

The law that was missing

A law reform case study



NACLC CONFERENCE 2011
HOBART

 loddon campaspe
community legal centre



Da Still hope fo

BY NH
15 Feb.
THE pa

WHITNEY HARRIS
25 Feb. 2010 10:13 AM
TOMORROW will mark four wee

David a

The 28-year-old was last seen in B

Daniel B

Two days later, the red Mazda 3 he
Bendigo

He asks

Broken I
Westpac

His mobile phone, which had a flat

His famil

Police believe the 28-year-old is m
off after a week.

Broken B

His mobil

Police have since conceded they ha

"We recei

However, Detective Inspector Mack

"We have

He said police were still making inq

"Daniel d

"There are still local property owner

"I doubt B

Mr Rosew

"We will continue to monitor things

"Disappea

Detective Inspector Stoltenberg said

"We are ha

"We've had some cool weather and

"It is a mys

Detective Inspector Stoltenberg said

The family

Mr Rosewall is 178cm tall, of media

"Daniel is a

featuring a Sox motif. Anyone with

"We would

They have asked anyone who has information about Dani
1800 333 000

Mystery surrounds

February 1, 2010 - 6:51AM

Police will describe this morning what
for a 28-year-old Victorian man who
NSW.

Police admit the mysterious disappea
Rosewall - whose red Mazda 3 was f
dirt road about 50km north of Silverc
Friday morning - has left them with

Mr Rosewall, from Bendigo, was last
seen in business-style shoes - despite the heat.

The local terrain is described as treac
remoteness and the number of open u

Mr Rosewall's car was out of fuel wh
appeared he was ill-equipped for a sp

"We don't really know what he was d

"Sometimes people do go for walks a
the case here.

"We understand he was wearing bush
in this terrain; you wear very sturdy b

The Palair police helicopter and a fix
ground units since Friday.

Yesterday the hunt centred on an area

A police spokeswoman said officers v

"They will re-evaluate the informatio

Anyone who has seen Mr Rosewall is

He is of caucasian complexion, and is

He was last seen wearing a grey-coll
"Sox" motif.

AAP

This story was found at: <http://www.theage.com.au/nation>

<http://www.theage.com.au/nation>

MISSING

October 2010



Warren MEYER
Last seen: Yarra Ranges Nat Park, VIC
Missing since: March 2008



Daniel ROSEWALL
Last seen: North of Silverton, NSW
Missing since: January 2010



Gunther PALATIN
Last seen: Lidcombe, NSW
Missing since: September 2009



Glen STEWART
Last seen: Henley Beach, SA
Missing since: February 1977



Karsten WETZAL
Last seen: Newnham, TAS
Missing since: June 2010



Randolph LITTLE
Last seen: Girrawheen, WA
Missing since: July 2008



Lynette NOTT
Last seen: Korumburra, VIC
Missing since: December 2009



Benjamin WELLS
Last seen: Canberra, ACT
Missing since: September 2004



Michael ISLES
Last seen: Ayr, NTH QLD
Missing since: September 2009



Melissa BROWN
Last seen: Adelaide, SA
Missing since: May 2000



Robert NEVILLE
Last seen: Wollongong, NSW
Missing since: September 2008



Michael DEVITT
Last seen: Cannonvale, QLD
Missing since: February 2010



Steven LOCKEY
Last seen: Elizabeth Field, SA
Missing since: August 1994



Jon BUCHECKER
Last seen: Slacks Creek, QLD
Missing since: May 2010



Thawatchai (Bon) JARONNET-LEWIS
Last seen: Laeman, WA
Missing since: June 2010



Hildegard FALKENBERG
Last seen: Talga, QLD
Missing since: September 2010



If you have information regarding the whereabouts
of a missing person, please contact the
National Missing Persons Coordination Centre.

1800 000 634
missingpersons.gov.au

Australia Post Privacy Statement



- Australia Post will use your personal information for a purpose only for which it is relevant. This means we will use your personal information only for the particular purpose that you provided it, or for a directly related purpose.
- Sometimes, we may also use your personal information for a related purpose where that other use is:
 - required or permitted by law; or
 - with your express or implied consent.
- We have a strict duty to keep confidential and private all personal information we hold about you. However, certain exceptions to this duty apply. For example, where disclosure of your personal information is:
 - authorised or required by law
 - in the public interest e.g., where a crime, fraud or misdemeanour is committed or suspected, and disclosure against the customer's rights to confidentiality is justified;
 - with your consent. Your consent may be implied or express and it may also be verbal or written.



“Everywhere we turned, we were faced with the same response, we were not legally entitled to act on his behalf”

David Rosewall

The legislative amendments

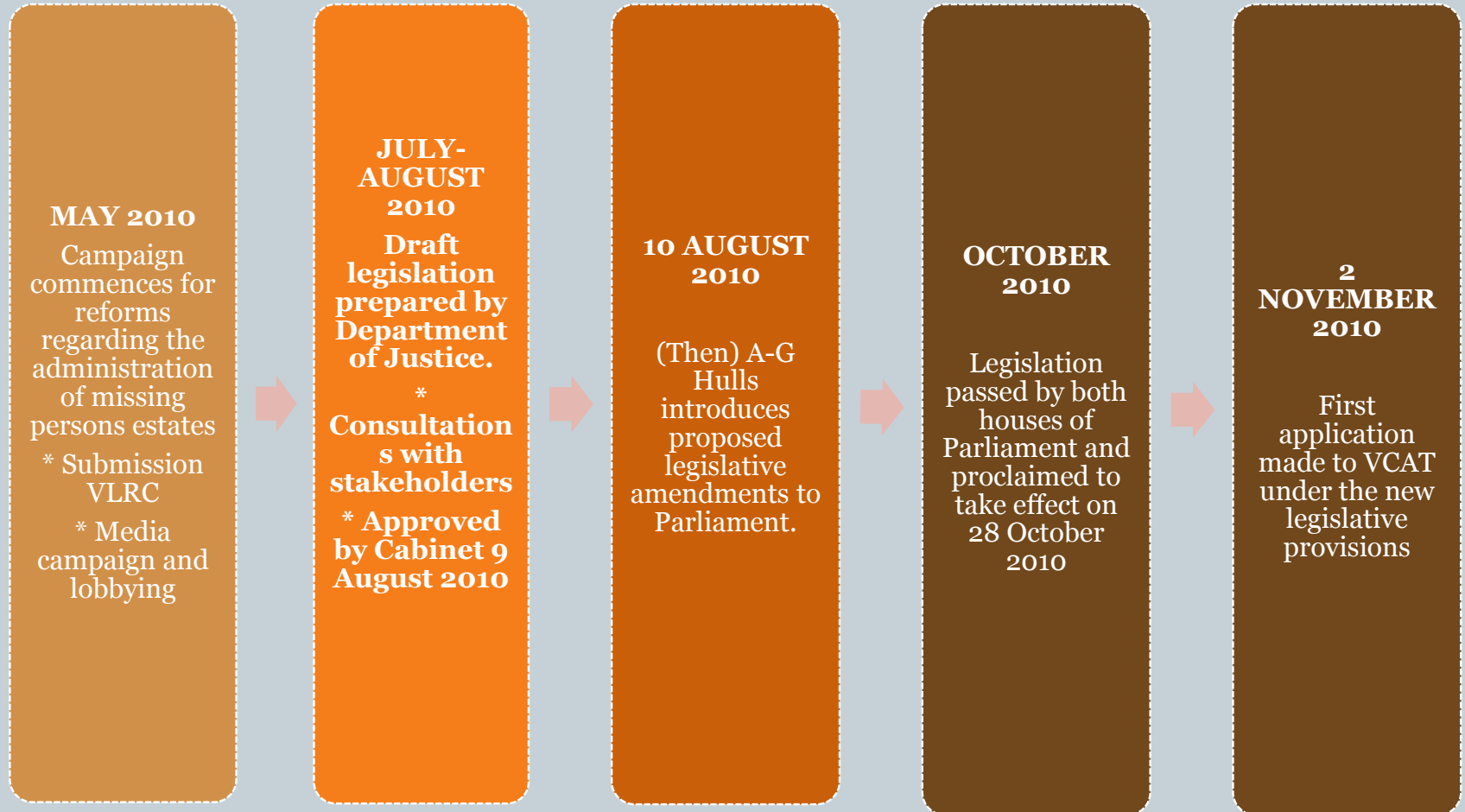


Amendments were made to the *Guardianship and Administration Act 1986 (Vic)*, contained in the *Justice Further Legislation Amendment Act 2010 (Vic)*.

*New legislation inserted a new Part 5A into the **Guardianship and Administration Act 1986**. The new Part will allow the Victorian Civil and Administrative Tribunal (VCAT), upon application, to appoint an administrator to manage the estate of a missing person, where there is a need for decisions in relation to the person's financial matters or property and the appointment is in the best interests of the missing person.*

Explanatory Memorandum to the **Justice Further Legislation Amendment Bill 2010, Clause 29.**

Timeline of reform



The law was changed – isn't that enough?



‘What was especially disappointing was that there was initially (and this continued for several years afterwards) no committed interest in preparing materials that would be helpful to families wanting to make use of the Act nor in promoting its possibilities to people who could make good use of it’

Lindsay Flint,
father of missing person from NSW, on the NSW law reforms

Positive media



‘This is the legal system working at its best to correct an anomaly within the system and to better protect and serve the people of Victoria. Our legal system has been enriched by the scrutiny and questioning this case has prompted, and while the victory is no substitute for a family still looking for a loved one, and for answers, it should at least ease some of their pain and burden.’

Editorial, Bendigo Advertiser

13 November 2010

Changes to the Victoria Police Manual

- Keep the person who notified police of the missing person informed of police procedures and investigation processes.
- Contact the Media Unit for advice and notify Intelligence Liaison Unit - Missing Persons regarding media releases relating to missing persons.
- Ensure that the Missing Person Information Brochure is made available to families and friends of the missing person.
- Be aware that interested parties can now apply to the Victorian Civil and Administrative Tribunal to administer the financial affairs of a missing person, under Part 5A of the *Guardianship and Administration Act 1986*, subject to the following conditions:
 - it is unknown if the missing person is alive
 - reasonable efforts have been made to find them and
 - they have not contacted anyone whom they would be likely to contact for at least 90 days.

2.2 Work Unit Manager responsibilities

Ensure that:

- a member is assigned to investigate a missing person report within the initial 24 hour period
- a supervisor is assigned to:
 - check all Active missing person reports, at intervals of 3, 7, 14, 30 and 60 days
 - check with any facility that has reported a person missing that the person remains missing and whether any arrest power remains current.

Some tips for reform work



- Check for any relevant reviews or broader reform campaigns being conducted
- Ensure clients affected by the issue are willing to advocate for reform personally or at least in a de-identified manner.
- Be fearless in contacting old connections
- Be fearless in contacting politicians and their advisors
- Make use of specialist advice (in CLCs or private profession)
- Establish contacts in relevant media sources and keep them informed along the way.
- Think about how legislation should read – you may be asked to draft it.
- When you make a submission or a case for reform, seek the endorsement of reputable relevant authorities.