Service VALS I didn't want to be pigeonholed into just doing crime work, so I thought I'd take a year off and start learning about civil law. So I was taken into the civil department. I applied for and did a year in the civil department there. One of those cases which were referred to as Beck, was the lady who received a suspended sentence for criminal matters, and she gave us a call to say after five days of receiving a suspended sentence, that she was still at Dame Phyllis Frost.

Michael Green [00:05:42] So she a suspended sentence, therefore no prison time. And yet she spent five days in prison after being given a suspended sentence.

Ali Besiroglu [00:05:50] Yep. Yep. And the thing about Beck was that I knew her while in my criminal practice. Sadly, she was in her fifties and would always come back with the same type of offending, which was generally burglaries. She had underlying drug abuse issues as well, and significant trauma in her life. So I then looked at taking a civil case for her for a false imprisonment claim, specifics of which I won't go into, other than to say that I didn't hear from Beck for a year later after we settled that civil case and she sent me a message on Christmas Day to say thank you and my life has turned around. So I called her and she told me that from the funds that she was able to receive, she was able to secure a bond payment for a rental house, take herself away from the community that she would ordinarily go back to, which is unfortunately a problem. And it was just remarkable that Beck was able to get out of the system. And I thought what an incredible way of being able to change people's lives if we were to pursue these claims for them. Hence why I. Spoke to Jeremy King from Robinson Gill at the time and told him that if at the time I was actually starting to go to the bar and told him that the only time I'd actually think about not going to the bar is if I looked into if I if this practice of police misconduct and corrections misconduct was available. And that's how it sort of went from there.

Michael Green [00:07:31] Ali, let's go back to the beginning. You do your child, and there are many interesting and very important cases that you've been involved in. And we'll get to those. But for now, maybe to set the scene, we need to hear about your childhood, your family, your mom being a single parent. Take us back in the housing Commission flats in Collingwood where you were brought up. Yeah. Paint that picture for us.

Ali Besiroglu [00:07:54] Yes. So, Michael, as you say, I was raised in Collingwood in the commission flats in Wellington Street at the age of four we moved there and we moved there after Mum and Dad split up through a background which was coloured by what I later found out was pretty horrific family violence. And mum started afresh basically. And I recall going into the flats with only a single mattress in our apartment at the time.

Michael Green [00:08:23] That was the only piece of furniture you had. It was a mattress.

Ali Besiroglu [00:08:26] Yeah. Correct. Single mattress. And we remained in that community until I was about 16. That was through the eighties and nineties. And the the gentrified Collingwood that we now know is not necessarily what it was back then. It was quite a rough neighbourhood back then, but it was, it really built a foundation for me which would sort of dictate how I would pursue my life in law.

Michael Green [00:08:54] Can I just clarify, Ali, you're born in Australia. You and your brother and your sister of Turkish parents.

Ali Besiroglu [00:09:00] Correct? Correct. So mum migrated here in 1975 and then had us in 1983. And mum met my father here, who also had migrated here. And together they had a textile factory that they were owning. So living prior to Collingwood were living in Templestowe in a double storey house. And mum decided that she couldn't take it any further and she left. We left the home that was toxic. And you know, as a result of it we flourished, I think. So my mum was always about education for us and she said, education's your ticket out. She instilled in us, you know, just the desire to want to do more in life. And my brother finished computer science. My sister finished biological science and I finished law. And so we all went through university. That was in the backdrop of people saying, I can't believe this woman is leaving a double storey house in Templestowe to raise her kids in what they thought was going to be a poor choice in many respects. You know, our lives became a platform for people to look at and to say, you know, there is a better alternative out there, even if the short term is going to be a, you know, a turbulent ride. So we were raised in Collingwood and we would see our father on a weekend basis and that happened for a number of years, but then he left for a very long time. So I think I saw him probably twice in my early teenage years and then I didn't speak to him thereafter til I was 28. So it was really on Mum's shoulders to get us through. And we did. We started, you know, a work ethic quite young, were 15 years old, Mum was working two jobs, she was a cleaner through the night and as a kindergarten teacher through the day, both in part time roles. We initially went to primary school at Collingwood college, which was close to close to the flats, and then mum thought it would be wise to sort of look for other schools and we ended up at Kew High School, so we all finished up at Kew High School, which was a fascinating experience as well.

Michael Green [00:11:14] Very different to living in the commission flats and going to Collingwood primary school. To my recollection, Kew High School's out on Bourke Road, and in the leafy eastern suburbs as they're called. Yeah. Did you feel comfortable, did you feel a part of that environment?

Ali Besiroglu [00:11:29] Well, initially probably no. We were the kids from the Bronx that were going to, you know, the leafy eastern suburbs. And, you know, our friend's parents were doctors and they had they all had great careers, but but also of, you know, a strong working class as well. But we had to learn to be chameleons, you know, to adapt to each environment. I think that that sort of assisted us in life as well, to be able to walk into each environment talking to you, for example, right now and to be able to feel comfortable with the people that are around us no matter who it is. Kew High School was fantastic for us, though, in terms of education, the quality of the education. I was disheartened later to find out that they've reduced the zoning to now not include the flats. But I think it was one of the reasons for how it is that we ended up all doing okay in life.

Michael Green [00:12:31] A couple of years ago, you wrote an article in the Law Intitute Journal entitled If Not for Mr. McClennan. Explain that to us, please.

Ali Besiroglu [00:12:40] So growing up, I heard a lot about Mr. McLennan from my mother. She said when she was going through the horrific violence in the eighties, she said that she didn't have any support. So the police didn't provide her with any support. Police didn't prosecute those. And notwithstanding that, it was quite brutal to the point where she was hospitalised. Mum just attempted to commit suicide. But it was such horrific, the family violence was that horrific. And my father at the time used that as a means of saying that she was mentally unstable and subsequently got custody of us for a period of about six months. And all this was explained to me later. But growing up, we knew about Mr. McLennan, this person who listened when no one else listened. She said she met him in Carlton. He brought in an interpreter. She felt that she could finally speak to someone who was understanding, who was empathetic in the way that he conducted himself, and went and said, I'm going to get your kids back in the family court.

Michael Green [00:13:46] I think we should clarify. And he was a lawyer.

Ali Besiroglu [00:13:48] Sorry. Yes, absolutely. Yeah. Yeah. And it was a lawyer.

Michael Green [00:13:52] Chris McLennan is a, and is still is a solicitor with a practice in Carlton.

Ali Besiroglu [00:13:57] Well, I didn't know that, but I later did find out. So Mr. McLennan also referred to him, did a fantastic job in advocating for Mum. And she got full custody of us with the weekend visitations with my father, and that was facilitated through police stations. So there was security around that as well. You know, growing up mum would say, can be a lawyer like Mr. McClennan. So I didn't know anything about Mr. McLennan, but all I had was this image of, you know, this Atticus Finch sort of person who came for mum when no one else did. Years later, I become a lawyer and I'm at the Heidelberg Magistrates Court and I fill my name into the summary case conference list to see police. And this gentleman behind me says, Besiroglu - you're Turkish then. And I thought, Wow, that's quite interesting. How did he pronounce my said without it, you know, just reading it. And he knew that I was Turkish Now. Everyone I spoke have spoken to since Postecoglou has called me Greek. And so I thought, fascinating. But I didn't really... I was sort of taken aback. But I took a step to the side, and then he went forward and put his name down. And he wrote McLennan. The blood just drained out of me. At that point I said, you're me some clinic. And he just smiled, put his hand out and said, Chris McLennan. I said, you're the person that represented my mother, Fatima. And he said, yes, that was me. And I said, I'm her son. He said you're a lawyer. I said, look, this is going to sound really bizarre. His hands still out. I said, Can I give you a hug? And he said, Yes. He said, Sure. And then I explained to him what he did, and I told him, You changed the course of our lives by your advocacy, which then became a life lesson to me about how we can change. He said, Look, isn't it remarkable that you can just do your job and then change generations just by doing just by, you know, doing the right thing by your clients. So I've I've taken that with me. So when I represent clients, I don't think of it as just a case. I think that potentially, you know, you have the ability to impact generations to come. So I still keep in contact with Chris. I wrote the article with his blessing and we went to the Neighbourhood Justice Centre to get our photo taken. And the reason for why it was the Neighbourhood Justice Centre was because if you look at the background of that article picture, you'll see that it's actually got the room that I grew up in from the courtroom one of the Neighbourhood Justice Centre is where you can see, you know, the room that I was raised in. You know, it was just an incredible moment to say that you grew up in the commission flats. You're now a lawyer and Chris had a significant role in that and Mum got to meet Chris after all those years. And then he called me and said, What the hell have you done? He's like, I'm receiving phone calls from Tasmania about your article. And I just thought Chris isn't one for accolades. But there is also a second reason for why I write the article, and that was because Mum also needs to be recognised as a hero for what she went through and hopefully by sharing my personal story, other people who are in this situation can can know that there's a bright way forward.

Michael Green [00:17:20] And I would say to people listening, if you want to read the story and see a photograph of Ali and his mum and Chris McLennan, it's the September 2020 edition of the law to journal.

Voice Over [00:17:34] Lives in the Law is proudly sponsored by City Maps Illustrated. The 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 [00:18:01] Really to get back to your journey. You're growing up, you've finished high school living in the commission flat in Collingwood and you start a Bachelor of Art at Latrobe, but it doesn't seem to work and you drop out and you did bar work for about three years. It amazed me that you were able to pick up study again after three years away from it. I'm interested to hear to do how you did that because three years is a long time to get out of the habit of study. And the other thing that interest me is what did your mum think of you dropping out and not getting a degree?

Ali Besiroglu [00:18:32] Look, Mum was mum was for it. So initially we had the high of getting into university and then I just said, look, I need to, I need some time away from the study and to get my priorities like so I did three years of just sort of bar work, which is, you know, I would say probably our party years.

Michael Green [00:18:53] Is a euphemism for party.

Ali Besiroglu [00:18:55] We got to the end of that. And I said, look, it's, it's time to get back to study. And I did a Bachelor of Social Science and Legal and dispute studies. And the reason for that is I initially thought maybe I will become a police officer. And people ask me now in the line, in the line of work that I do now, you wanted to be a police officer and why? And I just thought, look, my interactions with police growing up, you know, I saw how the Collingwood community that we grew up in and the interactions with police at that time, I thought maybe we could change the way police were. You know, I had this sense of community and because I had this sense of community, I'd be useful as a police officer. That's that was the primary motivation, motivation for the, for my academic path. But in my first semester of legal dispute studies, we were doing this subject called Judicial Studies by Michael Bennetts was the teacher sorry, the lecturer, and this is at RMIT, and it was a joint course with the Justice Administration course, and there's probably about 300 students there. And all of a sudden I loved what I was studying. You know, it was I was quite passionate about and I've had my party years. So that put that away and I was now genuinely interested in what I was learning about. And we finished that subject and I was talking to Michael afterwards and he said, Ali you duxed the subject. I never really thought of myself as being a high academic achiever, you know, growing up in Collingwood and then going to Kew High School at the time I think there was certain expectations. So I learnt about labelling theory afterwards.

Michael Green [00:20:29] And by that you mean because you came from Collingwood, you were labelled as a low achiever, correct?

Ali Besiroglu [00:20:35] Yeah. So I remember being in year nine and I went to my English teacher at the time and I said, how do I turn this B to an A-plus or an A? And she said, it's it's beyond your capacity. And she said, I'm sorry, Ali, but it's beyond your capacity. And, you know, my journey has been about people placing brick walls in front of me. And it was about for me, it's always been about climbing over and then making the other person on the other side realise, you know, they shouldn't have put the brick wall up in the first place. And that's been really the formula for everything that I've done in terms of how I got into law and then my practice as well. It really fuelled that sort of social justice aspect of my life.

Michael Green [00:21:22] It seemed to me a large part of the formula is called Remarkable Women.

Ali Besiroglu [00:21:27] Ha ha ha.

Michael Green [00:21:29] I would like you to expand on remarkable women. We've heard about your mum who clearly is almost beyond remarkable. But you've also got a remarkable wife and a remarkable mentor, at VALS in Jill Prior.

Ali Besiroglu [00:21:42] So in preparation for this podcast, I was thinking, you know, you don't really think about your life from a from a bird's eye view. And there was one commonality within which I can attribute my life where I've been able to get myself to today. And that was remarkable. Women. So I'll say my wife Scarlett, who was then my girlfriend at university, she was the one who wanted to become a lawyer.

Michael Green [00:22:09] Got a first class honours degree.

Ali Besiroglu [00:22:11] Correct. So she wiped the floor with me with her results at Monash, but stuck together and did it together from start to end. And she encouraged me to pursue law as well, in addition to the lecturers from RMIT at the time. So I said, Well, why don't we give this a shot? Obviously we like it. And something extraordinary happened, which was that when Scarlett graduated, she said, look, I don't think I want to practice law. I think I want to go become a police officer. So she became a police officer. But then we had our first child. And after that she realised, you know, the work demands were just too much and it wasn't sort of conducive to the family life and that she wanted to raise our children have now got three beautiful kids and she's now retrained herself as a teacher or a teacher's aide. So she gets the credit for having an enormous impact on my life in terms of direction. So I had followed or I had seen Jill and the

incredible work that she was doing, and that had a big influence on my path of wanting to take, which was criminal law at the time. I was volunteering at VALS sort of assisting them with any research or submissions work that they were doing.

Michael Green [00:23:34] You are student at Monash at this time?

Ali Besiroglu [00:23:36] Correct - Yeah, Yeah. So I did an undergraduate and then did a further undergraduate as opposed to a postgraduate which said, now I make their students to a JD program. While I was at law school, I initially was told that really if you're looking for a job, you need to go into the commercial sector, you need to consider commercial law. Crime doesn't pay is what we were told, but I knew that that's where I wanted to go or sorry halfway through. So I picked a bunch of commercial sort of type electives, tax law, banking law, etc. and then became a bit disillusioned at the time. And I then picked an elective in with Springvale Monash and did volunteer work and just knew that the CLC sector was always going to be my calling and what I wanted to do, the community legal sector. I was blogging at that point as well about social justice because I would come back from uni and say, Oh, I can't believe you know, can you believe the state of the law? Is this, this, this? And my sister would be like, you should just write about us, you know? So I created this blog called The Blackletter, and it got a lot of attention when I was at university. It won like Best Student Law blog or something along the lines of that. And there was a program that was being offered at Monash, which was the Just leadership program, where mentors would come through and give us presentations all about social justice. So I took that on through the LSS and HH Michael Kirby.

Michael Green [00:25:02] He was still on the High Court at the time?

Ali Besiroglu [00:25:04] No, he wasn't actually - he had retired. He came and I thought, why not take the opportunity to see if I can plug the blog and maybe I might get a comment from him in relation to a particular area. And I said, Look, I've got this social justice blog, I'd be forever indebted if you could... He said, What's the name of it? And I gave him the name of it, and that was the end of it. The following day I got an email saying my best wishes to the readers of this blog, and off he went to write a foreword for my blog that he had been through. And it was incredible. You know, he was giving Gen-Y advice about what we should be looking at. And all of a sudden we had Michael Kirby writing on the blog, and it attracted a lot of attention. So even throughout university, it was always about sort of social justice for me. You know, it was it was always going to be going to be that way through an underpinning of my upbringing.

Michael Green [00:25:59] What a generous man Michael Kirby was and is to do that. So you finish university? You need a job.

Ali Besiroglu [00:26:07] Yeah.

Michael Green [00:26:08] Was it that simple that you VALS took you on as a graduate after you'd been volunteering there?

Ali Besiroglu [00:26:13] Yeah. Yeah. So I should say this a lot of the my university cohorts had connections to the law or they knew lawyers or, you know, people in the profession that that would assist them to get a foot in. I had no one. The first time I met a lawyer was when I walked into VALS and I remember meeting Dennis Barry who was a family lawyer and that was the first time I met a lawyer. I sort of had to forge my own pathway. I called Jill and I said, Jill, I don't want to do anything other than work here and I want to do criminal law. Is there anything that you can offer me? And she said, let me think about it and come back to you.. And she called me to say, Listen, we've got 12 criminal lawyers, but we don't have a paralegal. How about we create a paralegal role for you? And you can do your Leo's practical legal training online.

Michael Green [00:26:59] So this is this is after you've graduated, but before you were admitted, correct?

Ali Besiroglu [00:27:05] And that's what I did. So I spent a year at VALS as the first paralegal position, and that position now still stands. But I get the title of being the first paralegal that was there on the Criminal Law Team. And it was just about, you know, assisting the lawyers with

research. And it was an incredible experience because Jill, she took me under her wing and taught me I still say to this day that she taught everything I know about the law is I learnt from Jill. She took me under her wing. I did my first appearance, the first place as a paralegal seeking leave. You know, these were incredible experiences that you otherwise probably would not get. I remember being at the Melbourne Magistrates Court and Jill said, Listen, there's a drive while suspended matter here. You've got 15 minutes to get instructions and go into court. I said, Jill, no, she's like, Do you trust me? I said, Absolutely. And off I went. So I said in my own mind that if Jill is going to ask something of you, always say yes, because she's not going to throw you under the bus and she'll have your back. And, you know, I shadowed Jill and I just saw incredible advocacy, a woman who advocates through her heart and is able to convey that message and execute it in a courtroom where other people would not even have a chance. She's an incredible storyteller. She's able to put that message across to the bench and the people around her love her. You know, I've seen her run a bail application for an Aboriginal man who was bailed to a bus stop. You know, if I were to have run that argument in a courtroom and say your honour he's always known to be at a bus stop, so why don't we just bail him there? No fixed place of abode is no reason for why a person should be refused bail. Absolutely.

Michael Green [00:28:44] Because this man spends all his time at this particular bus stop, correct?

Ali Besiroglu [00:28:48] Correct.

Michael Green [00:28:48] And magistrate agreed?

Ali Besiroglu [00:28:51] Magistrate agreed and bailed him. You know, that was the level of her empathetic advocacy that I looked up to. And I thought, this is the best model that a person can be.

Michael Green [00:29:02] People who listen to this podcast. No, we've had Jill Prior as a guest on the podcast, Ali, and she is, as you said, an amazing person and in fact a beacon to other lawyers as to how lawyers should behave and should conduct themselves and should advocate on behalf of their clients. But you don't stay at VALS for reasons that you can explain to us. You got a Robinson Gill?

Ali Besiroglu [00:29:25] Yes.

Michael Green [00:29:25] Why did that come about?

Ali Besiroglu [00:29:27] So six and a half years at VALS, I had some incredible experiences. I was a senior lawyer and I was looking after the Melbourne Magistrates Court with my colleague Kim Leon on at the time. Through that experience I had some incredible moments. I routinely appeared at the Koorie Court at the Melbourne Magistrates Court meeting and speaking and learning from the Aboriginal elders and the respected persons magistrate Yelena Popovich. And I was also a very significant figure in my life and almost a mentor through the courts as well. When the offer from Robinson Gill came, I thought, I'm going to go back to the people that I'm around through my work and see what they would say, this opportunity. So I went to Uncle Jim Bourke from the Koorie Court said, look, this is a new area that I'm looking at going into, which is this police misconduct space and opportunity is a reason for me to do to continue advocating for the Aboriginal community, but doing it on a different platform. And at the time it was quite I don't think police misconduct matters were getting the the attention that it now gets. And Uncle Jim Bourke gave me his blessings. I spoke to her on a magistrate Popovich. She said, Look, you know, you're a sixth year lawyer and they're wanting to train you up in civil litigation from scratch. You know, that's a quite a big investment from them and you should seize the opportunity. And then I ended up at Robinson Gill and police misconduct, you know, wasn't the flavour of the month, if I can put it this way, you know, we would often get communities, you know, on social media, etc, we'd get community backlash with respect to the work that we were doing because, you know, police are held at a high standard according to the community. You know, they all try to do a good job and straight and honest people. Absolutely. You'd like to think that. But some of the cases that we got painted a very different story. At VALS while I was in the civil team, I had dealt with the case of Ethan Cruise. Ethan, the young Aboriginal guy who had alleged to have been part of the Anzac Day terror plot simply because of his friendship with other people and the fact that he had

converted to Islam, I think put him under ASIO Watch. He ended up receiving a beating pretty brutally by police through the raids that occurred, and he told his story and his family told us their story when I was at Val's and we put it in as a police complaint with the Professional Standards Command and Professional Standards Command investigated and they said nothing, you know, unsubstantiated was a claim. We knew that, you know, Ethan hadn't been charged in relation to it. So why was he brutalised in this way? So there was unresolved business. The walls were up and I needed to climb over him, you know. So I thought, what a great platform to go to Robinson Gill and try this new area of civil litigation. And so I took Ethan's case to the Supreme Court before Justice Richards. We were able to convince the court that the police had colluded in the statements in their response to the complaints that we had made, and her honour referred it back to IBAC. So her Honour found it for him.

Michael Green [00:32:33] And awarded him damages.

Ali Besiroglu [00:32:34] Absolutely. 400,000 he ended up getting, including aggravated exemplary damages, which still stands as a benchmark in police torts. You know, I saw this full circle come about. So sitting with the Cruz family at the end of that judgement, that's the first time I saw them smile talking about that incident. What happened, though, was that there was a 730 report with the journalist Nick McKenzie that propelled the practice in terms of the exposure. And, you know, all of a sudden the phones are going red hot because there were so many others in Ethan's situation where they felt like I put in a complaint and none of it was substantiated. I've got no other option. The only way I can vindicate myself is by civil litigation. And that's a hopeless way of getting vindication because it's a financial figure. There's often no accountability after that, and sometimes it's empty. But we were always saying that, look, if there's accountability at the start, you know, substantiation of those of those complaints, proper accountability within any profession, you would have bad apples in that profession. It's not our sort of targeting police. It was so surprising that if we were to take professional standards, commands, findings as being our precondition to taking a civil suit, we would have none. And that's the reality of it. So after the media expose, it just exploded. And one of the cases that became sort of the quintessential police misconduct matter was a case that I was working on of John Gordsulas. John was a disability pensioner. Back in 2007, 18 police attended his house because of welfare concerns. His psychiatrist had contacted the police because she had concerns about his mental health. And John had called me and I'd spoken to him and he said, he said, I've got the recordings of what happened to me Ali. And I said, John, bring that, bring them in. Let me have a look at it. I really wasn't thinking much about it, but then I played the footage and I just could not believe what I was seeing. It had captured audio. You could hear the police officer saying, Do you like the smell of that after capsicum spraying him straight in the face like, you know, centimetres from his face and then detaining him at that point in front of his house. And it's humiliating. You know, a person needing aftercare and instead of moving over to the watering can that's there to try and wash off the capsicum spray, they were amused at the fact that they would go get this spray and spray him with full jet to John's face while another person, while another officer sat there and recorded it on his phone. And I saw this. And when the media exposed or showed what had happened to John, I think it changed a lot of opinions about what people thought about police and the practice sort of grew from there and Robinson Gill started to become the name for police misconduct.

Michael Green [00:35:32] And Ali, tell me what intrigues me is what is your attitude now towards the police? You wanted to be a policeman at one stage in your education. Your wife was a member of the police force for a short time. How do you now interact with the police?

Ali Besiroglu [00:35:46] I've got family and friends who are in the job. I have no ill feelings towards the police whatsoever. What gets under my skin is that when police are provided authority, that's you and I don't have as citizens and that authority is abuse. There should be more accountability. And we need to understand that once that authority is abused, that person, that authority should be taken from them. You know, Michael, you'd be surprised at the amount of police officers that have contacted us and said, good on you for doing what you're doing because they feel like they can't say anything, that they're powerless to see this misconduct occurring and can't say anything. When the Gordsulis case came out, we had police officers calling us and saying I was spat on or people are yelling abuse at us while we were in uniform because of that. And I'm not angry with you. I'm angry with the officers. So I don't have this preconceived idea about what I

think of police. I think we just need to make sure that if they transgress, that we don't allow for it, because it could lead to a lot a lot of corruption and have a ripple effect to other police officers.

Michael Green [00:37:06] Ali you used the phrase abuse of authority and a very high profile and very troubling case that you are currently involved in is the inquest into the death of Veronica Nelson while she was in custody. And it appears there may have been an abuse of authority there. There may have been an attempt to cover up the treatment that Veronica received which led to her death. Is that how you saw the case or see the case? Because this current.

Ali Besiroglu [00:37:33] It's current insofar as the findings, which people are referring to as landmark findings have been released and there may be further action in relation to civil action from parties. But I had the honour of representing Aunty Donna Nelson, who was Veronica's mother. And just to give a quick introduction, Veronica, a 37 year old Aboriginal woman, was taken into custody on the 30th of December 2019 on a shop steal or shop theft matter. She faced an onerous bail test, represented herself in court, found herself in custody at the Dame Phyllis Frost Centre, and lost her life within 36 hours of being there. She was withdrawing from heroin. She had a medical condition which meant that she couldn't retain hydration or water in her system. The coroner found that she died of malnutrition, which is complicated by the medical condition, all of which could have been preventable if the prison called an ambulance. No one did so - I should say this, that we were side by side with VALS, who were representing Percy Lovett was side by side with Laura.

Michael Green [00:38:41] Percy Lovett is Veronica's partner?

Ali Besiroglu [00:38:43] That correct shoulder to shoulder with the Law and Advocacy Centre for Women, Fitzroy Legal Service and VARIOC was also involved and that was quite unique because often when I'm representing families, the family is the minority voice in a coroner's court and you'll have five separate parties that are representing other parties, for example, in counsel assisting and the coroner solicitors also did an incredible job. But what we unearthed, I mean, Aunty Donna came to me and said they killed my daughter Ali do you believe that? I said, Aunty, we will get to the bottom of this. When I received the brief, the first thing I went to in the brief was the reviews that were conducted and that's what every coroner's court lawyer would do, go to the reviews because the conduct has already been reviewed and let's see what happens,. So the Justice Assurance and Review Office JARO of the Department of Justice and Justice Health. So there were two separate reviews that were conducted. So I remember reading these reviews, which basically said that there was nothing to see here. They were critical of the fact that there was no Aboriginal liaison officer through New Year's Eve, but that's as far as their reviews basically went. And then I looked to, you know, the primary evidence that's there, which was audio calls from Veronica, 49 of them, and the videos of Veronica. And I just couldn't believe what I was seeing. This woman who was begging over and over and over for help, JARO and Justice Health watched the same footage that I did and heard the same audio calls that I did and came back to say nothing to say here. So we had not only a mission to convince a coroner, we had a mission that we were going to prove that these reviews were wrong. And you know what happened, Michael? You just couldn't believe it. You know, we went on it on our part to try and by way of the evidence to show that they got it wrong six days before the inquest. This is two and a half years, almost two and a half years from the day Veronica died, six days prior to the inquest, We get a statement and it's the nurse who was there, a statement that had previously been requested from the coroner. We didn't see. And that statement from the nurse, it basically said that the doctor who initially assessed her didn't assess her at all. I had the task of calling Auntie in the late hours, which is when we received it, because I had to tell her what we've got on the statement and she wept. When I when I read it to her. She said, I told you they killed her. And that was hard. We thought when we look and I'll go into what the findings were. But the coroner has a task as a mandatory task to investigate all deaths in custody. It's mandatory, no discretion. The single exemption that sits to that mandatory inquest is if a person dies of natural causes the single exemption. And if we were to have taken these documents at face value, which the coroner does use in addition to the pathology, in addition to the toxicology. Veronica's case could have very easily been swept under the rug, and that would have been the end of it. Natural deaths signed off. No inquest just on the papers. So as we started to unpack what happened, we realised that it wasn't just the nurse. There were other serious failings and I encourage everyone to read Coroner MacGregor's report. Because it is a landmark decision. You know, the reviews, the debrief that

was conducted after Veronica died. They knew the prison knew that that is going to form part of the basis of the review that subsequently conducted by Department of Justice. And they sat there and patted each other on the backs in that review, in the debrief. The people who are the main actors, the nurse who couldn't give her statement, she had to go and get her own lawyers in order to provide her statement to the court. They knew that she was going to be critical and they excluded her from the evidence. And that's horrendous conduct. What we now know is that correct? CARE Australasia has lost its contract with Dame Phyllis Ross and we aren't certainly happy about that. We had a medical conclave that came a panel of experts who was as outraged as what we were. And they gave their evidence and they recommended that the best governing body would be Department of Health, because ultimately this is a health issue. This is not a corrections issue. Those who are in charge of our hospitals should also be in charge of our prisons so that we can provide the same level of care that we do in the community. And and that's what the government is now done, which is fantastic in terms of a systemic front. We've been able to change some, you know, trying to change direction there. However, it's only one prison and the criticism is that it needs to be rolled out because if they did in Veronica's case, the question is how many others have we not found out about it? Coroner referred to it those reports in his findings as grossly inadequate and misleading, grossly inadequate, misleading and misleading quote. I lose my job. Look, I think that there has to be an inquiry because I, I knowing what I know from police misconduct, these incidents don't happen in isolation. They're not just one. We uncovered one, but probably as a result of many after me. The other aspect was by laws. Veronica was a non-violent. She had a non-violent history. She would steal to support a drug habit. We heard that she would still for others to support their drug habits. This is petty theft shop steal cases. Now ice. I was a lawyer representing one of the parties in the Backstreet inquest. I sat through that inquest and had to go through the evidence, and that evidence was horrific. And no doubt there was a systemic issue with respect to bail that needed to be addressed. But the pendulum threw the truth out. Through 2018, Coughlan reviews swung way too far and captured the wrong people. Were trying to curtail serious offending and in so doing, but penalising poverty. I mean, that's the reality of it.

Michael Green [00:44:43] So when you say serious offending, serious, violent or potentially violent offenders. Exactly.

Ali Besiroglu [00:44:48] Exactly. But instead.

Michael Green [00:44:50] We put a shoplifter in jail to die.

Ali Besiroglu [00:44:53] Not only a shoplifter, but Aboriginal women in particular disproportionately. In fact, the coroner found that the Bail Act in its current operation was discriminatory and referred to it as a complete and unmitigated disaster. I mean, that's completely accurate as well, because this this isn't what the Bail Act was supposed to be amended for. It's remarkable because there's a bail flowchart that sits in the in the bail acts to teach people of the practitioners about how to the different standards of tests or how you arrive at different standards of test. On the one side you've got has a person been has a person committied an indictable offence whilst on bail for an indictable offence? Yes. Exceptional Circumstances is the test which is the highest test that we can that the bail system can impose. And then there's another arrow that says Has your person commit a schedule one offence? And if you look at schedule one offences, terrorism, murder, treason. So we we've juxtaposed petty crime with the worst of the offences, and these are all alleged offending, mind you. It just it's nonsensical and it doesn't make sense. You know, it's had a disproportionate impact on women. So one may be able to criticise it and say this was intended as well in its impact and disproportionate impact on Aboriginal women in particular. And what happens when you start to overfill prisons with people who are doing short, sharp sentences, the system implodes, they can't deal with it. And what happens is we then we see Veronica's case and cover ups, so it just doesn't make sense. We needed this strong finding in order for us to be able to say we've gone too far. Coroner MacGregor delivered one of the most remarkable findings. There wasn't a single dry eye in that courtroom. Everyone wept. Coroner MacGregor, His honour himself, cried on three occasions at the end of that delivery. A courtroom gallery full of Aboriginal community members stood up and gave him a standing ovation. And I've never in my life seen it. And I think will I ever see it happening again. Now it's time because it's one thing to get recommendations. It's another thing to implement those recommendations or have those recommendations implemented. And part of the reason for why

I'm doing this today is because I want to speak out about this. Veronica's life could very easily be saved. The government had a blueprint on how to respond to Aboriginal deaths in custody 32 years ago, and still we're having these as these circumstances.

Voice Over [00:47:40] William and Lonsdale is brought to you by greens list, one of the leading multidisciplinary barristers lists in Australia. Green's list believe in promoting conversation around the ideas and issues that shape not only our legal system but our wider community.

Michael Green [00:47:57] Oh, you said you sat through the terrible coronial hearing into the deaths in Bourke Street when the mangoes illustrated his car and killed people. You sat through the terrible experience of listening to the evidence surrounding Veronica Nelson's death. How do you, as an individual, as a human being, not a lawyer, working in these situations? Highly traumatic. How do you keep balanced? How do you keep positive? How do you not become depressed yourself? Because you've got responsibilities to a family as well as to your client. And maybe your first responsibility is to their family. How do you balance that out?

Ali Besiroglu [00:48:34] That's a very good question. I think I'll start by saying this. I think as a child, I had to grow up very quickly because of the environment that I was in and was exposed to a lot growing up. You know, persevering through those times and to get through what I wear is a badge of honour. And in dealing with my in the cases that I deal with, I feel like I'm able to do so because from a very young life I was able to deal with all these different horrible circumstances. However, I think there's a couple of things that I try and do, so that is I may often have late nights at work, but I don't take work home. I want my children, you know, to know that when Daddy's home, daddy's home, you know that they have my unreserved attention. It's it's interesting because at times you would think there are I see lawyers. You know, I sometimes put up a brick wall to guard themselves against the trauma. That's the vicarious trauma that comes with this work. And I think that, you know, there's two ways of lawyering, which is put the wall up, try to be as objective as you can, not take on that emotion. You know, I think a lot of people might decide to do that, and that's fine, but that's not me. Empathy is my number one driving motivation. I can't help but connect to auntie. I don't see cases as cases. I see them as people. I've got, you know, a loving family who's able to get me to switch off. So we generally don't talk law at home. And it has been tough at times. Absolutely been tough at times. I'm in a gym probably six days a week to try, you know, jump on the treadmill for an hour and, you know, stop thinking about cases. And I try and keep a balance in that regard. Had I not had the experience growing up, I think it would have been probably a lot harder for me. And I have to sort of check myself in that regard, too, because I have to say, you know, the employees that I work with, I need to remind myself that they might not be able to deal with the emotional burden that's coming with these cases. But, you know, working at Vowles Robinson Gill we talk, as I do in the bar, you swap war stories and you become a family with a common goal. You know, Jeremy King is a fantastic manager that I had. We get to discuss different areas of our cases often, sometimes too much is that you're coming into my office and speaking generally, but that's how we sort of get through the trauma of it. We discuss it amongst us.

Michael Green [00:51:10] You're a young man, Ali. 38, I think.

Ali Besiroglu [00:51:13] Yeah, 39, actually.

Michael Green [00:51:14] 39. I say, okay, well, you're getting close to that magic of 40, but you've done a lot. I mean, in a professional life, you've done a lot, you've done big cases and a great deal of pressure. Do you see yourself continuing on the same path, doing this, this sort of work, these sort of cases? Have you got a plan for the future or just focus on today and let the future take care of itself?

Ali Besiroglu [00:51:37] I think I'm on a path and the trajectory is right. I don't know where I'm going to end up, you know, down the track. And I think, you know, living now in the moment and doing what we're doing, I do have the goal of continue to build the practice that I have and love the work that we do. You know, getting up in the morning is quite easy when you're doing this work. If you have the passion for the work, you know, everything else will just follow. Towards, you know, further down the track. I want to make sure that, you know, that I acknowledge the community that I grew up in, give back to the community that I grew up in, because I think it's an

important story for them to know and hopefully an empowering one for them that, you know, you can be taken on this journey and go wherever you like in life.

Michael Green [00:52:23] And thinking about giving back to the community, particularly the Turkish community that you grew up in. I'm trying to think, have we had a Turkish judge or Magistrate?

Ali Besiroglu [00:52:33] No, they are not that often. It's not that I know.

Michael Green [00:52:35] I couldn't think of off the top of my head either, said maybe.

Ali Besiroglu [00:52:38] One. But I should say this, that there are a lot of Turkish students that are coming through it, which is incredible to say.

Michael Green [00:52:45] One of the obvious and strong themes that's come through your story and has come through every story we have heard in these podcasts is the role of good mentors. It comes up all the time in everybody's story, and you've mentioned the wonderful mentors. You've had maybe an obligation on you, Ali, to repay that that you've received by giving the gifts yourself.

Ali Besiroglu [00:53:10] Yet, look, it's a duty on all of us, I think, to to make sure that we're providing guidance. I have I've been very blessed. And I don't understand how it's happened that a lot of people have reached out and assisted me through this path. And it's a duty that I now have to be able to pass down as well.

Michael Green [00:53:27] Ali, you've given us a lot to think about and a lot of important things to think about. Thank you very much for coming in this morning and giving us your time and telling us about your life in the law.

Ali Besiroglu [00:53:37] Thanks for having me, Michael. It's been a pleasure.

Voice Over [00:53:46] Show notes from today's episode can be found at Greenslist.com.au/podcast/AEW-forward-slash-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, write 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 The Wurundjeri 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.