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Lawyer X's conduct unethical and clear breach of rules

The Law Council of Australia has expressed deep concern about disclosures legal counsel acted as a police informer.

Law Council of Australia President, Morry Bailes, said the disclosures reveal a clear breach of legal professional rules and reinforced the need for properly resourced oversight bodies to supervise the activities of law enforcement.

"A lawyer purporting to act as counsel for the convicted person, while also covertly informing against them, is a fundamental breach of a lawyer's duties to the court," Mr Bailes said.

"As a result, and as noted by the High Court, the prosecution of each convicted person was corrupted in a manner which debased fundamental premises of the criminal justice system.

"Client legal privilege is a fundamental protection and pillar of the Australian legal system. It ensures full and frank discussions between legal advisers and their clients. This promotes the administration of justice and encourages compliance with the law. It must not be abrogated in any circumstance.

"Incursions against privilege have a deleterious impact on the lawyer-client relationship, by impairing the trust and confidence a client would otherwise have. A client should know their legal adviser will not be forced to disclose the information they provide. This confidence is necessary for them to develop a full understanding of their rights and responsibilities under Australia's complex and ever-changing system of laws.

"The rationale for legal professional privilege is to enhance the administration of justice and the proper conduct of litigation by promoting free disclosure between clients and lawyers. It also enables lawyers to give proper advice and representation to their client.

"The High Court case also highlights the need for strong and properly resourced oversight bodies to supervise the activities of law enforcement. Police also need to be educated to ensure they do not seek to interfere with legal professional privilege," Mr Bailes said.

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