

# JOURNAL OF JUDICIAL ADMINISTRATION

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## ARTICLES

### **Civil justice reform: Some common problems, some possible solutions – *GL Davies***

Litigants are becoming increasingly aware of the benefits of settlement, especially early settlement, over trial. So also are litigation lawyers. That is why civil trial rates throughout the common law world are declining. Notwithstanding that, our civil justice systems continue to assume a trial and judgment, making little or no provision for early, fair resolution of disputes by agreement. Given that attempts to reduce the cost of resolution of disputes by trial and judgment have largely failed, our systems should focus more on resolution by agreement and the provision of means by which that can be achieved more fairly and more cheaply. This article explores some ways of doing that. It also reflects on some problems arising from low trial rates and the need to resolve them. It suggests some possible solutions to these. ....

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### **Improving access to justice: Communication skills in the tribunal setting – *Mary Anne Noone***

The barriers of poverty, language, culture, race, age and gender limit many people's access to justice and diminish the concept of equality before the law. An aspect of improving access to justice within the tribunal system is that tribunal members need to ensure communication at a tribunal hearing is optimal. It is recognised that a requisite criterion for tribunal members is good communication skills but precisely what this means is not clear. This article examines why communication skills are important to tribunal members, highlights specific communication issues that warrant tribunal members' attention and examines the particular communication skills that are desirable for tribunal members to exercise in order to improve access to justice. ....

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### **The emperor's new clothes: Court and justice initiatives to address family violence – *Robyn Holder***

This article explores the current debate about and development of court- and justice-based initiatives to address family violence through the experience of the Australian Capital Territory Family Violence Intervention Program (FVIP). Some critical issues about problem-solving courts and therapeutic jurisprudence, as they apply to family violence offences, are considered. The FVIP as a "specialist jurisdiction" is presented as a third way between the rigid and output-focused processes of traditional criminal justice, and the opaque or therapeutic language and open-ended processes of problem-solving courts. The article concludes that comprehensive victim advocacy is essential in a family violence specialist jurisdiction. ....

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**Court referral to ADR: Lessons from an intervention order mediation pilot** – *Melissa Conley Tyler and Jackie Bornstein*

Over the past two decades, courts and tribunals around Australia have introduced a range of alternative dispute resolution (ADR) techniques such as mediation as a standard part of their case management procedures. However, there is still significant variation in how ADR processes are administered in different courts and tribunals. This article reports on an independent evaluation of a Dispute Settlement Centre of Victoria and Magistrates' Court pilot mediation project. This project focused on diversion to mediation of non-family intervention order cases. The Project was a successful model mediation diversion program, achieving well on indicators such as awareness, clarity of eligibility criteria, proportion of eligible cases referred, client satisfaction with mediation and the number of agreements reached. Given the relatively few studies of such programs to date, the results of this evaluation offer useful insights on a number of issues of judicial administration, including promotion of mediation diversion programs, referral and intake processes, supply of mediation services and liaison between the court and mediation providers. ....

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