



NATIONAL  
JUDICIAL  
COLLEGE  
*of Australia*



Australian  
National  
University



BRAVE NEW WORLDS:  
Challenges for Evidence in the 21st Century  
4 – 5 MARCH 2017  
REGISTRATION GUIDE

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**Venue: John Curtin School of Medical Research**

The Australian National University, 131 Garran Road, Acton ACT 2601

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# GENERAL INFORMATION

## Start and Finish Times

<b>Saturday 4 March</b>	9.15am – 5.00pm
Conference drinks	5.00pm – 6.30pm
<b>Sunday 5 March</b>	9.30am – 1.15pm

## Venue

John Curtin School of Medical Research, 131 Garran Road, Acton ACT 2601



## Organising Committee



**Justice Debra Mullins (Chair)**

Supreme Court of Queensland



**Chief Magistrate Steven Heath**

Magistrates' Court of Western Australia



**Justice Richard Refshauge**

Supreme Court, Australian Capital Territory



**Chief Judge Geoff Muecke**

District Court of South Australia



**Judge Stephen Norrish**

District Court of New South Wales



**Justice Peter Murphy**

Family Court of Australia



**Magistrate Andrée Horrigan**

Children's Court of Western Australia



**Associate Professor Mark Nolan**

ANU College of Law



**Dr Anthony Hopkins**

ANU College of Law



**Wendy Kukulies-Smith**

ANU College of Law

# PROGRAM

Saturday 4 March 2017

9.15 am	OFFICIAL OPENING AND WELCOME TO COUNTRY
	<p><b>Aunty Agnes Shea OAM</b>, Ngunnawal Elder</p> <p><b>The Honourable Chief Justice Helen Murrell</b>, Supreme Court of the Australian Capital Territory, Chair, Council of the National Judicial College of Australia</p> <p><b>Professor Stephen Bottomley</b>, Dean, ANU College of Law, The Australian National University</p>
9.40 am	SESSION 1: KEYNOTE ADDRESS
	<p><b>The Honourable Justice Stephen Gageler</b>, High Court of Australia</p> <p><i>Session chair:</i> <b>The Honourable Chief Justice Helen Murrell</b>, Supreme Court of the Australian Capital Territory, Chair, Council of the National Judicial College of Australia</p>
10.30 am	SESSION 2: VOICE IDENTIFICATION AND COMPARISON EVIDENCE IN AN ERA OF COVERT INVESTIGATIONS
	<p><b>Dr Helen Fraser</b>, Cognitive Phonetics Specialist</p> <p><i>Session chair:</i> <b>Professor Gary Edmond</b>, Director of the Program in Expertise, Evidence and Law, School of Law, The University of New South Wales</p> <p>Cognitive and forensic phonetician <a href="#">Dr Helen Fraser</a> will discuss the use of police transcripts to assist the court in interpreting indistinct covert recordings. Using interactive demonstrations and experimental results, she will show that police transcripts are unlikely to be reliable and that significant inaccuracies are often not detected. Through case studies, she will demonstrate actual and potential injustice arising from current practice, and outline directions for a better, simpler practice which focuses on a dialogue between phonetic science and the law (see <a href="#">Forensic Phonetics Australia</a>). The chair and discussant for the session, <a href="#">Prof Gary Edmond</a>, has co-authored one of the leading <a href="#">articles</a> reviewing the history of voice evidence in the Australian courts.</p>
11.15 am	Morning tea
11.30 am	SESSION 3: UNDERSTANDING HUMAN FACE RECOGNITION AND CHALLENGES FOR IDENTIFICATION EVIDENCE
	<p><b>Professor Neil Brewer</b>, School of Psychology, Flinders University</p> <p><b>Professor Elinor McKone</b>, Research School of Psychology, The Australian National University</p> <p><b>Professor Gary Edmond</b>, Director of the Program in Expertise, Evidence and Law, School of Law, The University of New South Wales</p> <p><i>Session chair:</i> <b>Associate Professor Mark Nolan</b>, Lecturer, ANU College of Law, The Australian National University</p> <p>Two cognitive psychologists will present their work on human face recognition and eyewitness identification. <a href="#">Prof Neil Brewer</a> will present data from a series of experiments encouraging us to think differently about the gathering and interpreting of eyewitness testimony. <a href="#">Prof Elinor McKone</a> will discuss her research at the psychology lab at the ANU, including what influences the ability of human perceivers to recognise faces from degraded images. Finally, <a href="#">Prof Gary Edmond</a> will discuss the legal controversies surrounding face recognition and identification evidence, as well as highlight the debate surrounding the use of discretions to exclude evidence offered by expert witnesses.</p>
1.00 pm	Lunch

1.45 pm	SESSION 4: PSYCHOLOGICAL UNDERSTANDING AND FORENSIC USE OF GAIT AND BODY MOVEMENT EVIDENCE
	<p><b>Dr Justin Gaetano</b>, Adjunct Academic, School of Health and Human Sciences, Southern Cross University</p> <p><b>Dr Rick van der Zwan</b>, Director, Little but Fierce</p> <p><i>Session chair:</i> <b>Chief Magistrate Steven Heath</b>, Magistrates Court of Western Australia</p> <p>Two psychologists, Drs <a href="#">Justin Gaetano</a> and <a href="#">Rick van der Zwan</a>, will discuss the challenges in identifying an individual and the nature of their behaviour from their gait and other bodily movements such as may be recorded, for example, on CCTV footage. Research into this type of identification evidence has received less attention from researchers than face and voice identification. This session highlights the importance of understanding this type of identification evidence, particularly as it may be applied in cases where other forms of identification evidence are either absent or ambiguous.</p>
3.00 pm	Afternoon Tea
3.15 pm	SESSION 5: FORENSIC USES OF FACE AND BODY IDENTIFICATION EVIDENCE
	<p><b>Associate Professor Richard Kemp</b>, Forensic Psychology Lab, University of New South Wales</p> <p><i>Session chair:</i> <b>Judge Stephen Norrish</b>, District Court of New South Wales</p> <p><a href="#">Prof Richard Kemp</a> will discuss work he and colleagues have conducted on face and body perception in forensic contexts including security applications in customs and border security screening as well as for identification purposes for criminal or other legal cases. The psychological and scientific controversies surrounding use of body mapping, photographic superimposition as well as forensic anatomical analyses to support face and body identification evidence will also be discussed.</p>
4.00 pm	SESSION 6: COVERT ONLINE SURVEILLANCE OF CHILD PREDATORS: EXPLORING THE LEGAL AND ETHICAL BOUNDARIES
	<p><b>Professor Peter Grabosky</b>, Regulatory Institutions Network, The Australian National University</p> <p><b>Associate Professor Gregor Urbas</b>, Faculty of Business, Government and Law, University of Canberra; Visiting Fellow at Tilburg University, Netherlands</p> <p><i>Session chair:</i> <b>Justice Richard Refshauge</b>, Supreme Court of the Australian Capital Territory</p> <p>The investigation of child sex predators in the online environment has led police to use 'sting operations', posing as children in chat rooms and other social media. These techniques have generally been found to be lawful in Australian legal proceedings involving child grooming prosecutions. Overseas, some more advanced techniques have been adopted, using avatars designed to mimic vulnerable children offering webcam sexual services, as in the "Sweetie Project" developed by the Dutch non-government organisation Terre des Hommes. While potentially admissible evidence may be obtained, the role of non-state actors and even police in operating what arguably constitute automated surveillance devices in the collection of evidence remains largely untested in the courts, and poses challenges as to the legal and ethical limits of investigations.</p>
5.00 pm	DRINKS AND CANAPES
	<p><i>Venue:</i> John Curtin School of Medical Research</p> <p><i>Host:</i> <b>Professor Stephen Bottomley</b>, Dean, ANU College of Law, The Australian National University</p>
6.30 pm	END OF DAY ONE

# PROGRAM

Sunday 5 March 2017

9.30 am	<b>SESSION 7: DECISION MAKING: HUMAN VS MACHINE</b>
	<p><b>Mr Jon Cina</b>, Associate Director, Access and Equity, Victoria Legal Aid</p> <p><b>Professor Seumas Miller</b>, Centre for Applied Philosophy and Public Ethics, Charles Sturt University and 3TU Centre for Ethics and Technology, Delft University of Technology (The Hague)</p> <p><b>Professor John Zeleznikow</b>, Laboratory of Decision Support and Dispute Management, College of Business, Victoria University</p> <p>Session chair: <b>Justice Peter Murphy</b>, Family Court of Australia</p> <p>The panel will discuss current developments in the field of machine decision-making in both legal and non-legal contexts, and the benefits and drawbacks of employing technology in the decision making process.</p>
10.30 am	Morning tea
10.45 am	<b>SESSION 8: DNA EVIDENCE IN REPORTS AND COURTS</b>
	<p><b>Ms Julie Szego</b>, author and freelance journalist</p> <p><b>Dr Dennis McNevin</b>, Faculty of Education, Science, Technology &amp; Maths, University of Canberra</p> <p><b>Professor Gary Edmond</b>, Director of the Program in Expertise, Evidence and Law, School of Law, The University of New South Wales</p> <p>Session chair: <b>Justice Debra Mullins</b>, Supreme Court of Queensland</p> <p>DNA evidence will be explored from three different perspectives. Farah Jama was convicted of rape on DNA evidence alone and spent 18 months in prison, before he was exonerated on appeal. <a href="#">Ms Julie Szego</a> will dissect the Jama case and subsequent developments in exploring the notion of a “CSI-effect” – the idea that juries are so conditioned to watching television crime dramas they have come to regard DNA evidence as infallible. <a href="#">Dr Dennis McNevin</a> will explain two new frontiers for forensic genetics: first, use of DNA for intelligence information in addition to its current role as a means of including and excluding individuals as potential DNA donors and, secondly the use of next generation sequencing (NGS) or massively parallel sequencing (MPS) as a viable option for forensic DNA analysis. <a href="#">Professor Gary Edmond</a> will discuss the admission and use of DNA (and other forensic science) evidence following the decisions in Aytugrul, Tuite and IMM, informed by the <a href="#">report</a> by the President’s Council of Advisors on Science and Technology.</p>

12.00 pm	<p>SESSION 9: PROSECUTING MULTIPLE COMPLAINANT CASES OF CHILD SEXUAL ASSAULT: THE NEW SOUTH WALES OR VICTORIAN APPROACH?</p> <p><b>Associate Professor John Anderson</b>, Newcastle Law School, University of Newcastle</p> <p><b>Professor Anne Cossins</b>, Professor of Law and Criminology, Faculty of Law, University of New South Wales</p> <p>Session chair: <b>Dr Anthony Hopkins</b>, Senior Lecturer, ANU College of Law, The Australian National University</p> <p>Session commentator: <b>Judge Stephen Norrish</b>, District Court of New South Wales</p> <p>New South Wales and Victoria have markedly diverged in relation to permitting joint trials and admitting tendency evidence in child sexual abuse cases under the Uniform Evidence Law. The High Court has granted special leave in the case of <i>Hughes v R</i> [2015] NSWCCA 330 to enable a resolution of competing approaches. <a href="#">Professor Anne Cossins</a> and <a href="#">Associate Professor John Anderson</a> will consider opposing sides of the argument and the future of tendency evidence under the Uniform Evidence Law having regard to statutory construction, the policy of the law and jury research.</p>
1.15 pm	CONFERENCE CLOSE
1.20 pm	Lunch

# GETTING THERE AND AWAY

The ANU is located in Acton on the north side of Lake Burley Griffin, just west of the city centre.

## Transport



### Arriving by plane

ANU is a 15 minute drive from Canberra Airport. Taxis are available at all times of the day. The airport taxi rank is located on the ground floor of the terminal building, just a short walk from the baggage carousels.

An Airport Express bus to and from the city operates regularly throughout the day. The Airport Express stop at West Row is closest to the venue. There are no public buses.

- > [Airport Express Bus:](http://canberraairport.com.au/travellers/parking-transport/buses-and-coaches-2)  
canberraairport.com.au/travellers/parking-transport/ buses-and-coaches-2

### Taxis

- > Canberra Elite: 13 22 27
- > Cabxpress 1300 222 977
- > Silver Service 13 31 00

### Arriving by train or bus

Canberra is just over 3 hours from Sydney by car or bus (Greyhound or Murrays), or 4 hours by train (Countrylink).

Buses arrive in the city centre, a short taxi journey from ANU.

Trains arrive at Kingston Railway, approximately 15 mins from the venue by taxi.

### Action buses

- > 13 17 10 or 02 6207 7611 (outside the ACT) or 61 2 6207 5111 (international)
- > [www.transport.act.gov.au](http://www.transport.act.gov.au)

# ACCOMMODATION

Some accommodation options on campus or within walking distance to the ANU campus, include the following:

## University House

T: 61 2 6125 5211

W: [www.unihouse.anu.edu.au](http://www.unihouse.anu.edu.au)

This hotel, located on the ANU campus, is a 2-minute walk to the venue.

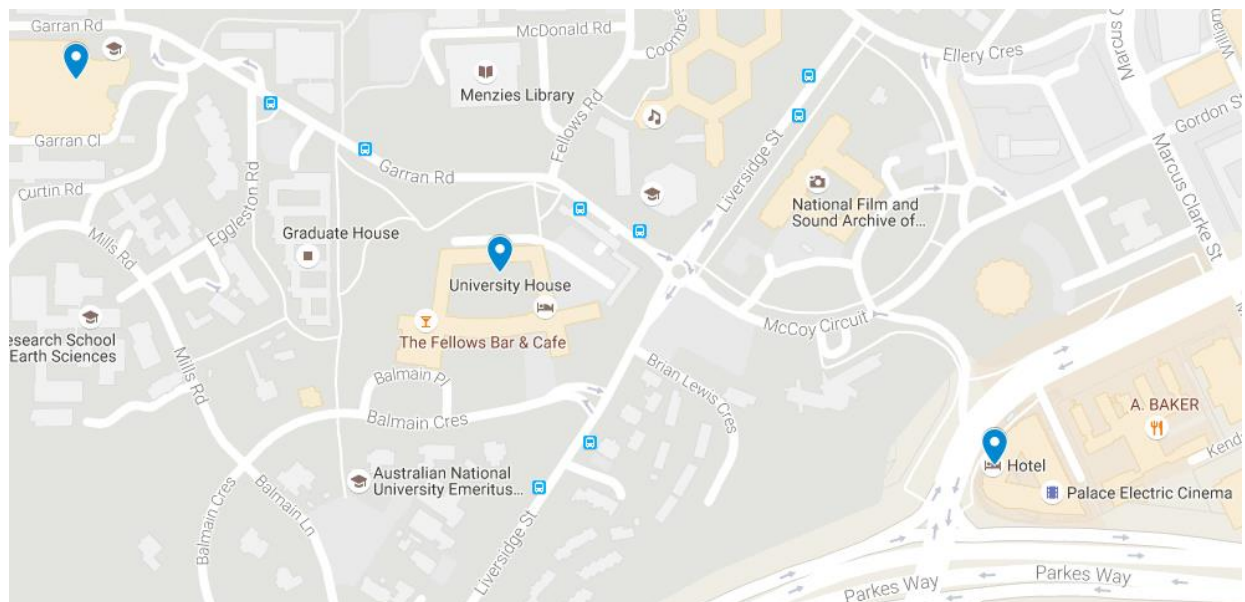


## Hotel Hotel

T: 61 2 6287 6287

W: <http://www.hotel-hotel.com.au>

Near the shores of Lake Burley Griffin, this upscale, eco- chic hotel is a 10 minute walk to the venue. Contact the hotel directly to obtain a conference rate by quoting conference code **LAW020317** (subject to availability; cancellation fees may apply).



## Nearby hotels:

- > [QT Canberra](#)
- > [Peppers Gallery Hotel](#)
- > [Capital Tower Apartments](#)
- > [Novotel](#)

Or you can check out more accommodation at [visitcanberra.com.au](http://visitcanberra.com.au).



# CONTACT US

National Judicial College of Australia  
The Australian National University North Wing  
5 Fellows Road  
Acton ACT 2601

T +61 2 6125 6655

E [njca@anu.edu.au](mailto:njca@anu.edu.au)

W [njca.com.au](http://njca.com.au)

ANU College of Law  
The Australian National University  
5 Fellows Road  
Acton ACT 2601

T +61 2 6125 3483

E [enquiries.law@anu.edu.au](mailto:enquiries.law@anu.edu.au)

W [law.anu.edu.au](http://law.anu.edu.au)

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