

Craig's Introduction Video – Vulnerable Witness Advocacy Training Program

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Thank you for participating in this specialist skills Advocacy Training Course. We know that the particular vulnerability of a witness may vary. Commonly it will relate to age, a physical or mental impairment or a combination of each. In all cases the treatment of the witness requires your care and sensitivity.

My name is Craig Smith. I am a Board Member of the Australian Advocacy Institute and the Director of the AAI Vulnerable Witness Advocacy Training Program.

The Australian Advocacy Institute has been at the forefront of advocacy training since 1991 and is an independent, non-commercial and not for profit body focused on advocacy training for and by the profession. A fundamental aim of the institute is to improve the standards of advocacy skills throughout Australia. Consistent with that aim is the establishment of this Vulnerable Witnesses program.

As advocacy trainers, we have seen a clear need for specific training in handling of vulnerable witnesses. We continue to see examples of advocacy that is inconsistent with fundamental skills in questioning vulnerable witnesses. Despite improvement there is still much to be done. There is a need for training in special skills.

The Royal Commission into Institutional Responses to Child Sexual Abuse specifically recommended regular training and education programs for the legal profession. Further,

there has been an introduction across Australia, and in other jurisdictions, of special measures designed, in general terms, to improve the quality of evidence and communication with vulnerable witnesses. Legislation has introduced, and will likely expand, the use of pre-recording of evidence and the use of intermediaries to facilitate communication. It is now time to provide specific skills training for lawyers concerning the handling of vulnerable witnesses.

Central to this Program are three goals:

Improving the quality of evidence that is available to the Court;

Making sure we are fair to the vulnerable witness; and

Ensuring fairness to the accused in the trial process.

With that in mind, the program you are engaging with involves three parts:

a series of short videos,

an exercise in drafting a cross-examination of a vulnerable witness

and finally, your active participation in a one day specific skills training workshop.

After this video, you will see four more-

The first is with Her Honour Judge Girdham SC, a judge of the District Court of New South Wales, describing

the importance of the advocates role in the trial process,

the Court's perspective of the vulnerable witness

and practical matters of which you should be aware in this area.

Then you will see a video from Jane Wolf, who regularly appears as a witness intermediary both in police interviews with vulnerable witnesses and also during their examination in Court. Jane will tell you what is and is not part of an intermediary's role, and explain how you can use the intermediary to best advantage.

Jane Goodman-Delahunty, a respected academic and co-author of research published by the Royal Commission, will speak to you about our understanding of memory in the context of the vulnerable witness and importantly, the literature concerning some of the recurring themes and myths in this area.

To conclude, Grant Brady SC, Deputy Chair of the Australian Advocacy Institute, will speak to you about specific advocacy skills in examining vulnerable witnesses, whether that examination is in chief or in cross-examination. Can I give you one... it's really important (and ok) to be short in cross-examination.

I recommend you set some time aside to watch these videos carefully before commencing the practical side of this program, where you will be provided with a case study specifically designed to facilitate the teaching of skills related to examining vulnerable witnesses. You will submit a one page cross-examination of a complainant from the case study. That will be essential. What will also be essential is your thorough preparation of that case study. You should approach it like a real case. You should approach it with those three themes in mind which began this introduction. Trying to improve the quality of evidence in these cases, fairness to the vulnerable witness and to the accused.

Having watched the videos and submitted your cross-examination exercise, you will then attend a Saturday workshop during which, for those of you who have not done an AAI workshop before, you will be required to actually ask questions in evidence in chief and cross-examination as if you are representing the Crown or the accused in the case study which you have been provided. The method of teaching will, in the context of the vulnerable witness, involve performance and review by a senior AAI instructor, in a constructive and comfortable manner. The focus of the teaching is on a positive approach to improvement.

Our program is designed to improve your knowledge of important issues in this area generally and your skills in actually asking questions of a vulnerable witness. These skills can be improved – and will be improved by your valued participation in this training program.

As a profession we need to evolve our skills. We need to work hard at them. These skills don't just appear. We need to appreciate the sensitivities of these cases and the great responsibilities we carry in being fair to the vulnerable witness.

I encourage you to commit to this program and I'm very confident that you will benefit significantly. Thank you again for your valued participation and I wish you well.