

*'Public understanding is beginning to catch up with what the community and legal sectors have known for a long time – that family and sexual violence is the biggest threat to our collective well-being...'*

# Centre for **Innovative Justice**

---

Smart thinking. Passion.  
Positive Difference.



# Making a Difference? **Positively!**

## The best possible learning experience



I believe in the critical importance of giving our students the best possible learning experience and helping them successfully launch their careers. RMIT University makes that possible through practice based learning, problem

solving research and the innovative use of technology.

RMIT's Centre for Innovative Justice shares these beliefs.

As part of the Graduate School of Business and Law, its partnership with the Mental Health Legal Centre (MHLCC) is giving a growing number of students from our law and social sciences programs the opportunity to gain practical experience and helping to increase services to people who might otherwise not get the help they need. Meanwhile, its career mentoring program is linking law students with the professions and its research is not only focused on contemporary issues such as how we should respond to family violence but has identified the power of technology to improve access to justice.

The Centre has laid strong foundations over the past two years and I look forward to its continuing contribution to the Graduate School, RMIT University and the communities we serve.

### **Martin Bean, CBE**

Vice-Chancellor and President of RMIT University

## Relevant. Practical. Unique.



The Centre for Innovative Justice makes a valuable contribution to the life of the Graduate School of Business and Law and the broader community we serve. It lives our ethos, to provide relevant, practical research and

teaching and learning; research that tackles complex, often 'wicked' problems.

The Centre combines its commitment to social justice with a 'design-thinking' approach to its work that seeks to first fully understand the problem, elicit different perspectives, expand the possibilities, experiment and then articulate ideas creatively and convincingly. Most importantly, the focus is always on the 'end-user', the people and the communities affected by justice systems, civil and criminal.

Together, these elements provide research of the highest quality and unique experiences and opportunities for our students and staff.

### **Mark Farrell**

Head, RMIT Graduate School of Business and Law

## All in the delivery



Smart thinking. Passion. Positive Difference. In 2014 the Centre has delivered on all three. As a result of the work of the Centre, governments have a series of recommendations to address sexual offending more effectively

and appropriately, and a set of actions and approaches to make private legal services more affordable.

A number of other projects began on the key issues of family violence and acquired brain injury in the criminal justice system.

In partnership with RMIT, the Mental Health Legal Centre was relaunched and continued to build its capacity to meet the complex legal needs of people with mental illness and to break the cycle of crime – and to give students the opportunity for clinical legal education.

We built connections and contributed across the university, giving students from law to social work and communication design the opportunity to be involved in our work, including clinical legal education. About 150 design students took on our challenge to design an image to communicate our aims and ethos. The ideas were high quality and the winning design was brilliant.

Most importantly, the community is coming to understand that family and sexual violence is the biggest threat to our collective wellbeing. The need to tackle and reduce this violence is gaining momentum right across the country. The Centre's research report on family violence is timely and will continue our aim to make a positive difference.

### **Rob Hulls**

Director, RMIT Centre for Innovative Justice

# A Short Introduction to Innovative Justice

**Innovative justice** is the key to making modern justice systems (criminal and civil), more affordable, effective, understandable and efficient. It deals with the causes as well as the consequences of crime; gives attention to the needs of victims and offenders, as well as the community affected by the crime; and helps to strengthen communities to prevent crime. It also involves strategies to ensure that disputes, large and small, are resolved fairly and in a timely, cost-effective way.

Innovative justice challenges the conventional 'adversarial' approach of a judge presiding over dueling lawyers which in many circumstances can compound or exacerbate the harm it seeks to address. Innovative reforms are therefore primarily 'non-adversarial'. They focus on changing the culture and practice of the law and the delivery of justice; as well as changes to laws, policies and procedures. It is about new thinking for old problems and developing a 'menu' of options, which recognises that not all cases require the same response.

## Breaking the Cycle through Innovative Justice Intervention

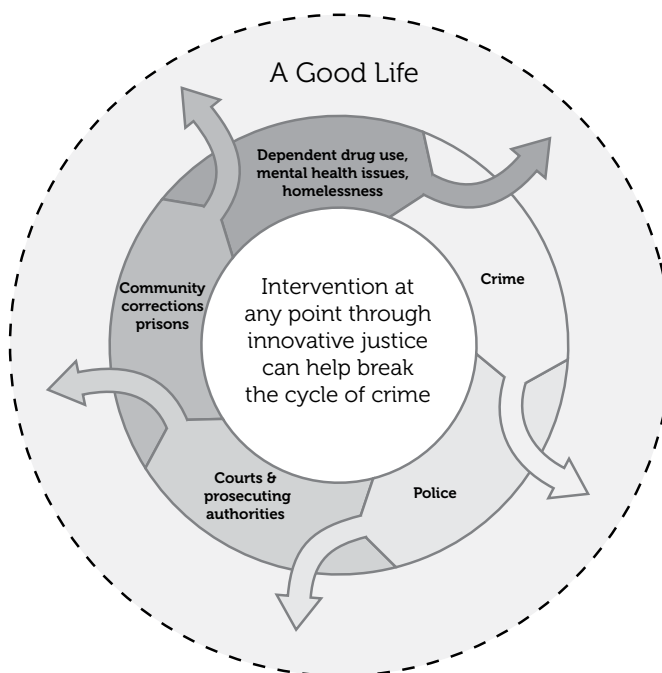


Figure 1: Innovative approaches to justice can be used at various stages to break the cycle of crime.

Examples of these alternative options include **restorative justice**, which is principally concerned with the repair, to the greatest extent possible, of the harm caused by a crime. The focus is on victim inclusion and offender accountability. Restorative justice practices involve a facilitated discussion between the victim, offender, their communities, families or representatives.

**Therapeutic justice** is principally concerned with addressing the underlying reasons for offending, which could include mental health and other health issues, alcohol and drug addiction, unemployment and homelessness. It sees contact with the justice system as an opportunity to intervene in a positive way and to help get an offender's life back on track. **Truth telling** provides a victim of crime with an opportunity to tell their story in a safe and supported environment, and to communicate the impact of the offending to a body or a person of standing, such as a member of the judiciary, a member of parliament or an expert panel. Truth telling practices provide victims with the opportunity to have formal acknowledgement of the harm done, and in some instances, to have input into systemic change.

**Legal services innovation** has a critical role to play in ensuring that everyone, no matter what their income, has meaningful access to justice. Emerging innovations in legal practice take a consumer-focused approach and recognise that transparency and flexibility about services and costs are the key to maintaining a sustainable legal profession. Innovations such as fixed fees, discrete task assistance, and online and virtual legal services are all practices that have developed as responses to a sector that, for many people, has become out of reach and irrelevant.

A **change of culture** is needed for these approaches to be developed and implemented effectively, a culture informed by 'design thinking' that puts people and community at the centre; which understands that justice systems bring together a broad range of disciplines and skills; which is prepared to be smart about crime and its causes; which insists on evidence-based policy and informed debate; and which is willing to explore new ideas and implement new approaches.



# What We Do

## A graphic explanation

Explaining what the Centre does in words is reasonably straightforward (see below). Representing the aims and ethos of the Centre in visual form is altogether a different challenge, one that was taken on by about 150 RMIT second-year Bachelor of Communication and Design students. The design brief was to create a unique, distinct image that could be used across the Centre's communication channels. Jidapha Tiantongnukul's winning concept involves soundwaves, representing the importance of listening to a more open-minded and fair justice system, while the combination of the colours red, orange, and purple signifies the balance between leadership, energy, ambition, transformation and respect. Jidapha (pictured below) received her award from Centre Director, Rob Hulls.



## ...and in less than a thousand words

The Centre's aim is to promote a fairer, more accessible justice system: one that is affordable, understandable and able to resolve disputes large and small efficiently and effectively; that can act as a positive intervention in people's lives by dealing with the causes of crime as well as its consequence and that focuses on the needs of victims, offenders and the communities affected by crime. We believe a fair and accessible justice system helps to strengthen communities.

The Centre's work is two-fold: to encourage the adoption of innovative ways to improve justice systems (local, national and international) with a particular focus on holistic models of service delivery and alternative or non-adversarial dispute resolution, therapeutic

jurisprudence and restorative justice; and to ensure that RMIT staff and students and practitioners across all disciplines are actively involved in all areas of the Centre's work.

Our work is focused in five key areas: **RESEARCH** (to identify, undertake and be expert in practical research focussed on therapeutic jurisprudence, restorative justice, alternative/non-adversarial dispute resolution and other innovative justice strategies); **ADVOCACY** (to advocate for the adoption of practical research and innovative strategies and practices by legal systems); **TEACHING AND LEARNING** (to provide RMIT students across all disciplines with opportunities to learn about, research and practise new methods and approaches to the delivery of justice); **TRANSLATING RESEARCH INTO PRACTICE** (to translate research and innovation into practical positive outcomes for the justice system and the community), and the pursuit of **EXCELLENCE** (to be a Centre of Excellence within the university as well as nationally and internationally).

## Your invitation to be involved

The Centre for Innovative Justice welcomes ideas and suggestions for future areas of investigation; opportunities to collaborate on research projects and policy development; enquiries about consultancies and program evaluations; requests for speakers or media commentary; volunteers and interns for engagement in the Centre's activities, and opportunities for placement of students and other volunteers within public sector and community organisations. If you are interested in becoming involved in the Centre's activities, or would like to find out more, please contact us at:

**Centre for Innovative Justice**  
**RMIT Building 98, Level 1**  
**102 Victoria Street, Melbourne VIC 3000**  
**Telephone: 03 9925 1139**  
**Email: [cij@rmit.edu.au](mailto:cij@rmit.edu.au)**  
**[www.rmit.edu.au/innovativejustice](http://www.rmit.edu.au/innovativejustice)**  
**twitter: @innovatejustice**

# Who We Are



*The photographs of staff and advisory board members have been substituted with photos of their pets. See the 'Guess Who' section for details of our competition to match the person with their pet.*

**Rob Hulls is Centre Director.** Rob was Victorian Attorney-General from 1999 to 2010. 'Public understanding is beginning to catch up with what the community and legal sectors have known for some time — that family and sexual violence is the biggest threat to our collective well-being. It is also beginning to appreciate that tackling and reducing family violence is a complex task, one requiring substantial and scalable investment, an integrated system and intergenerational change. It is a challenge we can and must meet.'

**Mary Polis is Manager, Policy and Research.** Mary has extensive practical, policy development and law reform experience. 'The Centre's research program has grown significantly and now covers a range of areas in civil and criminal justice, from how to make private legal assistance more affordable; accessible workplace dispute resolution; innovative justice responses to sexual offending, and strategies to tackle family violence at the earliest possible opportunity. We are also partnering with Jesuit Social Services on a project to address the over-representation of people with Acquired Brain Injury (ABI) in the criminal justice system. A key feature of our approach has been to get everyone involved in an issue in the same room to share ideas and experiences and to test possible solutions. It is an exciting agenda that can help shape a more modern, fair and responsive justice system.' (In early 2015, Mary was recruited to the role of CEO of the Victorian Royal Commission into Family Violence.)

**Stan Winford is Principal Coordinator, Legal Programs.** Stan is a practising lawyer who has held a number of senior roles in government and in the community legal sector. 'The partnership between RMIT and the Mental Health Legal Centre continues to bear fruit. A year of hard work, focus and dedication from staff, board members, volunteers, pro bono lawyers and students and ongoing support by philanthropic organisations means that the Centre is more secure financially and has been able to expand its services and provide students with more opportunities for clinical legal education. But the need is great and the challenge remains to find ways to provide more services to more of those people in need. Leading the Acquired Brain Injury (ABI) research project has also been a highlight. This is much needed research.'

**Mina Hilson is Centre Co-ordinator.** Mina is an accomplished administrator and coordinator with experience in the public, private and not-for-profit sectors. 'With systems and processes in place, we are now in a position to expand what we do and provide more opportunities for students, including the first of our innovative justice study tours.'

**Elena Campbell is a Senior Policy Officer.** Elena is a policy lawyer and writer, with a background in social justice reform. 'The challenge of developing a fairer more accessible legal system includes making the language and ideas around this system more accessible, understandable and engaging. The research we do, the reports we write, the speeches we deliver, are all about engaging the community.'



### Jessica Richter, Project Coordinator, ABI Project.

Jessica is an experienced criminal lawyer who has worked largely with clients who experience mental illness and cognitive impairments. She is currently completing a masters in public and international law. 'A key part of the Acquired Brain Injury (ABI) research project is the bringing together of people with Acquired Brain Injury who have direct experience of the criminal justice system. They will be encouraged to share their stories and use their experiences to help identify innovative and practical reforms.'

**Ruth Barson is a Senior Policy Officer.** Ruth is an experienced criminal lawyer and researcher. 'Some estimates suggest that as few as one percent of sexual assaults result in successful prosecution. It is a compelling statistic, which requires a new approach. This approach is outlined in the Centre's report on innovative responses to sexual offending and recommends the introduction of restorative justice conferencing, an approach which needs to be taken from the periphery to the centre of our justice system.' (After completing the research project Ruth took up a senior lawyer position with the Human Rights Law Centre.)

### The Advisory Board

The Centre's Advisory Board brings together leaders in their profession to provide a sounding board for the Centre's work plans, priorities and projects and help guide the Centre's long-term sustainability strategy. Members include **John Cain**, who has extensive experience in law and business in the public and private sectors. **Penny Armytage**, who has held several senior executive positions in the Victorian Government Public Service, including Secretary of the Department of Justice for almost 10 years; **Professor Anthony Forsyth**, the Program Director of RMIT's Juris Doctor Program, who also teaches labour law and clinical legal practice and has a range of research interests from employment law to workplace dispute resolution and dispute prevention, and **Greg Manning**, who as First Assistant Secretary, Access to Justice Division, Commonwealth Attorney-General's Department, advises the Australian Government on policy relating to courts and tribunals, legal assistance, ADR and family law.

### Volunteers

More than 30 volunteers have supported the work of the Centre including students from the RMIT Juris Doctor and other RMIT programs, as well as students from other universities, graduates, people taking sabbaticals and international visitors. Volunteers have helped with a range of tasks from administration and events assistance to research.



*Volunteers Katie Webster, Mokshil Wick, Michael Anthony and Stephanie Prolisko were some of many volunteers who were presented with certificates to recognise their work for the Centre at a special event in late 2014.*



# Student Involvement

## The Snapshot ...

The Centre expanded its offerings to students, through placements and research projects, practical exposure to the process of law reform, direct exposure to the workings of the justice system and career advice, including through 'CIJ TV'.

**Clinical Legal Education:** 15 students enrolled in Clinical Legal Education taught by CIJ in conjunction with the Mental Health Legal Centre (MHLC)/Inside Access in Semesters 1 and 2; we presented to students enrolled in Introduction to Legal Methods on access to justice.

**Placements:** The centre delivered the equivalent of 280 student placement days (Three Bachelor of Social Sciences (Legal and Dispute Studies) students; one Bachelor of Social Work & Psychology student; one Master of Social Work student; one Bachelor of Arts (International Studies) student and two Master of Justice and Criminology students undertook CIJ projects for their justice research papers).

**Facilitated student opportunities:** Juris Doctor student, Kate O'Connor, spent a week shadowing the Chief Judge of the County Court, Judge Michael Rozenes; JD student, Sarah Pheasant, spent a week shadowing Magistrate Ann Collins in the Magistrates' and Koori Courts; 15 JD students spent a week in the Court of Appeal; JD student, Christie Beller, undertook research on Youth Diversion options for the Neighbourhood Justice Centre and the CIJ as part of her Legal Research Project; JD student, Rhys Richards, undertook research on criminal records and spent convictions schemes with the CIJ and Fitzroy Legal Service as part of his Legal Research Project; two

social work students placed with the CIJ from RMIT's School of Global, Urban and Social Studies, Kristen Scobell and Kerry Pell, completed a comprehensive report that will inform the plan for the Mental Health Legal Centre's next stage of growth; two Master of Justice and Criminology students, Jessie Rankin and Stephanie Coombs, undertook research on current issues in the justice system, attending meetings with stakeholders and observing relevant court proceedings, and around 150 second year Bachelor of Communication and Design students undertook a class-based project to create a suitable image for the Centre for use in our marketing collateral. The winner, Jidapha Tiantongnukul, received a 12 month membership to the National Gallery of Victoria (NGV) and a Metropolis bookstore voucher.

### Volunteering and other student engagement

**activity:** Twenty-one JD students and 10 students from other universities registered to volunteer with the Centre. The Director was interviewed by RMIT students for various projects including: a Bachelor of Social Science student piloting a youth mentoring program for low SES year-nine students; a Bachelor of Fine Art Honours student researching on the role and implementation of the Victorian Human Rights Charter within the youth justice system; a Journalism student about native title (Gunditjmara) and a Bachelor of Arts (International Studies) on indigenous community development.

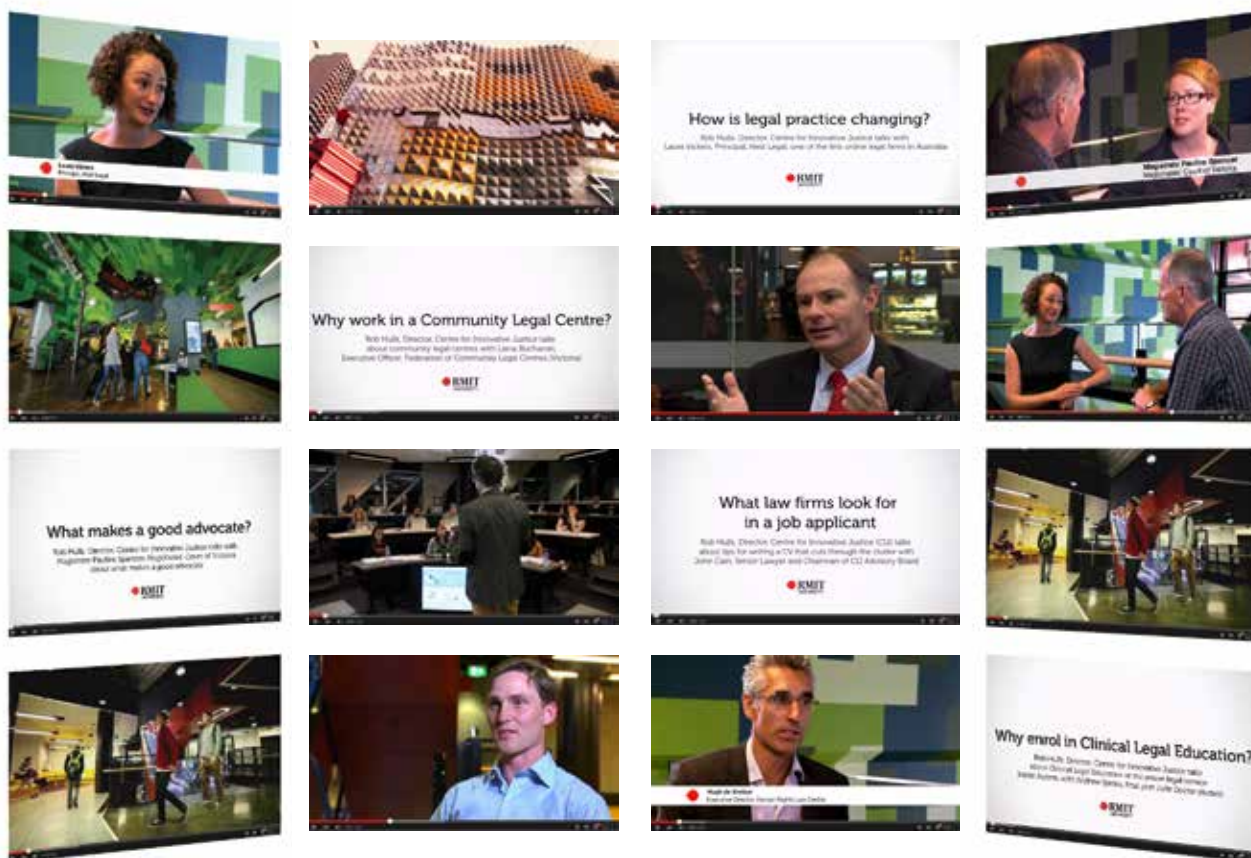
**Career Mentor Forum:** Eight mentors from across the legal landscape provided a brief overview of their career path followed by a 'speed dating' session where mentors and students had small group discussions with mentors.



*The Director of the RMIT JD Program, Professor Anthony Forsyth and the Executive Director of the Refugee and Immigration Law Centre, David Manne, talk careers with students.*



## 'CIJ TV'... Broadcasting to Students



Created as a resource for law students, the Centre for Innovative Justice video interview series features Rob Hulls speaking to people from across the legal landscape. These videos contain tips and insights about study and career options. They are available via the Centre's website and through youtube (see below).

Programs to date include:

- How is legal practice changing? Rob Hulls, Director, Centre for Innovative Justice talks with Laura Vickers, Principal, Nest Legal, one of the first online legal firms in Australia.
- What law firms look for in a job applicant. Experienced lawyer and member of the Centre's advisory board, John Cain, provides tips on what law firms look for in a job applicant.
- What makes a good advocate? Magistrate Pauline Spencer discusses what makes a good advocate.
- Why work in a Community Legal Centre? Liana Buchanan, Executive Officer, Federation of Community Legal Centres provides the answers.
- Why enrol in Clinical Legal Education? Andrew Spinks, final year Juris Doctor student, talks about his experience with the Mental Health Legal Centre's Inside Access Program.

## Stay tuned

New videos are added progressively, so tune in via the following links:

**[https://www.youtube.com/results?search\\_query=centre+for+innovative+justice](https://www.youtube.com/results?search_query=centre+for+innovative+justice) OR**

**<https://www.rmit.edu.au/about/our-education/academic-schools/graduate-school-of-business-and-law/research/centre-for-innovative-justice/what-we-do/video-repository/>**

## Off to the Front Line of the Law



**'As a result of my week at the court I have entirely reconsidered the future direction of my legal career. When I began the JD at RMIT I had modest ambitions to be a solicitor working behind the scenes, but now I want to go to the Bar and be a part of the action, the front line of the law.'**

When I was selected by RMIT's Centre for Innovative Justice to shadow the Chief Judge of the Victorian County Court, Michael Rozenes AO, I had no idea that my first day at the Court would be as fast paced and action-packed. But this is far from anomalous. Rather, it set the tone for the rest of the week, a week where my eyes were opened to the internal workings of all aspects of the judicial system.

I had arrived earlier than expected, so instead of the planned introduction and tour of the Chief's chambers I am whisked away, through a labyrinth of corridors and through the front door to court 2.9. I take my seat next to the associate in front of a packed court room. There are two knocks at the door I just came from. The Chief enters, the room bows, and the circus that is the 9am general list begins. This is where, it seems, the entire breadth of human experience is on display, from recently apprehended criminals to highly paid barristers. The list is what keeps the Court churning. The Chief inquires of the parties whether a plea is likely to be reached, and if not, how long a trial is likely to go for, whether there are any pre-trial issues and whether funding is in place. It is an important function of the Court and it is a matter of great pride that the County Court has not had an abandoned trial this year. The list is rotated among different judges on a monthly basis, and it is currently the Chief's turn. This is how I begin most days at the Court.

To detail each and every case I sat in on would need more words than I've been allowed, but two cases in particular stood out. The first was an ostensibly straightforward drug trafficking trial. In a fortunate, but rare, set of circumstances I was able to see two jury empanelments, two openings, examination of

witnesses, a fiery cross examination and closing remarks by both parties. This trial had to be abandoned during initial examination-in-chief of the primary witness who disclosed something he shouldn't have. Round two saw one of Melbourne's most prominent silks fire question after question at the prosecution witness, undermining police investigatory methods, and planting doubt in the minds of the jurors. On top of an extraordinary outcome, which involved yet another jury discharge, this matter was an excellent opportunity to see a trial from start to finish which is something of a rarity given most trials run for seven to ten days.

The second matter was a highly publicised sentencing of one of Victoria's worst paedophiles, former priest Gerald Ridsdale. The court room was packed with media. People arriving late had to stand. There were women wearing pink lanyards who I was told are support staff for the victims of Ridsdale's crime who may need assistance upon hearing the Chief's sentence. The proceedings were as emotional as they were legally tricky. At times the detail of the offending was difficult to bear, and at others I found myself absorbed by the intricacies of the sentencing process. The conduct occurred several decades ago, where offences were characterised very differently and carried vastly different sentences. Additionally, as Ridsdale had already been sentenced for offending around the same time, the principle of totality had to be taken into account. The Chief communicated these complex legal issues to a room largely full of non-lawyers with a sense of sensitivity and sympathy. It is a job I do not envy.

On my last day at the County Court, Chief Judge Rozenes spoke to a coterie of new barristers. He spoke at length about achieving a healthy work-life balance, about not getting caught up in the demanding life of being a barrister. It was an unexpected message and stood in stark contrast to a lot of the advice facing new lawyers. The Chief spoke and answered questions with earnestness, candour and at times humour. It would be a speech remembered by those barristers for a long time to come, I was very privileged to be able to sit in on it. One message in particular that resonated with me was the Chief's advice to be an active part of the legal landscape we inhabit and to be mindful of broader jurisprudential trends. He stressed how important it is to contribute to shaping the future of the legal profession and not to 'leave it up to old grey-haired men'.

### **Kate O'Connor**

Juris Doctor (2014), selected to shadow the Chief Judge of the Victorian County Court

## From Theory to Practice

**‘Overall, of great importance to my professional interest in therapeutic jurisprudence is the understanding that its application is not theoretical: indeed, it is realistic, human, practical, and profound. It was invaluable to observe the application of law grounded in people’s lives.’**



Prior to my week of shadowing Magistrate Ann Collins, I was intrigued by models of therapeutic jurisprudence, but my understanding was largely theoretical. I applied for the shadowing opportunity as I was very interested in the

reality of its application. Gaining an understanding of how it is currently being applied was invaluable. Indeed, I was not aware of the extent of the use of the therapeutic approach in the specialist jurisdictions of the Magistrates’ Court, and the potential for a more widespread application of some aspects.

The shadowing began with the frenetic pace of a day in the criminal jurisdiction of the Magistracy, with back-to-back summary mention hearings. This was a particularly useful way to contextualise and contrast the approach used in the specialist courts. It was also interesting to note the use of elements of the approach in this context, such as the clarity of communication to the accused. I was then privileged to shadow Ms Collins sitting in both the Koori Court in Broadmeadows and the Assessment and Referral Court (ARC).

I was struck by the whole experience of the roundtable environment of these specialist courts. I understood the idea of court-supported rehabilitation through a holistic approach to case management; however, I did not expect such a tangible sense of accessibility engendered by environmental choices, such as the Magistrate sitting at the table. The placement of an accused opposite the Magistrate created a directness of communication that noticeably shifted the focus to the accused and away from legal counsel. Further, it was remarkable to observe the sense of collective participation created by support workers sitting at the table and family invited to contribute to the process.

I also expected a sense of informality, but whilst there was certainly notably more of a relaxed air in the room, there was a formal air with a greater sense of focus, calmness and humanity. For example, it was delightful to see one accused’s young child move quietly around the court and, when his dad’s matter was called, seat himself comfortably at the table with caseworkers, legal representatives and the Magistrate. He sat colouring-in at the table during proceedings. Similarly, it was interesting to observe how different it felt to have a clerk announce to remain seated when the Magistrate entered. Also, to have the Police Prosecutor introduce himself using his first name, and to chat with an accused about the soccer. In the ARC I could see that these small details made a huge difference towards the reassuring nature of the environment, and how effective this was for individuals already managing a range of difficult personal circumstances.

It was the ‘humanity’ of the proceedings that was the most striking difference of the therapeutic-model courts. Ms Collins spoke clearly and directly to the accused, ensuring each person understood the relevant legal process. She listened attentively, and, whilst expeditiously addressing pressing matters, conveyed an understanding of the person’s particular struggles, strengths and supports. The genuine interest in an accused’s welfare was tangible from all staff; what was notable was that this was not a ‘soft’ approach, it was a focussed and informative process with an emphasis on genuine engagement. This was also evident in the handling of procedural issues; for example, using flexibility in the timing of hearings if it was known that attendance could be difficult.

This was bolstered by an emphasis on autonomy and self-directed participation. Proceedings in both ARC and the Koori Court were in stark contrast to the traditional in respect of the genuineness of the communication. This was reflected in the role of respected persons in the Koori Court, who conveyed mindfulness of the importance of significant relationships and connections to community in supporting change. Overall, of great import to my professional interest in therapeutic jurisprudence is the understanding that its application is not theoretical; indeed, it is realistic, human, practical, and profound. It was invaluable to observe the application of law grounded in people’s lives.

### **Sarah Pheasant**

Juris Doctor (2014), selected to shadow Magistrate Ann Collins.



## Law in Action

**'I really loved seeing the law applied in action. When studying law it's easy to think of case law or legislation in the abstract, without much thought about how it affects people's lives. However, seeing someone sitting in the dock, whose life depends on the outcome of the case, quickly changes that.'**

When I found out that I'd been selected for the Court of Appeal program, I wasn't quite sure what to expect. However, having just finished the four days, I can now say that it's been a truly invaluable learning experience and has far exceeded my expectations. It's hard to encapsulate in a short space all the things I've taken away from the experience. So, this is just a summary of the highlights:

- The role of the bench: After watching five cases over the four days, I now realise the important role that judges' play in a case. The judges' preparation, knowledge and ability to hone in on the key issues were very impressive. Often they seemed to have a better grasp of the facts and law than the representing counsel.
- The law is constantly evolving: This was brought home in two cases. In the Moustafa and Kassab case, the court may have to decide whether a person can aid and abet defensive homicide. In the Nabole case, the interpretation of a Commonwealth statutory provision has to be decided. It was fascinating to watch the discussion between the bench and counsel on these issues, and made me realise how 'unsettled' the law is in many respects. Also, legislating to 'fix' a problem doesn't always achieve the desired result.
- The difficulty in being a self-represented litigant: The law is so layered with statute, common law and legalese, it's hard to see how many self-represented litigants can bring a case that best serves their needs.

- Too much legal representation?: The Saleem case (forgery) and Texxcon case (misleading conduct and accessorial liability) both involved 'deceptive' conduct on some level. And yet, the gap in legal representation in each case was enormous. In Texxcon, nine counsel and a plethora of instructing solicitors were present, while Mr Saleem represented himself. It's difficult to compare cases, but the level of legal representation in Texxcon seemed indulgent and unnecessary. Is it in the community's interest to have such an imbalance?
- Different advocacy styles: Watching different barristers in action was an eye-opener. Some were really well prepared, commanding and articulate; others didn't seem to be very on top of the issues. It struck me that preparation and attention to detail is what really matters.
- Process is more collegiate than adversarial: Overall, the court process wasn't as adversarial as I expected, which was a pleasant surprise. I sensed that counsel and the court were generally working together to apply the law correctly and justly. I was also surprised by the generosity of the judges in helping some counsel to better articulate their arguments.
- The people in law are so diverse: The week highlighted the diverse bunch of people who become lawyers, the diverse jobs they do, and the different pathways they took to get those jobs. There's no clear-cut way to get the ideal job, and it pays to persevere and seek out opportunities when they arise.

Finally, I really loved seeing the law being applied in action. When studying law, it's easy to think of case law or legislation in the abstract, without much thought about how it affects people's lives. However, seeing someone sitting in a dock, whose life depends on the outcome of the case, quickly changes that.

**Paula O'Byrne**

Juris Doctor 2014



Elizabeth Grierson and Paula O'Byrne (circled) along with 13 other RMIT JD students completed the Court of Appeal program which involved spending a week at the Court.



## Justice, Building and Portraits

**'For me, the judges' questions set it alight – it is impressive to watch judicial analysis in action in the real Court of Appeal setting. It was riveting. This interchange and insight was what I had hoped to witness.**

I was seeking practical immersion in the Court setting for three primary purposes: firstly to learn first-hand Court operations beyond theoretical frameworks and contexts; secondly to witness legal interchanges between all parties; and thirdly to broaden my legal knowledge base from which to make informed decisions about my career.

The Court of Appeal Clinic exceeded my expectations. It was a great privilege to witness first-hand a range of appeals from criminal to company law, from self-represented litigants to experienced advocates, applicants seeking leave to appeal, and appellant cases that were either well-advanced or in their beginning phase, appellants or applicants arriving hand-cuffed or appearing by video-link from prison, and members of the Judiciary splendidly attired and representing the process of justice with impressive levels of authority mixed with humanity.

It was extremely helpful to have the opportunity to read specific legal submissions before the cases started, and then to be able to follow the process of advocacy from both sides and realise the legal acumen needed for judges to analyse, assess, enquire, question. With knowledge of the cases I was able to critically listen to the advocates and realise the different levels of ability and the varying experience they each brought to a case: some outstanding, others finding difficulties in focusing on specific points to build a sustainable argument, some even showing inexperience before the judges.

For me, the judges' questions set it alight – it is impressive to watch judicial analysis in action in the real Court of Appeal setting. It was riveting. This interchange and insight was what I had hoped to witness.

Importantly, the judges were generous in giving their time, attention and energy to us prior to a hearing and afterwards, explaining, advising, teaching, guiding, and adducing for us the subtleties of the cases. I valued this exchange beyond all measure.

The visit to the Registry provided an insight into case-management pre-trial; and provided an occasion to learn about the role of the Registry lawyers in researching and compiling summaries of case submissions for the judges to work from in court. The realization of the practical outcome of this case-management process to reduce the build-up of cases coming before the court was something I had never considered.

There was also the opportunity to learn about the Victorian Supreme Court itself, as a physical environment for justice. From the Classical style of the Court of Appeal designed by S.E. Bindley in the 1890s to the Trial Division Courts and Supreme Court Library in the impressive nineteenth-century Renaissance-revival architecture of A.L. Smith. Unforgettable were the paintings of various Chief Justices adorning the Library walls; and of note, the painting of Chief Justice Marilyn Warren by RMIT graduate artist, Vincent Fantauzzo. Further to the art and architecture was the knowledge I now have of an incredible collection of legal texts in the State's largest law collection of over 100,000 books and other valuable resources and documents.

While we saw the recently renovated Banco Court (Court 1) and Court 4 – and Supreme Court dungeons – we did not have the opportunity to visit Court 15 (from 2008), which I understand is in modern design with video conferencing and extra room not afforded in the older style architectural spaces. The Clinic was an opportune time to learn about various career paths such as positions of judges' associates, Registry lawyers, criminal and civil advocates, prosecution counsel, and at the industry lunch we met legal practitioners in fields as diverse as large commercial law firms and community law centres.

Overall I finished the week with regret that it was not continuing. I had been immersed in the administration of justice in a way that was unforgettable and I never thought I would experience at this time of my Juris Doctor studies. I thank the Victorian Supreme Court and RMIT's Centre for Innovative Justice for making this possible.

**Elizabeth Grierson**

Juris Doctor 2014

# Our Research Results



The Centre won the Graduate School of Business and Law Award for Research Impact in what was a busy year which saw the release of a major report on sexual assault, and the beginning of two research projects of major contemporary concern: family violence and the over-

representation of people with acquired brain injury in the criminal justice system. The Centre also continued to engage on the Affordable Justice report released on 2013.

## Hidden disability all too obvious

The 'Enabling Justice' project is designed to address the over-representation of people with Acquired Brain Injury (ABI) in the criminal justice system. It is a collaboration between the Centre, Jesuit Social Services and Dr Penelope Weller from RMIT University.

ABI is often called the 'hidden disability' because it is not usually present from birth. It happens during the course of a lifetime and for various reasons can go undetected. Some of the changes that occur, or experiences that people living with ABI have, include poor memory and concentration, reduced ability to plan and problem solve and inflexible thinking. This can lead to depression, emotional instability, irritability, impulsiveness and inappropriate behaviour. As a result there can be significant social and economic costs for individuals and their families, including loss of employment, identity and relationships.

For the CIJ's Stan Winford, and those working in the ABI sector, the issue was all too obvious and the need was great for research to tackle the over-representation of those with ABI in the criminal justice system. The Centre developed a proposal in partnership with Jesuit Social Services and succeeded in obtaining funding for the project through the Office of the Public Advocate.

A key part of the project will involve establishing a forum to enable people living with ABI to play a key role in how the criminal justice system can be more responsive and receptive to the issues they face. The three-year, \$250,000 project will also provide a range of advocacy, education and law reform activities to promote and entrench systemic change, completing the cycle of action, research and further action.



County Court Judge, Mick Bourke, Public Advocate, Colleen Pearce, Jesuit Social Services CEO, Julie Edwards, CIJ Director, Rob Hulls, and Assistant Commissioner, Luke Cornelius, at the launch of the 'Enabling Justice' Project.

## Adversarial system fails sexual assault victims

Despite hard-won improvements to laws and procedures implemented across Australia over the past decade, the adversarial criminal justice system is failing to deliver access to justice for many victims of sexual assault.

That was a key conclusion of the *Innovative Justice Responses to Sexual Offending, Pathways to better outcomes for victims, offenders and the community*, report which was funded through part of a \$300,000 Commonwealth Government grant. The report addressed a serious gap in the criminal justice system: that most sexual assault victims did not report to police, and if they did, failed to achieve a successful conviction in court.

While the prosecution of sex offenders through the courts remained critically important, many victims still found the process re-traumatising and were looking for other options. The report identified a range of innovative justice practices that could sit alongside the conventional system that would make the justice system more accessible, flexible and responsive for victims of sexual assault.

The report outlines a comprehensive, best practice restorative justice framework that would enable more victims - including those who for a range of reasons do not want to report to police - to pursue an outcome tailored to their needs, and encourage more offenders to accept responsibility for their behaviour.

One example includes 'restorative justice conferencing' a process where the victim and offender come together in a safe, facilitated encounter to repair, to the extent possible, the harm caused by the offending. A successful conference can lead to an outcome agreement that might encompass an apology, financial compensation, a commitment by the offender to enter treatment, and an agreement about future contact or disclosure to family members.

The report offers suggestions for reform including:

- A legislative framework for restorative justice conferencing to ensure appropriate safeguards and quality of practices
- The establishment of assessment panels comprised of forensic, legal and community experts to determine the suitability of cases for restorative justice conferencing
- Pathways into and out of restorative justice conferencing, with appropriate police, prosecution and judicial oversight at different stages of the criminal justice process.

The report also discusses other therapeutic justice innovations, such as sexual offence courts and pre-release courts.

---

## Putting the spotlight on the perpetrators of family violence



The Centre will finalise and release its report on family violence *Opportunities for Early Intervention: Bringing perpetrators of family violence into view* in March 2015. The report, which is funded by the Commonwealth Government, will provide a range of recommendations

highlighting ways the justice system can interrupt the cycle of family violence to make perpetrators more visible and accountable.

The research is timely, given the announcement by the Victorian Government of a Royal Commission into Family Violence and greater national focus on this significant issue.

Director Rob Hulls said that the community was finally coming to terms with the scale of family violence and its impact on women and children but was yet to turn its full attention to perpetrators — those who actually wield violence and control.

Elena Campbell is the lead researcher. She said while the safety and support for women and children should always be paramount, perpetrators of family violence had to be made responsible for their own behaviour and the legal system had to intervene more effectively to break the cycle of violence.



# Promoting Innovative Practice

## Research and action on mental health and the law

A key role of the Centre is to translate the outcomes of research into practical change in legal systems, culture and approaches. Mental health and the law is one key area where innovative practices can make an importance difference.

Research tells us that people with mental illness experience a range of complex and interrelated problems that often lead to financial hardship, social exclusion, discrimination, unemployment, homelessness and imprisonment. Legal need in this area is well documented, and there is clear evidence that people with mental illness are over-represented in the criminal justice system and in our prisons.

The lack of integrated and accessible resources for people with mental illness means that many legal and related problems are not adequately addressed, exacerbating and compounding disadvantage and continuing to trap people in the 'cycle of crime.'



in  
partnership  
with



Centre Director, Rob Hulls, world leading mental health researcher and Executive Director of Orygen, Professor Patrick McGorry, the Chair of the Board, Stan Winford, and Manager, Charlotte Jones, at the 'relaunch' of the Centre.

## Research, partnership and action

RMIT's partnership with the Mental Health Legal Centre (MHLC) is providing greater capacity to meet the complex legal needs of people with mental illness and to help break the cycle of crime. The partnership's explicit focus on innovation in addressing the unique and complex problems faced by people with mental illness is delivering new approaches and solutions in this area of legal need.

The MHLC provides specialist representation for consumers before the mental health review tribunal, as well as assistance in relation to the broad range of legal problems that are commonly experienced by people with mental illness, including minor criminal offences, infringements and fines, human rights and equal opportunity, family violence, child protection, employment, social security, debt, privacy, tenancy, insurance, credit and consumer contracts. The MHLC operates the only dedicated statewide telephone service night service for people suffering co-occurring mental health and legal problems. Much of the advice and representation is coordinated through this service.

The MHLC also delivers the Inside Access program, which provides free legal services to people with mental health issues in correctional and forensic facilities in Victoria, as well as assisting them to re-enter the community on release more effectively. Inside Access delivers community legal education to prisoners and detainees and is involved in law, policy and systemic reform activities. Alongside providing a fortnightly clinic at the Dame Phyllis Frost Centre there are also visits made to individual prisoners statewide. This work is made possible by philanthropic organisations including William Buckland Foundation, the Connor Innovation Trust, Equity Trustees, and Igniting Change.

## From fighting for survival to planning for growth

Over the last year or so the Mental Health Legal Centre has been in transition, moving from fighting for survival towards planning for growth thanks to its partnership with RMIT, the dedication and resilience of its staff, board and volunteers and the ongoing support of many philanthropic organisations.

The experience provided the MHLC with real clarity about what would be lost if the organisation did not survive, and strengthened the resolve of those involved with the Centre to keep the organisation alive.



In what were tough times, RMIT gave the MHLC a home, philanthropic supporters kept the faith, the small complement of dedicated staff went above and beyond the call of duty, pro bono lawyers and volunteers put in an incredible amount of work and the board developed a clear plan for the future.

The plan for MHLC is to diversify its funding and support base, continue to build, innovate and improve services, to strengthen relationships with existing partners and to use the increased delivery of services to clients to inform research, advocacy and practice.

The connection with RMIT has helped strengthen the link between research and practical outcomes and boosted the Centre's education, research and advocacy capacity and ability to be innovative in its approach to service delivery.

The partnership will provide an increasing number of practical and work integrated learning opportunities for RMIT University students. In 2014, through the Inside Access program, MHLC hosted two semesters of clinical legal education for RMIT Juris Doctor students and the program is expected to expand further in the coming years.

This relationship has been mutually beneficial, with Inside Access able to assist many more clients, and many more women able to leave prison with a "clean slate", no longer hampered in their efforts to return to the community by the burden of unresolved legal problems.

## Research, action



Kerryn Pell



Kristen Scobell

A comprehensive report prepared by two social work students placed with the CIJ from RMIT's School of Global, Urban and Social Studies, Kristen Scobell and Kerryn Pell, will inform the plan for the Centre's next stage of growth. The report 'Holistic Service Provision: A Scoping Study' developed five options to meet two primary objectives shared by MHLC and the CIJ:

- The need for an integrated multidisciplinary service that address client issues holistically and that challenges the current fragmented service system, and
- The need for unique, valuable student placement opportunities that enable different cohorts to learn to interact and work collaboratively.

Drawing on research and developments in the field of justice health partnerships, the report found there were substantial benefits of integrated legal and social work services in terms of client outcomes, staff well-being and long-term economic savings through the prevention of legal and other issues arising in the future. It recognised there were also challenges and risks involved in integrating disciplines with different underpinning philosophies, values and ethical obligations. While the report acknowledged these challenges it advocates that 'many of the risks are preventable, and the unique benefits are likely to outweigh these risks.'

## Why putting law students in jails should be compulsory!



In an interview with CIJ Director, Rob Hulls, RMIT JD student, Andrew Spinks, said the clinical legal education elective provided through the MHLC's Inside Access program will help make him a better lawyer, and should be compulsory.

"There's nothing like practical experience when you are doing a law degree ... a chance to use your skills you have gained while you are studying and be exposed to pretty good professionals in their field providing advice to people in need.... Before I went in (to the women's prison) I only knew what I had read about Inside Access... but I had no idea how it worked in practice and how the lawyers would actually use their skills in getting their message across to people who are very frightened and concerned quite often, and most of whom, if not all, were experiencing mental illnesses ... it was a real eye-opener... observing and understanding how top lawyers advise people in those circumstances ... if you just stuck to the books I don't think you would really have any idea of how to operate in that capacity in a lawyers role ... it should be a compulsory subject!"

There are more testimonials from students about their engagement with the justice system in the 'Student Involvement' section.

# Advocacy and Debate

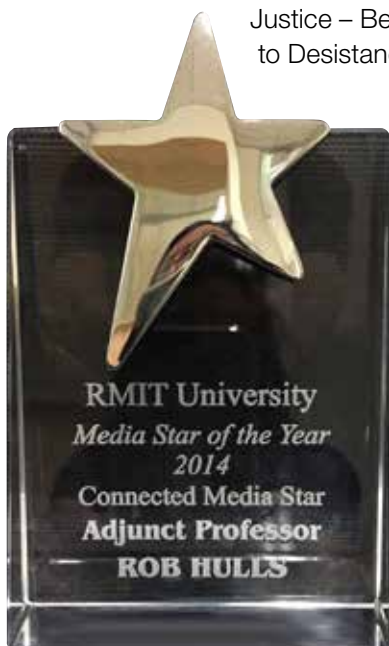
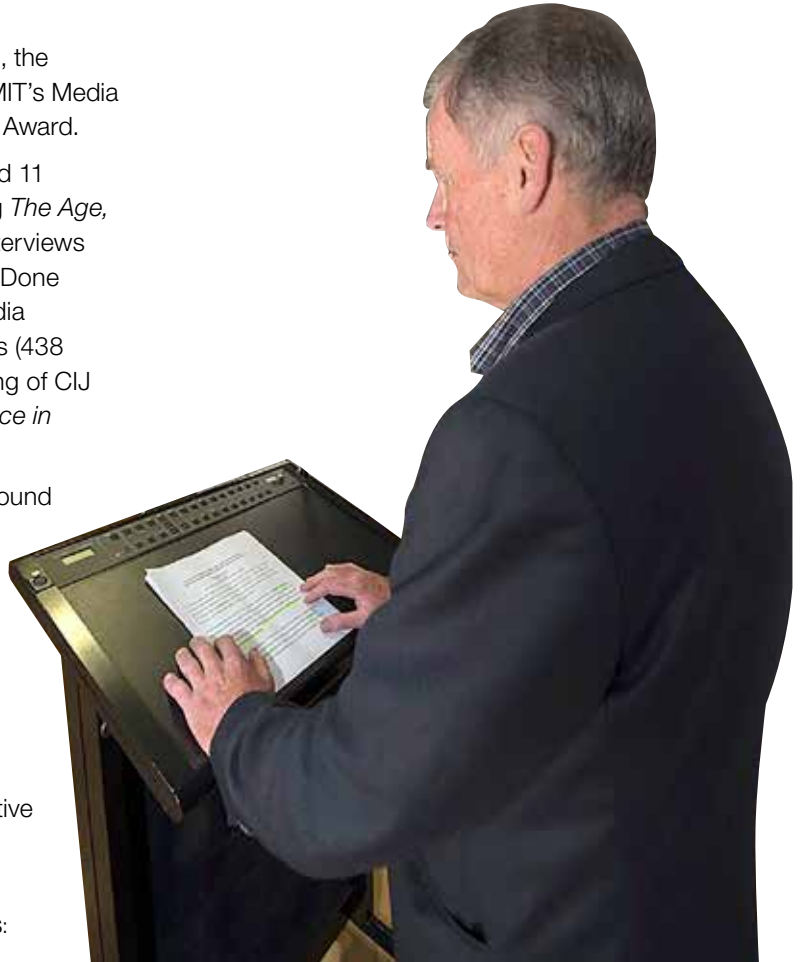
## A media ...what?

To cap off a busy year out on the hustings, the Director of the Centre Rob Hulls, won RMIT's Media Star of the Year 2014 Connected Media Star Award.

The Centre's presence in the media included 11 articles in a range of media outlets including *The Age*, *The Australian* and the *Herald-Sun*; radio interviews with Lindy Burns on ABC774 and on 3CR's *Done by Law*. The Centre was busy on social media steadily building its Twitter account followers (438 followers, 267 tweets with regular re-tweeting of CIJ posts) and a blog post for *Therapeutic Justice in the Mainstream*.

Speaking engagements took the Director around the university and the world with nine internal functions: College of Business HDR Summer Research Conference, (Feb) Guest lecture to Bachelor of Arts (International Studies); Introduction to legal systems and methods (Jul); JD Alumni wine and cheese night, with Judge Ian Gray (Jul); Guest lecture for RMIT School of Global, Urban and Social Studies (GUSS) on innovative law courts (Aug); Q&A session with MBA students, (Aug).

There were thirteen external engagements: European Forum on Restorative Justice – Beyond Crime, Pathways to Desistance, Social Justice and Peace-building, Belfast (June); Mayo Lecture, James Cook University, Cairns, (May), Loddon Campaspe Justice Bites, Bendigo, (Aug), Homicide Law Reform in Victoria Conference, (Aug), Wheeler Centre 'Tackling Crime the Smart Way' (Sep), Australian and New Zealand Association Treatment of Sexual Abuse Symposium, Sydney (Nov), Acquired Brain Injury National Conference, Sydney (Nov).



The year also saw some global connections being made, including through meetings in London and Barcelona with key representatives from the Alternative Dispute Resolution, restorative justice and innovative justice communities (June); a presentation to a delegation from the Supreme People's Procuracy of Vietnam and the development of a New Zealand Innovative Justice Study Tour for semester 2, 2015.

# Guess Who

## People, pets and wine...

They say that people often resemble their pets but at the Centre we aren't quite sure who 'they' are. Given our passion for research (and a bit of fun), and our penchant for challenging assumptions we thought it was time to put this issue to the test.

In the Who We Are section of the report, we substituted photos of our staff and advisory board members with photos of their pets. And we arranged them randomly, so that the sequence of photos did not match the order in which their details were provided.

Now it is your turn. And the winner gets a bottle of nice wine (red or white). On us.

All you have to do is match the person with their pet and send your answers to [cij@rmit.edu.au](mailto:cij@rmit.edu.au).

Entries close on midnight May 31, 2015, and the first correct entry wins. Given that we will be opening email entries in the order they arrive, you will have a better chance to win the sooner you get your entry in. No correspondence will be entered into, except for the emails you send. Although, an innovative dispute resolution procedure is in place should it be required.

## Our people



Rob Hulls



Mary Polis



Stan Winford



Mina Hilson



Elena Campbell



Jessica Richter



Ruth Barson



John Cain



Penny Armytage



Professor  
Anthony Forsyth



Greg Manning

Pet name / Number

## Our pets



1. Buddy



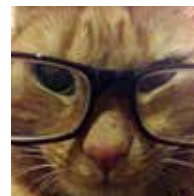
2. Mala



3. Inky



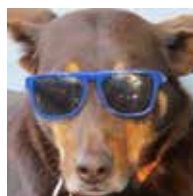
4. Hugo & Wilson



5. Rowdy



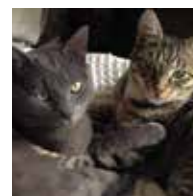
6. Cuddles



7. Cassie



8. Bees



9. Pedro & Bertie



10. Rani



11. Moggy





[www.rmit.edu.au/innovativejustice](http://www.rmit.edu.au/innovativejustice)