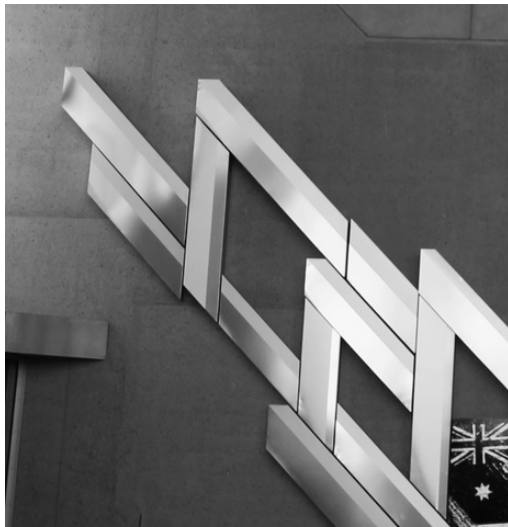




**NJCA**  
Summer  
Newsletter

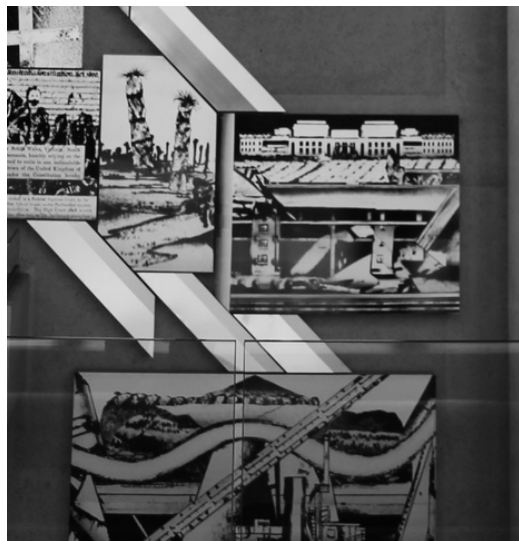


## INSIDE

- New Programs
- National Curriculum announcement
- Online Training



Above:  
NJCA's 20 Year  
Celebrations, hosted  
by the Governor-  
General and  
Mrs Hurley  
8 December 2022



# New Year, Big Plans



I am delighted to welcome you to our new-look newsletter for Summer 2023. Our 20th anniversary celebration features prominently in this edition. It was a wonderful evening and a chance to catch up with a number of NJCA's life members, those from Council and PAC past and present, program planning committee chairs and friends of the College. The cocktail reception at Government House was memorable, especially the Governor-General's comments on the importance of the NJCA within the Australian judicial education landscape. At the Gala Dinner that followed, held in the architecturally striking Margaret Whitlam Pavilion (see above), we were welcomed by our Chair, Chief Justice Chris Kourakis, with a keynote address delivered by Justice Stephen Gageler. Thank you to all who shared this milestone with us.

Now though it's back to business. Here's a brief cherry-pick of highlights for the coming year:

- After a few year's absence due to Covid, the annual joint conference with the ANU returns later this month. It's wonderful to see that the *Therapeutic Jurisprudence Conference* has sold out. Many judicial training organisations around the world are affiliated with a university - and for good reason. I thank the ANU for its generosity and continuing to foster our confluence of interests.
- There's new online training on our website for all judicial officers on the nature, drivers and impacts of workplace sexual harassment, which has been created especially by the AHRC.
- New programs: the inaugural *Children in the Court* program will be held later this month in Hobart and *We, the Gatekeepers*, in August in Sydney.
- Plus there's a new judgment writing pathway for judicial officers; we are developing a National Curriculum as recommended by the ALRC Report on judicial impartiality 'Without Fear or Favour'; and details of forthcoming programs, all set out in this newsletter.

As you can see there is much to do but our focus remains the same: to ensure judicial education continues to be comprehensive, consistent, systematic, and of the highest quality.

Wishing you all a happy and safe summer.

CEO, NJCA



# The NJCA turns 20

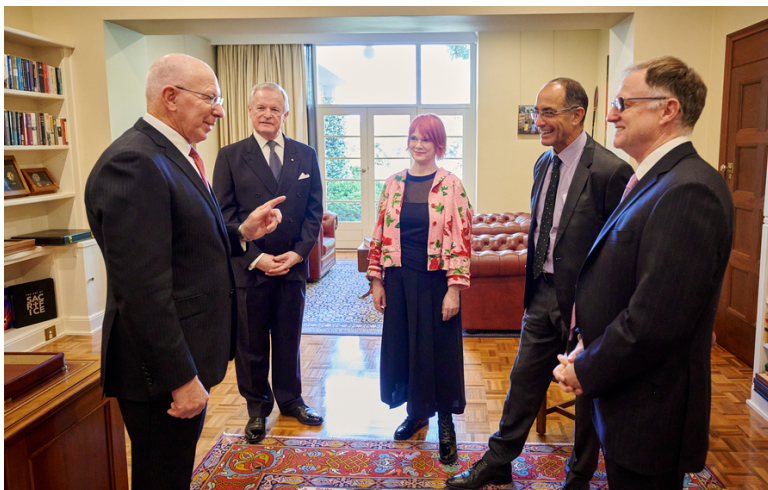


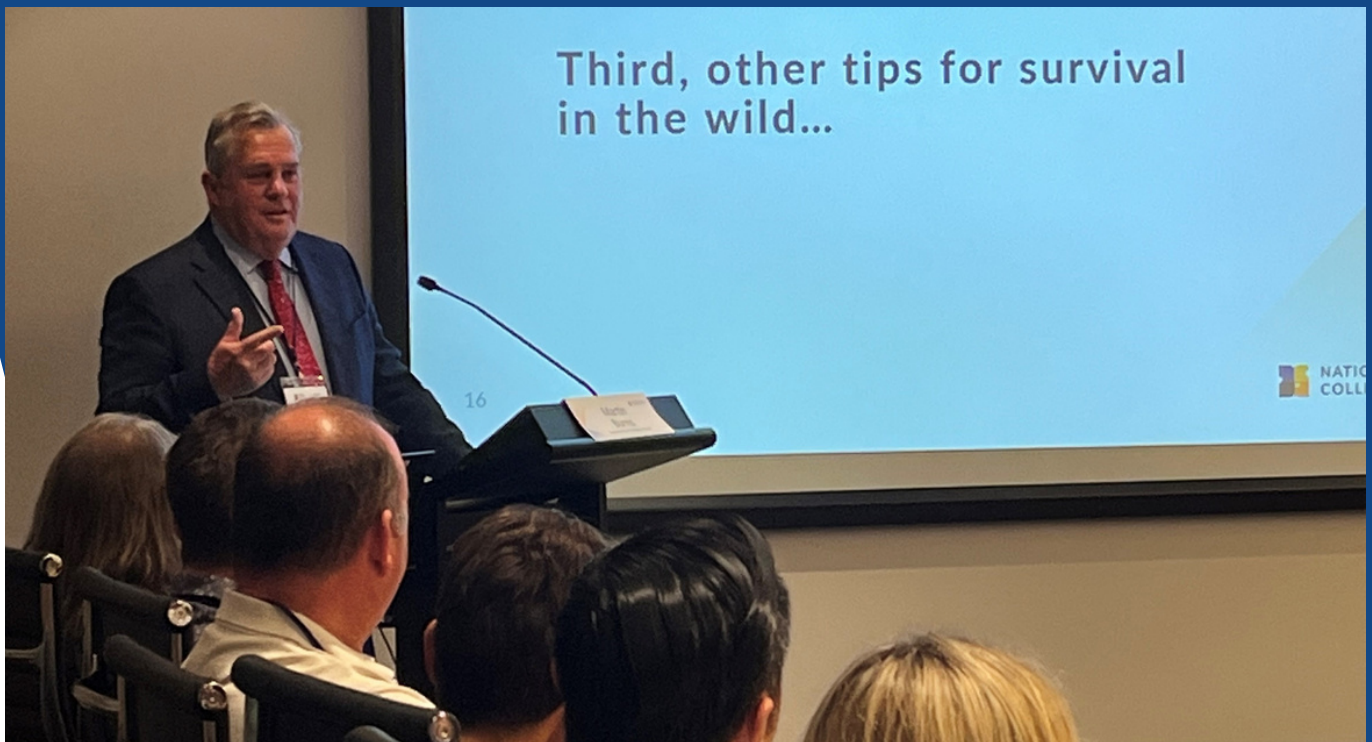
*"Discerning a sense of vocation, of personal meaning and social purpose, happens over time and requires intentional and ongoing personal reflection, as well as institutional support. That is the role into which the NJCA has grown admirably over the twenty years of its existence. The cultural change that has been occurring for the better over the period of its existence could not have occurred without the contribution of current and former members of the judiciary, many of whom I am pleased to see here tonight. Judges and magistrates lead the NJCA judicial education programs for good reason: we extend our knowledge; we learn from one another; we share our experiences, our application of court-craft, our moments of reflection and our own individual quest for judicial excellence."*

- Justice Stephen Gageler, in his keynote address

*Tonight, we acknowledge that judicial education and training in Australia at the national level over the past 20 years has been transformed, transformed by those of you in this very room and many judicial officers with whom you have collaborated. Together, we celebrate that the judicial education landscape through the creation of the NJCA alone, has undeniable helped to foster the sense of an Australian judiciary.*

-Chief Justice Chris Kourakis, NJCA Chair  
Welcome address





# We, the Gatekeepers: Justice Martin Burns

Interview by NJCA Education Director, Karen Gregory

**Karen:** Thank you for agreeing to this interview Justice Burns. You are the Chair of a new NJCA Program - *We, the Gatekeepers*. **What's this new program about?**

**Justice Burns:** It is all about what a trial judge can and should do to stand in the way of flawed or otherwise unreliable expert evidence being placed before the jury, regardless of the way in which the case is conducted by the parties. The miscarriages of justice that can result when testimony of that kind is made available to the jury, especially when packaged up and delivered as "forensic science", are well-known. The question for us is whether we, as trial judges, should be doing something about such a serious problem.

**Karen: Isn't the validity or reliability of expert evidence something for the parties to fight about?**

**Justice Burns:** Yes, there can be no doubt about that, but equally there can be no doubt that the defence is unlikely to be resourced to properly evaluate the proposed evidence. So, in many cases, the evidence goes unchallenged. It might look the part, but that is all. The fact of the matter is that the reliability of much of what is passed up as forensic science has not been proven and, for that reason, it will always require careful evaluation, but that is not happening or, at least, not happening enough.

**Karen: How might this program help?**

**Justice Burns:** By making a start. I hope that it will lead to a deeper understanding of the problem and equip those attending with some effective ways to tackle it. I think we have all had the experience when sitting in court of hearing for the first time that some scarcely-known species of expert evidence will be led or, even worse, has been agreed to by the parties. This program will help replace that immediate feeling of unease with some workable steps designed to ensure that it is not placed before the jury before you are satisfied that it is reliable.

**Karen: What should I tell my presiding Head of Jurisdiction so that my attendance will be approved?**

**Justice Burns:** Combine "miscarriage" and "justice" in your opening line.

# Sexual Harassment Training Materials for Judicial Officers

**SEXUAL  
HARASSMENT.**  
**KNOW WHERE  
THE LINE IS.**



Ms Kate Jenkins, Sex Discrimination Commissioner

The NJCA is pleased to announce new training and education materials for judicial officers on the nature, drivers and impacts of workplace sexual harassment will be made available shortly on the NJCA's website [njca.com.au](http://njca.com.au)

These materials have been developed by the Australian Human Rights Commission in response to Recommendation 40 of the Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces (2020) (the **Report**). The Report emphasised the judiciary's integral role in ensuring that persons harassed are appropriately supported and have access to appropriate legal remedies and are not re-traumatised by engaging in judicial processes.

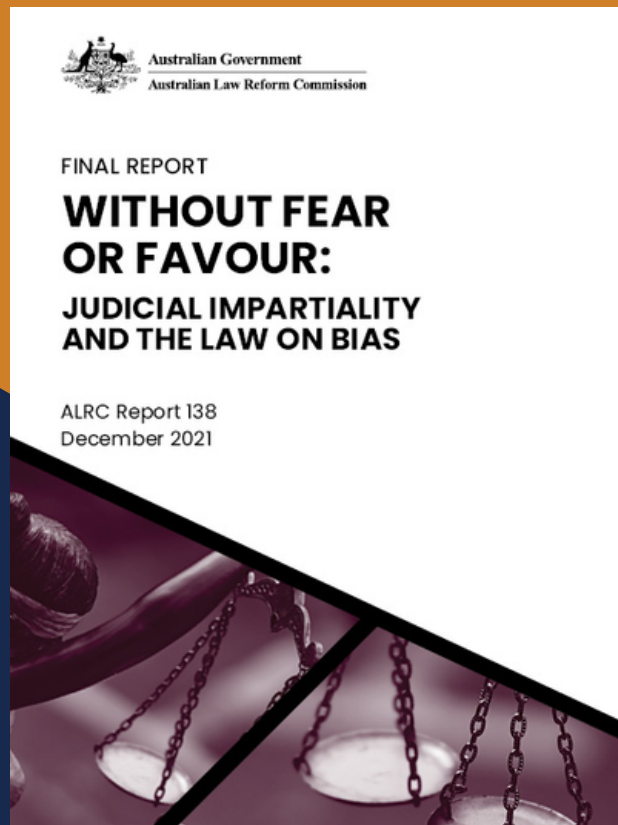
In response, the recommendation encourages judicial officers to undertake training and education to enhance their understanding of best practice regarding the adoption of sensitive, trauma-informed and gender-responsive approaches to handling matters involving sexual harassment, as well as in relation to sexual harassment within their workplace. The materials have been developed in collaboration with experts and are informed by the Australian Human Rights Commission's work in sexual harassment and gender equality led by the Sex Discrimination Commissioner, Ms Kate Jenkins.

The NJCA, as the national leader in the delivery of judicial education to all jurisdictions, has agreed to provide a central location for judicial officers to access this package of materials. The resources include a series of factsheets, case studies, resources for face-to-face training and an e-learning course. The NJCA encourages all judicial officers to undertake this important training.

If you require any further information about these resources or how to access them through the NJCA portal, please don't hesitate to contact us.



# Curriculum for an Australian Judiciary



The recent ALRC Report recommendations noted that: *“there is currently no publicly available curriculum or professional development pathway for Commonwealth judges. This means that, although a significant number of judicial education courses may be available, covering issues important for supporting judicial impartiality, there is no clear or transparent expectation that judges will attend those courses specifically throughout their judicial career.”*[Without Fear or Favour,[12.65]

The NJCA as the national leader in judicial education and training is committed to meeting the need for a coherent and high quality system of judicial education and training in Australia through the development and delivery of a dynamic national curriculum (the **National Curriculum**). The National Curriculum will be a living framework, designed to allow for adjustments to new developments, changing demands, actions and will be referenced based on the contribution of judicial education stakeholders committed to its implementation. Importantly, the National Curriculum will also provide a benchmark for the implementation, monitoring and the evaluation of judicial education and training into the future.

Once approved by our Council, further details about the National Curriculum will be available shortly on the NJCA website.

# Thank you to our PAC & Council Members for their transformative leadership



**L-R: Council Members:** Ms Kate Latimer, Mr Richard Glenn, Chief Magistrate Geason, Chief Magistrate Mary-Louise Hribal, Chief Justice Christopher Kourakis, Mr David Mackie, Chief Judge Peter Kidd (Justice Murray Aldridge, Ms Tamsyn Harvey, Justice Martin Burns, Justice Katrina Banks-Smith, Judge Laurence Levy (not pictured))



**L-R: Program Advisory Council Members:** Justice Julie Ward, Professor Heather Roberts, Magistrate Andree Horrigan, Judge Liz Boyle, Magistrate Alison Adair, Acting Justice Monika Schmidt, Justice Glenn Martin, Chief Justice Christopher Kourakis, Ms Kate Latimer, Justice Brigitte Markovic, Justice James Stevenson (Judge Martine Marich, Professor Anthony Connolly, Acting Judge Ann Ainslie Wallace (not pictured))



# PATHWAY TO EXCELLENCE IN JUDGMENT WRITING



	Writing Better Judgments I	Writing Better Judgments II	Writing Better Judgments III	Appellate Judgment Writing
RATIONALE PROGRAM	A judicial officer-centric program to enrich participants' ability to write issues based, well structured judgments in a timely fashion	A small group, individualised feedback driven judgment writing program to promote and enhance the production of judgment writing excellence	An immersive writing program designed to bring greater context to judicial reasoning and the production of strong and effective judicial writing	An intensive program to develop specialist judgment writing skills for judges who hear and determine appeals
WHAT WILL I LEARN?	Identify and practice the skills to achieve clear, concise, comprehensive, coherent and convincing judgment writing	Develop high level skills in writing a convincing narrative, ensuring readability and navigating sensitivities in judgment writing	Master judgment writing for multiple parties, including the media, editing of judgments involving sensitivity, privacy and highly contentious issues	Collaborate in a small group dynamic, the intricacies of collaborative decision making, opinion writing and judgment management
RECOMMENDED EXPERIENCE	0 to 3 Years  Prerequisite: None	3 to 5 Years  Prerequisite: Recommended for those who have attended WBJ I	> 5 years  Prerequisite: Recommended for those who have attended WBJ I & WBJ II	Members of appellate court
Judges Magistrates Tribunal Members				

# Forthcoming Programs



## **Oral Decisions: 29 – 30 June 2023, Sydney**

This program contains both the theoretical underpinnings associated with decision making as well a larger, practical component in which participants practise delivering oral decisions. The program is designed to be highly interactive whereby experienced judicial officers and facilitators give individualised feedback designed to directly enhance participant skills.

At the heart of this program is the opportunity to engage in experiential learning. The program will significantly assist judicial officers in determining when it is appropriate to deliver oral decisions, prepare for and deliver oral decisions, use and apply a structured approach for oral decisions, and practice the efficient use of hearing or trial time.



## **Writing Better Judgments II: 20 – 21 July 2023, Sydney**

*Writing Better Judgments II* program is open to participants who have previously attended a *Writing Better Judgments I* (WBJ I) program.

The two-day program is specifically designed to further develop participants' skills in writing judgments. Like WBJ I, the program is highly interactive where judicial officers rework one of their one judgments under the guidance of experienced judges and authors. This program fills quickly, places are limited so early registration is recommended.



## **Jury Management: 27 - 28 July 2023, Canberra**

*Jury Management* is an in person judicial education and training program aimed at jury trial judges with fewer than five years' experience on the bench.

One of the primary learning outcomes of this program is for judicial officers to look at the many practical issues connected with managing a jury so as to enhance their courtcraft skills.

Sessions include the juror's journey, managing the jury room, achieving excellence in jury directions, the jury trial from Hell, and better oral communications with the jury. Places are limited for this one, so register early!



# Forthcoming Programs



## **We, The Gatekeepers: 10-11 August 2023, Sydney**

The NJCA is pleased to announce its new two-day program, *We, the Gatekeepers*. It will make its debut in Sydney in August.

Background: In recent decades, the treatment of expert evidence, particularly in criminal trials, has attracted unprecedented attention.

Much of the attention, especially from scientists, has been critical of the way lawyers and courts use (and misuse) forensic science and medicine evidence. This intensive program is designed to raise the awareness of judicial officers to modern scientific perspectives bearing on the admission, use, and evaluation of expert evidence. Why are factors such as validity, reliability, demonstrable ability, error, cognitive bias, limitations and uncertainties, fundamental to understanding and evaluating opinions in adversarial proceedings?

Participants will engage in case studies and a series of short presentations oriented toward issues raised by the case studies. The gradual exposure to scientific research and recommendations provide benchmarks that will help them recognise potential misunderstandings and misuses of evidence, as well as serious threats to the fairness of proceedings. The use of case studies will reinforce the kinds of information that are required to enable judges to more readily recognise “junk science” for what it is and make informed admissibility rulings.



## **Writing Better Judgments I: 11 – 13 October 2023, Sydney**

The popular *Writing Better Judgments I* program is designed to enhance participants’ judgment writing skills through analysis, discussion and rewriting of judgments in small groups.

This program provides judicial officers with practical tools and tips; a high level of interactivity including group workshops; and individual feedback.

Topics include preparation and planning for judgments; issue identification and resolution; writing judgments that are clear, comprehensive, concise, coherent and convincing; and managing procrastination and competing priorities.

