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ARTICLES

In defence of "take-down" orders: Analysing the alleged futility of the court-ordered removal of archived online prejudicial publicity – *Isaac Frawley Buckley*

This article considers orders, known as "take-down" orders, that are made by courts directing media organisations to remove online news articles which, as a result of intervening circumstances between the time of their initial publication and a criminal trial, pose a real and substantial risk to the administration of justice in that trial. Critics of these orders have argued against the making of the orders on the basis that, as it is impossible for courts to "hold back the tide of publications" completely, it is futile to make any attempt at all to diminish the risk of juror contamination. This article seeks to dispel this criticism and endorses the view taken by trial judges that they ought to "do all they can" to ensure a fair trial in criminal proceedings. 203

Hearing-med in Australian super-tribunals: Which cases and what process? – *Cady Simpson*

Australian super-tribunals use alternative dispute resolution (ADR) processes to contribute to the achievement of their aims, including: fairness, justice, economy, informality and speed. In 2012, the Queensland Civil and Administrative Tribunal (QCAT) introduced a novel ADR process called the "hybrid hearing", which is essentially a hearing (the proposed decision is kept secret), followed by a mediation ("hearing-med"). This article contributes to discussion as to what cases are suitable for hearing-med and offers suggestions as to possible improvements to the hearing-med process. Hearing-med is contrasted with established tribunal ADR processes and general considerations for the use of hearing-med are examined. The suitability of hearing-med for one-issue cases, animal management cases, and cases involving parties remote from the tribunal, is considered; and it is suggested that hearing-med may be useful in building dispute cases, guardianship matters, residential parks cases and unit titles applications. It is concluded, on balance, that private sessions may not be appropriate in hearing-med and that tribunals may wish to consider excluding legal representatives from the mediation component of hearing-med. 220

Population, crime and courts: Demographic projections of the future workload of the New South Wales Magistracy – *Brian Opeskin* and *Nick Parr*

The New South Wales Local Court is the largest court in Australia. This study seeks to facilitate future planning for the court by making demographic projections of the criminal workload of the court over the next 25 years (criminal matters account for 95% of its new lodgments). The study applies criminal conviction rates by age, sex and locality to population projections for the State to produce projections of the number of criminal convictions for the State and its geospatial subdivisions. These statistics are used to derive the demand for magistrates and a comparison is then made of the supply of magistrates under different scenarios. The principal finding is that, due to demographic change alone, the number of criminal convictions is projected to increase by 16% by 2036, with nearly all the increase occurring in Sydney, especially in the city's west and south-west. On the

assumption of constant criminal conviction rates and constant judicial productivity, the demand for magistrates is also projected to rise by 16%, to 158 magistrates by 2036. If recruitment of magistrates were to take place only to maintain current staffing levels, there would be a shortfall of 22 magistrates over the projection period. Thus, if the Local Court is to have sufficient judicial resources to meet the projected demand for its services, government will need to be attentive to the potential for a growing gap between demand and supply in the years ahead. 233

Collaborative problem solving in a community court setting – *Jay Jordens* and *Elizabeth Richardson*

The Neighbourhood Justice Centre in Collingwood, Victoria, housing Australia's first community court, has used its legislative mandate to develop a number of innovative programs. This article describes one such innovation, the Problem Solving Process, that has conceptual underpinnings in therapeutic jurisprudence, restorative justice and procedural justice, but also draws on group-work processes and social support theory. It specifically assists accused persons in criminal cases who have complex presentations and offers them the opportunity to participate in a facilitated meeting that occurs outside the courtroom. Participation is voluntary and the outcomes are taken into consideration by the magistrate upon return of the matter to court. Outcomes are also used to inform deferred sentences and judicial monitoring reviews under community correction orders. It is an adaptable process that has many benefits to the offender, the court and the community. 253

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