

Advocacy Skills Workshop

CDDP – Melbourne – 17 & 18 August 2018



Please read the information below immediately and thoroughly as it is important to your preparation and contribution to learning at this workshop.

Dear Workshop Participant,

The AAI is pleased to be able to provide this advocacy workshop for you and we are sure that you will find this course helpful in improving your advocacy skills.

Workshop Program:

Part 1: Introductory Session – Friday 17 August, 2018

Time: 5.00pm to 7.00pm

Location: **Commonwealth Law Courts, 305 William Street, Melbourne**

This session will finish by 7.00pm.

Part 2: Advocacy Performance Skills Workshop – Saturday 4 August, 2018

Time: 9.00am to 5.15pm.

Location: **Commonwealth Law Courts, 305 William Street, Melbourne**

Workshop Format:

The following “**Timetable and Task Allocation**” details the format for this workshop. On page 3 you will find a table that allocates a GROUP and PARTICIPANT NUMBER for each participant.

On Saturday, Group Performance Sessions and Technique Sessions have been scheduled through the day. In the Group Sessions, you will break into smaller groups to individually **present your allocated advocacy tasks** before a Judge/Instructor in the same manner that you would present in court. You will find your allocated advocacy tasks set out within each session of the timetable.

Once you have finished each performance you will be given a review by the instructor. This review is designed to be positive, not critical. You will be given advice on ways that your individual performance can be improved using various advocacy skills, including a demonstration and explanation of the particular skills relevant to your performance.

The Workshop Case Studies:

Why are we using pleas and a case study?

We acknowledge that for some of you, the case studies we will use may not be of the type you generally deal with. We use these case studies deliberately as we believe them to be very good for the teaching of advocacy, demonstrating skills that can be applied in any jurisdiction. The advocacy skills you will learn will be of universal application – the same skills apply regardless of the type of case, the jurisdiction you appear in or the side you appear on. This has been proven in over two decades of advocacy instruction by the AAI.

We also acknowledge that some of you will have been allocated performance roles that ask you to act for the Defence rather than the Prosecution. This allows the workshop to reflect and present argument from both sides and demonstrates the universal nature of the advocacy skills being taught.

Please don't get bogged down in your preparation with any legal technicalities within the case studies. Don't research or bring statutes or precedents. Do not be distracted with "the law". Evidence is restricted to **only** that contained within each case study so you do not need to look outside the immediate information provided. The purpose of this workshop is to help you with how to structure a case, how to prepare, how to ask purposive relevant questions, how to argue, how to be persuasive in court. We will not be concerned with jurisdictional procedure.

Preparation before the workshop:

This is a performance-based workshop. **NO** preparation time is included during the actual workshop.

You are required to prepare each of your set tasks between now and the commencement of the workshop. Please **allow yourself time to prepare properly** – it is anticipated that you should allocate about 5 hours to this preparation.

Please also note that in the workshop group sessions, participants will be called upon to act as the witness when other participants are presenting their Cross Examination. A thorough knowledge and understanding of the facts of each case study will help both you and your colleagues get the most out of the workshop.

If you are not totally familiar with the requirements of any particular advocacy task, you may find it helpful to refer to the "Specific Advocacy Tasks" summary at the end of the Course Materials document.

You have also been provided with a pdf copy of the "AAI Advocacy Manual", which contains detailed chapters on each of the advocacy tasks you will be presenting. Unfortunately, copyright restrictions require this version to be 'read only' and cannot be printed. You are **not** required to bring a copy to the workshop, rather use this Manual in your preparation and for future reference.

Presenting your set tasks:

You will see in the timetable task allocations that a time limit has been set to present each task. Please prepare the whole of the task, even though the time allocation means you may not finish your presentation. Your review will be on that part of the task you present, not the parts you may not have reached.

At the close of the workshop the evaluation sheet provided with these materials will be collected. Please fill out this form before leaving as your (anonymous) comments help us structure future courses.

Dress is casual. Refreshments and lunch will be provided on Saturday.

Regards



Scott Wallace
General Manager, Australian Advocacy Institute.
Email: aai@advocacy.com.au



Advocacy Skills
CDPP, Melbourne, 17 & 18 August 2018

TIMETABLE
AND
TASK ALLOCATIONS

GROUP and PARTICIPANT NUMBER

This is your participant number and is used to determine which **TASKS** you will be performing in the timetable that follows.

	BLUE GROUP	GREEN GROUP	YELLOW GROUP
1	Adrian Hizo		Gabriel Perry
2	Pantelia Marinakis	Grace Devereaux	Jon Papalia
3	Rachael Wang	Rebecca Blaszczyk	Sheradyn Simmonds
4		Amelia McCormick	Natasa Stevic
5	Brenton Panzich	Hannah Grist	Dallas Mazoori
6	Joseph Lloyd	Alexander Von Triefeldt	Catherine Ferguson
7	Robert McCaw	Natalie Simpson	Hugh Kopsen
8	Menaka Vasudevan	Peter Botros	

FRIDAY 17 August 2018
At the Commonwealth Law Courts

SESSION 1 5.00 to 7.00pm (120 mins)	
General Session	<u>INTRODUCTION AND OVERVIEW</u>

SATURDAY 18 August 2018
At the Commonwealth Law Courts

SESSION 2 9.00 to 10.00am (60 mins)	
Group Session	<u>APPLICATIONS</u>
Performances in Group: 4 minutes per task	<u>Case Study 1: Porcine v Royal Bridgewater Golf Club - Application</u>
	TASK: Apply for an ex-parte injunction PARTICIPANT: 1
	TASK: Apply for an ex-parte injunction PARTICIPANT: 2
	TASK: Apply for an ex-parte injunction PARTICIPANT: 3
	TASK: Apply for an ex-parte injunction PARTICIPANT: 4
Review in Group: 3 mins per task	<u>Case Study 2: Philip Ball - Plea</u>
	TASK: Make submission on sentence for Ball PARTICIPANT: 5
	TASK: Make submission on sentence for the Crown PARTICIPANT: 6
	<u>Case Study 3: Peter Partridge – Bail Application</u>
	TASK: Make application for bail for Partridge PARTICIPANT: 7
	TASK: Oppose the application for the Crown PARTICIPANT: 8

MORNING TEA 10.00 to 10.15am (15 mins)

SESSION 3 10.15 to 11.30 am (75 mins)	
Group Session	<u>LEADING EVIDENCE AND CROSS EXAMINATION</u>
Performances in Group: 5 mins per task	<u>Case Study: DPP v Elmo Telfani</u>
	TASK: Lead Evidence from Von Naustraum PARTICIPANT: 1
	TASK: Cross Examine Von Naustraum PARTICIPANT: 2
	TASK: Lead Evidence from Carol Keane PARTICIPANT: 7
	TASK: Cross Examine Carol Keane PARTICIPANT: 4
Review in Group: 4 mins per task	TASK: Lead Evidence from Elmo Telfani PARTICIPANT: 6
	TASK: Cross Examine Elmo Telfani PARTICIPANT: 5
Video Reviews: 10 mins per task	TASK: Lead Evidence from Joy Jacob-Brown PARTICIPANT: 8
	TASK: Cross Examine Joy Jacob-Brown PARTICIPANT: 3
	<i>All participants must be completely familiar with all witness statements within this case study to enable them to act as witnesses.</i>

SESSION 4 11.30 am to 12.30 pm (60mins)	
General Session	<u>TECHNIQUES IN QUESTIONING WITNESSES</u>
	<u>CASE THEORY</u>
<i>LUNCH 12.30 to 1.00pm (30 mins)</i>	

SESSION 5		1:00 to 2:15pm (75 mins)	
Group Session	<u>LEADING EVIDENCE AND CROSS EXAMINATION</u>		
	<u>Case Study: DPP v Elmo Telfani</u>		
Performances in Group: 5 mins per task	TASK: Lead Evidence from	Von Naustraum	PARTICIPANT: 3
	TASK: Cross Examine	Von Naustraum	PARTICIPANT: 8
	TASK: Lead Evidence from	Carol Keane	PARTICIPANT: 5
Review in Group: 4 mins per task	TASK: Cross Examine	Carol Keane	PARTICIPANT: 6
	TASK: Lead Evidence from	Elmo Telfani	PARTICIPANT: 4
	TASK: Cross Examine	Elmo Telfani	PARTICIPANT: 7
Video Reviews: continue	TASK: Lead Evidence from	Joy Jacob-Brown	PARTICIPANT: 2
	TASK: Cross Examine	Joy Jacob-Brown	PARTICIPANT: 1
	<i>All participants must be completely familiar with all witness statements within this case study to enable them to act as witnesses.</i>		
SESSION 6		2:15 to 3:15pm (60 mins)	
General Session	<u>THE CLOSING ARGUMENT</u>		
	<u>COMMUNICATION IN THE COURTROOM</u>		
SESSION 7		3:15 to 4:25pm (70 mins)	
Group Session	<u>OPENING ADDRESS AND CLOSING ARGUMENT</u>		
	<u>Case Study: DPP v Elmo Telfani</u>		
Performances in Group: 4 mins per task	TASK: Present opening address for Prosecution		PARTICIPANT: 7
	TASK: Present opening address for Defence		PARTICIPANT: 6
	TASK: Present closing argument for Prosecution		PARTICIPANT: 5
Review in Group: 4 mins per task	TASK: Present closing argument for Defence		PARTICIPANT: 8
	TASK: Present opening address for Prosecution		PARTICIPANT: 3
	TASK: Present opening address for Defence		PARTICIPANT: 2
	TASK: Present closing argument for Prosecution		PARTICIPANT: 1
	TASK: Present closing argument for Defence		PARTICIPANT: 4
SESSION 8		4:25 to 5:00pm (35 mins)	
Group Session	<u>Repeat Performances</u>		
Performances in Group: 2 mins per task	Participants to repeat part of one of their earlier performances, first identifying the review point that they were given from that performance.		
Review in Group: 2 min per task	Order of Performances: Set by instructor.		
SESSION 9		5:00 to 5:15pm (15 mins)	
General Session	<u>DISCUSSION AND CLOSING SESSION</u>		
	Evaluation Sheet: Participants are requested to complete and return to instructors.		

TEACHING FACULTY – August 2018

MODERATOR:

Ian Robertson SC – Barrister, S.A. Bar

Professional:

- Bachelor of Laws, University of Adelaide, 1979
- Master of Laws, University of Adelaide, 1996
- Admitted as Barrister and Solicitor, 1986
- 1986-94 Solicitor, then Associate, then Partner, Piper Alderman, Adelaide.
- Admitted to Bar, 1994
- Appointed Senior Counsel, 2008.
- Board Member, Australian Advocacy Institute

Memberships and Teaching:

- 1990-91 Law Council of Law Society of S.A.
- 1990-95 Civil Litigation Committee of the Law Society of South Australia, November
- 1991 District Court Rules Committee as the representative of the Law Society of South Australia
- 1995-2001 Member, then Chair of Mock Trial Committee of the Law Society
- 1996-present Executive of SABA
- 1998-2004 Acting, then Honourary Secretary SABA
- 1998-2000 SABA nominee to Supreme Court Re-development Steering Committee,
- Member of the Professional Development Advisory Committee of the Law Society of S.A.
- 1999-2000 Ad hoc Rules Advisory Committee
- 2000-present Executive Member of the SABA Reader's Course Co-ordination Committee
- 2008-present Member of Advocacy Training Council of the Australian Bar Association
- 2016 Chair of Advocacy Training Council of the Australian Bar Association
- Senior Instructor, Australian Advocacy Institute

Lincoln Crowley – Barrister, Queensland Bar

Professional:

- 1998-2001 – Solicitor Advocate, ATSILS, Townsville, Brisbane and Sunshine Coast
- 2001-2003 – Senior Solicitor, NSW Crown Solicitor's Office, Sydney
- 2003-2005 – Barrister – NSW Bar, Sydney
- 2005-2007 – Crown Prosecutor, Commonwealth Director of Public Prosecutions
- 2007-2008 – Principal Crown Prosecutor, Queensland Office of the Director of Public Prosecutions
- 2008 to date – Barrister – NSW Bar, Qld Bar
- Senior Instructor with Australian Advocacy Institute throughout Australia.

Other:

- 2010 – Member of the Australian Law Reform Commission's Indigenous Advisory Committee
- 2003 – 2008 - Member of the NSW Bar Association's Indigenous Barristers' Working Party
- 2005 – 2007 – Member NSW Bar Assoc. Equal Opportunity Committee
- 2007 – Guest Speaker, 2nd National Indigenous Legal Conference, Brisbane
- 2006 – Chairperson, Inaugural National Indigenous Legal Conference, Brisbane
- 2003 – 2005 – NSW Department of Corrective Services' Serious Offender's Review Council

Craig Everson – Crown Prosecutor, NSW

- Barrister since 1996
- Crown Prosecutor, NSW since 2005
- Deputy Senior Crown Prosecutor (Sydney West) since 2014
- Judiciary Counsel, National Rugby League
- Past Member, NSW Bar Association Health and Wellbeing Committee
- Instructor/Facilitator, NSW ODPP Solicitor Advocacy Program
- Instructor, Australian Advocacy Institute

Diana Price – Barrister, Victorian Bar

An experienced advocate practicing in criminal law, inquests and inquiries and administrative law, Diana is admitted in New York, Victoria and the ACT. She has conducted trials on behalf of persons accused of fraud, burglary, robbery, assault, dangerous driving causing death/serious injury and various sexual offences. Often appears as counsel assisting before the Building Practitioners Board and the Victims of Crime Assistance Tribunal. Also appears in occupational health and safety matters, and represents parties to investigations by the Independent Broad-Based Anti-Corruption Commission and the Australian Securities and Investments Commission. She is the editor of the Lawyers Practice Manual chapter 'Social Security Prosecutions'. She appears in the Administrative Appeals Tribunal, the Victorian Civil and Administrative Tribunal and the Firearm Appeals Committee. She also regularly provides advice and appears in working with children check matters, guardianship, administration and freedom of information matters.

Diana is a trained Advocacy Instructor with the Australian Advocacy Institute and is an instructor with the Australian National University Graduate Diploma of Legal Practice. She regularly teaches, coaches and assesses students in the Victorian Bar Readers Course and at various law schools. Diana recently taught at the Legal Training Institute in Papua New Guinea with other members of the Victorian Bar.

Diana is a current Director of Australian Women Lawyers. She was the Convenor of the Women Barristers Association between November 2012 - February 2015 and remains on its committee.

Sharyn Hall – Barrister, NSW Bar

Professional:

- 1999 – Admitted to practice as solicitor, NSW
- Solicitor, Western Aboriginal Legal Service
- Solicitor, Legal Aid NSW
- 2007 – Admitted as barrister, NSW
- 2008 – Registered practitioner, High Court of Australia
- Area of practice – criminal law. Regularly appears in the Supreme Court to defend applications for continuing detention and extended supervision orders. Appeared at the Royal Commission into Institutional Responses to Child Sexual Abuse. Appearances in ICAC
- Advocacy Instructor, AAI and NSW Bar Practice Course

Slade Howell – Barrister, NSW Bar

Professional:

- Admitted as a solicitor in 2008
- Solicitor, Aboriginal Legal Service 2009 - 2011
- Solicitor, Legal Aid, Sydney 2011 - 2014
- Came to the Bar in 2014, Member of Forbes Chambers, Sydney
- Advocacy Instructor, Australian Advocacy Institute.

Publications:

- 2014 – Legal Aid Conference Paper (with David Covington) *“Trial Directions for the Local Court Advocate”*
- 2012 – Children’s Legal Service Conference *“The Imposition and Revocation of Suspended Sentences in the NSW Children’s Court”*
- 2011 – NSW Young Lawyers Practitioner’s Guide to Criminal Law, Chapter 12: *“Children’s Court – Criminal Jurisdiction”*.

Peter McGrath SC – Deputy Director Public Prosecutions – NSW ODP

- Solicitor 1984 to 1990
- Admitted to NSW Bar 1990
- District Court and Supreme Court criminal jury trials, commissions of inquiry and coronial inquests
- Junior counsel for NSW Department of Corrective Services in ICAC inquiry into use of prison informers
- Junior counsel for NSW Police Force in Royal Commission into Police Corruption
- Appointed Crown Prosecutor 2012
- Appointed Senior Counsel 2014
- Appointed Senior Deputy Public Defender 2016
- Appointed Deputy Director, NSW DPP 2018
- Advocacy Instructor, Australian Advocacy Institute
- Member NSW Bar Association Health and Wellbeing Committee.

Nicholas Marney – Solicitor, NSW Office Director Public Prosecutions

- 2016 – present: Solicitor with the Office of the Director of Public Prosecutions, currently employed as a trial advocate at the ODPP Penrith office.
- 2013 – 2016: Solicitor with the Independent Commission Against Corruption, conducting compulsory examinations and providing operational advice to investigators during ongoing investigations.
- 2002 – 2013: Criminal Barrister, England and Wales:
- Representing defendants in jury trials for offences including, robbery, wounding and GBH, large scale drug importation, murder and manslaughter.
- Specialising in the representation of juveniles charges with serious offences and defendants with mental health issues.
- Prosecuting on behalf of the Crown Prosecution Service, the National Health Service and the Department of Work and Pensions.
- Providing defence representation to military personnel before Court Marital proceedings in the UK and world-wide.
- Acting as in-house counsel to the Crown Prosecution Service.
- Providing representation at parole board hearings.
- Providing representation at professional disciplinary hearings.
- Prior to coming to the bar Nicholas had a career in the military where he undertook overseas postings including tours of duty in Afghanistan and Algeria