

The South West Justices Journal



January 2010

BUSSELTON SEMINAR

Wednesday 24th February 2010

This regular annual seminar is provided with the assistance of our local Magistrates. The main thrust of the several training days that are held each year is to enable SW Justices access to adequate training so that they can confidently conduct the duties required of them as part of their commission. It is important that Justices keep up to date with any new legislation or practice procedures, and the seminar to be held in Busselton on the 24th February is an ideal opportunity to do just that.

IMPORTANT INFORMATION FOR JUSTICES

You are again reminded that it is a requirement that Justices who wish to retain their Court Accredited status attend at least one training session each calendar year and be serving on a current court roster. Training dates set down for this year are

24th Feb Busselton, 20th May Manjimup, 27th July Collie,
14th Sept Bunbury, 30th Nov Bunbury

AGENDA

ROYAL ASSOCIATION of JUSTICES of W.A. BUSSELTON TRAINING SEMINAR

24th February 2010

**The Abbey Beach Resort
595 Bussell Hwy, Busselton**

9.00am Registration and Refreshments

9.30am Welcome & Opening

9.35am Presentation by Magistrates

10.45am Morning tea

11.00am Bail Workshop Session and Discussion

12.00pm Ask the Magistrate

Time to ask any questions and for a discussion of matters of common interest.

12.30pm Lunch

1.30pm Guest Speaker:

2.15pm Workshop and Discussion

4.00pm Close

Justices may advise of their intention, or otherwise, to attend by forwarding the attached form by one of the various methods indicated or by accessing the Branch Website at

www.rajwaswb.org.au/busselton



Firstly I hope that you and your family had a wonderful Christmas!!

Our 2009 AGM was well attended with 87 participants from the South West taking advantage of the training that was offered. Kathleen Heath (our RAJWA Council representative, and VP of the Association) travelled from Perth to be with us on the day, and Susan Brandis from the JP Branch of the Department was also in attendance. The guest speakers all gave informative talks about their various fields we heard from Keryl Morris, a court diversion officer, who explained the YPOP, POP and STIR programmes; Chris Csillag, Victim Support Services about how victims of crime come to terms with what happened to them, and how they can deal with the consequences; and Robyn Watson a mediation officer from the Victim Mediation Unit. All these services are available throughout the south west and we should keep them in mind when sitting on the bench.

Once again all three of our Magistrates were in attendance, Vivian Edwards, Michelle Pontifex and Kelvin Fisher are all prepared to assist Justices in any way they can and we are very fortunate to have Magistrates with such a JP positive philosophy. A recent visit from Hon Christian Porter our Attorney General reinforced the SW philosophy of JP Court Accredited Justices. He was impressed with our system and is looking to have a similar system adopted state wide. Justices in the SW must attend training at least once a year and be serving on a court roster to become Court Accredited or maintain that status. The list of Court Accredited Justices is available on the SW Branch Website. We always need more Justices prepared to be available for court duties, and in the signing centres throughout the SW and if everyone eligible does some of the work, we all gain from the experience. If we find enough Justices can't get to training days (2010 list of training days 24th Feb Busselton, 20th May Manjimup, 27th July Collie, 14th Sept Bunbury, 30th Nov Bunbury) we may be able to hold some additional evening sessions. There will also be some sessions specifically for those of you who have attained your Court Accreditation status.

Don't forget you are always welcome to sit in with one of the Magistrates when they are in your area, it is a good way of picking up the nuances of sentencing or any intricacies of any newly enacted legislation, but you do need to book with the individual clerk of courts to make sure we only have on Justice at a time. The section which pertains to court work on the SW website is kept up to date, and well worth checking, and indeed printing for your reference when you are sitting in court. One of the training sessions in the afternoon of our recent seminar advised of the difference between a disqualified and cancelled MDL it is very important that you know the difference and that the prosecution notice is clear as to whether the license is cancelled (meaning the driver is required to start the process of obtaining a license from scratch once the period of disqualification has been served) or just suspended for a period.

Your 2009/2010 committee is now

President: Alison Companti, **Senior Vice President:** Tim Lee Steere, **Junior Vice President:** Dave Saunders, **IPP:** Barbara Della Patrona, **Secretary:** Chris Mills, **Treasurer:** Pierina Frisina, **Bunbury Signing Centre Co-ordinator :** Kevin Coote, **Committee:** Shirley Carbone, Jamie Morley, David Rees, Peter Nowland, Rob Prestage, and Trevor Slater.

I would like to thank Terry Donaldson who has served the committee for the last 11 years as the Justice Centre co-ordinator. Terry has done a fabulous job, and deserves many thanks!! Geoff Wilks has also retired from the committee, thank you Geoff we will look forward to hearing about our Collie colleagues from our new Jun VP Dave Saunders. With the current constitution of the RAJWA we are unable to offer Honorary membership based on age so JsPs need to be aware to continue to have a voice with the SW branch or the RAJWA they will need to pay some subs, still only \$5 per year and payable on the 30th June.

Of the candidates nominated throughout 2009 - the South West Branch has submitted (through our Magistrates) 9 applications for younger justices, although the process takes considerable time, it is heartening to know we have enthusiastic people willing to take on active roles within our communities.

I have confirmed with the Immigration department the requirements for permanent residency status. The documents required are limited to Passport Biography page, Current Visa Page (if existing), any police clearances held, birth and marriage certificates, educational certificates (high school, trade, and tertiary), and the English language test result certificate. If the case officer requires anything additional they will contact the client directly. Many Justices have been dismayed by the number of documents being presented, and the time required in completing the certification process. We have now a system of stamp certification to streamline the process, stamps can be ordered through the website, to further assist you in the process. Remember you must date each document you certify as a copy of the original.

We occasionally receive documents back from various courts asking for the full name of the signees. Justices need to be aware that their JP number is considered the finite identifying measure of a JP and when attached to your signature you are not required to write your FULL name, a surname and an initial is adequate.

We have 284 Justices in the SW and there are quite a percentage of these with whom we have no contact. If you are in contact with other Justices please encourage them to attend training sessions, and keep in contact with the Association, we would love to have more Justices available to spread the workload! Quite a number do not even acknowledge receipt of invitations and other material, please encourage your fellow Justices to make contact on such occasions.

Thank you to Justices who do make themselves available for court rosters, and the signing centres as well as through your business offices and homes the Justice system would not survive without us, and you should all be proud of your contributions!!

I look forward to your invigorated return to your JP duties in 2010.

Alison Companti President South West Branch RAJWA

South West Branch Website

Log into the site by entering www.rajwaswb.org.au into the top address bar of your browser.

To login to the Justices area the current ID is <justices> and the Password is <justice>

A reminder to all Justices that it is important that you let us know your contact details. In particular we need to know your **Email Address** so we can advise you of any changes placed on the site such as updates to legislation or procedures, or to advise you of other matters such as rosters, training days, trips or other matters that might be of interest.

If you have an Email address, and you haven't done so already, we would appreciate you sending an email to secretary@rajwaswb.org.au with your Full Name, and your JP Number as the message. This will enable us to add you to our email list and help us to keep in touch as listed above. Also add that address to the approved senders lists in your email and anti-spam programmes.

RUBBER STAMPS

Justices who desire to do so may order a stamp direct from

South West Rubber Stamps

Unit 9 Block C Homemaker Centre
42 Strickland Street
Bunbury WA 6230
Phone 08 9791 5050
Fax 08 9791 5005
Email swrs@bigpond.net.au

The proprietor is Clark Edmeades and he can provide the correct form of the following Stamps:

Name Stamps

Annexure Stamps

Re-Sworn Stamps

Certified Copy Stamps

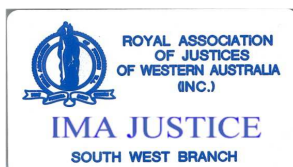
And in fact any other type of stamp you might require.

Justices should also be aware that we are advised that it is not necessary for them to include their full name on a stamp as long as the stamp also includes their JP identification number.

Should you be a member of the SW Branch of the RAJWA and like a Branch NAME BADGE please advise the Secretary. The badge will be posted to you on completion and receipt of your \$15 payment.

Post cheque to Secretary or
Eft to BSB 035 152 a/c 530486

Please include your Name and JP No in the Eft details box



Enduring Power of Guardianship

Enduring Powers of Guardianship (EPGs) and Advance Health Directives (AHDs) will come into force in Western Australia on 15 February 2010, when part 2 of the Acts Amendment (Consent to Medical Treatment) Act 2008 is proclaimed. The introduction of these tools gives Western Australian adults (Provided they are 18 years of age or older and have full legal capacity) the power to plan for how personal, lifestyle and treatment decisions would be made on their behalf if an accident or illness left them unable to make decisions for themselves.

What is an Enduring Power of Guardianship (EPG)? An **EPG** is a legal document in which you will be able to nominate one or more people to make personal and lifestyle decisions on your behalf, such as where you live, who you have contact with and the types of support services you receive. You will also be able to give them the power to make treatment and healthcare decisions on your behalf. In the event that you lose the capacity to make decisions for yourself, this person or these people (your enduring guardian/s), would then have the authority to make these decisions on your behalf.

What is an Advance Health Directive (AHD)? An **AHD** is a legal document in which you will be able to plan specifically for your future medical, surgical or dental treatment. You will be able to set out what treatment you would or would not want to receive. Then, if you become unable to make or communicate your wishes, your AHD will speak for you.

Where can I get an EPG/AHD from? Once the legislation is proclaimed, the EPG forms and explanatory guides will be available on the Office of the Public Advocate's website and through the State Law Publisher. The AHD forms and guides will be available on the Department of Health's website. More information? The Office of the Public Advocate is responsible for the introduction of EPGs and should be contacted via opa@justice.wa.gov.au or phone 1300858455 for more information.

SIGNING CENTRE NEWS



This service is provided by volunteer Justices who are rostered at a signing centre to assist the public, Police and others with matters that need witnessing or swearing before a Justice of the Peace.

We have signing facilities in Bunbury, Busselton, Dunsborough and Collie and all provide a welcome service for their communities.

We are always keen for willing Justices to join the roster and Kevin would like to hear any of you who might be able to give a few hours each month to help with the roster. In fact, all of our coordinators would be keen to hear from you if you are able to help in either Bunbury, Busselton, Dunsborough or Collie.

Kevin Coote, Coordinator
Bunbury Justice Centre
Phone 0417187261
Email coote@wn.com.au

Graham Edwards, Secretary
Busselton Sub-Committee
Phone 97554848
Email gwe1927@bigpond.com

Dave Saunders, Secretary
Collie Sub Committee
Phone 97341846
Email davinez@westnet.com.au

Musings from the Magistrates

May we take this opportunity to extend our best wishes for 2010 and to thank each and every one for your support, commitment and assistance in 2009. There can be no doubt that your continuing assistance in the administration of justice in the South West through your participation with the Court, Justice Centres, Police and generally, benefits this community and us, and it is very much appreciated.

In 2010 we propose seminars in each Busselton (24th January), Manjimup (20th May), Collie (27th July) and Bunbury (14th Sept & 30th November). In proposing two seminars in Bunbury we hope with one to extend the format with guest speakers and demonstrations of interest and to generally provide a lighter but informative occasion. Any thought or suggestions as to guest speakers or demonstrations that may interest you would be welcomed and should be directed to the Secretary or another committee member. Your attendance and support of the 2009 seminars was overwhelming and we again look forward to similarly successful seminars.

The legislators and the appeal courts have been busy since our last seminars with amendments and directions that affect our duties and how we deal with persons, and it is essential, particularly for Court Accredited Justices, to keep up to date with these developments through your attendance at seminars.

Two decisions of interest and relevance for justices are *Berry -v- Bloggs* [2009] WASC 378 and *Redding -v- Robinson* 2009 WASC 403; these may be found on the Supreme Court web – www.supremecourt.wa.gov.au – under judgments.

In *Berry*'s case His Honour Justice McKechnie at "[26]" observed "At sentencing, following the prosecution's submissions, the magistrate said, 'Yes, well, anything you want to say? Anything more you want to say?' and the appellant (accused) answered 'No'. The magistrate then imposed fines. It would have been practical for the magistrate to have asked the appellant (accused) as to his means. The question, 'Anything more you want to say?' does not discharge the obligation under s 53 (of the Sentencing Act) to, as far as practicable, take into account the means of the offender and the extent to which the fine will burden the offender.'

In *Redding*'s case His Honour Justice Hall, where the accused had not made an application to the magistrate for a spent conviction order after pleading guilty to the offence of Disorderly Conduct by urinating, said at "[6]", "The ...magistrate's discretion to order a spent conviction did not depend on there being a formal application." His Honour here implying that it is not necessary for there to be a formal application for a spent conviction before the magistrate's/justice's discretion is enlivened, only that the court be satisfied as to the matters set out in section 45. "They are that the court considers that the offender is unlikely to commit an offence of this nature again and that the court considers that the offender should be relieved of the adverse consequences of a conviction."

We will, no doubt have more to say about these and other cases at the Busselton seminar and we look forward to seeing you there.

A LAUGHING MATTER

