

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 1.7**

**Question No. 151**

**Senator Ludwig asked the following question at the hearing on 23 May 2005:**

For the National Community Crime Prevention programme, please detail:

- a) Have any alterations been made to the funding allocation or budget since last December Estimates? If so, what are they?
- b) How many applications were received in the funding round that closed on 7 February 2005?
- c) Please provide the details of the timeline of the next funding round? When does it open and close?
- d) Has the second round of grants been decided (it does not appear to be on the website)? If so, please provide details as to which communities received grants.
- e) If not, when is it expected to be completed?
- f) How much is expected (or will) be allocated for the February round of grants?

**The answer to the honourable senator's question is as follows:**

- a) The National Community Crime Prevention Programme received additional funding in the 2004-05 Additional Estimates, as shown in the *Portfolio Additional Estimates Statements 2004-05* (table 1.1.1). Total programme funding is:

2004-05	2005-06	2006-07	2007-08
\$17,000,000	\$17,000,000	\$12,000,000	\$12,000,000

- b) Four hundred and sixty eight.
- c) A round of grants in the Greater Western Sydney region closed on 29 April 2005 and applications are currently being considered. A third general round of grants is expected to be announced early in the next financial year.
- d) Recipients of funding under the Indigenous Community Safety Stream were announced on 20 May 2005. The list of recipients is attached at A. Recipients of funding under the Community Partnership Stream were announced on 22 June 2005. A list of recipients is attached at B.
- e) Announcements regarding grants awarded under the Community Safety Stream are expected to be made in the near future.
- f) It is anticipated that grants amounting to some \$8 million will be awarded.

## ATTACHMENT A

### **Second round recipients of grants awarded under the Indigenous Community Safety Stream of the National Community Crime Prevention Programme**

- Gurriny Yealamucka Health Services Aboriginal Corporation - \$150,000 (QLD).
- Marrickville Youth Resource Centre Inc - \$11,250 (NSW).
- Protective Behaviours WA Inc - \$150,000 (WA).
- Arabunna Nulla Kari-Ku Wanga Association Inc - \$114,800 (SA)
- Gunyangara Men's Group - \$150,000 (NT).
- Killara Refuge/Inarr Nura Aboriginal Women and Children - \$138,135 (NSW).
- Shellharbour Aboriginal Community Youth Association - \$126,144 (NSW).
- Black Suns Inc - \$50,000 (NSW).
- Men's Health and Well-being - \$148,760 (NSW).

## ATTACHMENT B

### **Second round recipients of grants awarded under the Community Partnership Stream of the National Community Crime Prevention Programme**

- **Regional Extended Family Services - \$470,000 (NSW).**
- **Big hART Inc - \$404,700 (NSW).**
- **Berry Street Victoria - \$368,411 (VIC)**
- **North East Support & Action for Youth Incorporated - \$150,000 (VIC).**
- **Centacare Rockhampton - \$451,435 (Qld).**
- **Injino Community Council - \$264,228 (QLD).**
- **Anglicare SA Inc. - \$499,375 (SA).**
- **Escape Youth Centre - \$167,997 (WA)**
- **Investing in our Community - \$171,594 (WA).**
- **Big hART Inc - \$500,000 (TAS).**
- **Good Beginnings Australia - \$364,770 (TAS)**
- **Aboriginal Medical Services Alliance Northern Territory - \$360,000 (NT)**
- **Larrakia Nation Aboriginal Corporation - \$410,181 (NT).**
- **Men's Link - \$466,000 (ACT).**

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 152**

**Senator Ludwig asked the following question at the hearing on 23 and 24 May 2005:**

In relation to the IsmaE report – it was mentioned that you were interested in sharing information regarding hate-crimes across jurisdictions: What's been happening with this? How has the Council progressed in information sharing on hate-crimes?

**The answer to the honourable senator's question is as follows:**

Part 5.4 – Law Enforcement, Chapter 5: Future Strategies of the *IsmaE – Listen: National Consultations on Eliminating Prejudice Against Arab and Muslim Australians* report states that “Sharing information about hate crimes across the state and territories has been identified as a priority by the Australasian Police Ministers’ Council (APMC)” and that “In December 2003, the APMC tasked the Australasian Police Multicultural Advisory Bureau (APMAB) to report on the development of mechanisms ‘to improve police-police and police-community information sharing on the issue of racist violence’”.

The APMC operates as a forum for the exchange of information between Commonwealth, State and Territory jurisdictions in relation to policy issues identified as significant to the national law enforcement agenda. Issues relating to hate-crime have been considered by the APMC on a number of occasions. For instance, since the identification of hate-crime issues as a priority by Ministers at the November 2003 meeting of the APMC, agenda items regarding hate-crimes have featured prominently on the APMC agenda with follow up and related items arising at the June 2004 and June 2005 meetings.

Resolutions from APMC and APMC Senior Officers’ Group meetings, and any related actions arising from these, are communicated to the relevant jurisdictional departments and agencies following the meetings.

The issue of ‘Hate Based Websites’, which was debated at the most recent 48<sup>th</sup> meeting of APMC, has been placed on the agenda for the 49<sup>th</sup> APMC meeting in October 2005.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 153**

**Senator Ludwig asked the following question at the hearing on May 2005:**

- (a) When did consideration of the alternatives to the 100 point test begin?
- (b) Has a departmental committee or working group been constituted to look into the test?
- (c) If so, what is the composition of the committee?
- (d) What alternatives to the 100 point test have been considered?
- (e) How many other methods have been considered and what are they?
- (f) Could you provide an outline of the other methods?
- (g) What are the benefits of these methods as opposed to the 100 point test?
- (h) Are there any reports, discussion papers, etc. on these methods? If so, please provide.
- (i) Is there a favoured method? If so, which one and why?
- (j) Which industry sectors have been consulted?
- (k) What was the nature of that consultation? Were there meetings?
- (l) Are there any reports, memoranda, discussion papers, etc. on the outcome of that consultation? If so, please provide.
- (m) Did the Department receive advice from the Paris Task Force that visited Australia recently to check on our implementation of FATF 40?
- (n) If yes, what form was this advice in? i.e. Meetings, performance reviews, etc.
- (o) If yes, please provide a copy of that advice, if it can be made publicly available. If it cannot be made available, please provide a summary of the advice.
- (p) If no, did the Department seek advice from the Task Force on this matter? If not, why not?
- (q) I note in your answer to question on notice no. 205 you state that the FATF rules will cover 'certain transactions with casinos, lawyers, accountants, trust and company service providers and dealers in precious metals and precious stones'. Could you indicate exactly what is meant by 'certain transactions'?
- (r) Aside from those services, what other business types will be covered?

**The answer to the honourable senator's question is as follows:**

- (a) In the context of anti-money laundering (AML) reform and consideration of customer due diligence (CDD), the Attorney-General's Department is considering a range of CDD issues including identity verification procedures to suit industry needs.
- (b) No. Proof of identity work is ongoing in the Attorney-General's Department.
- (c) N/A
- (d) As outlined in (a), the Attorney-General's Department is continuing to explore, in consultation with industry, a range of identity verification procedures which would not preclude the continued use of the 100 Point test for organisations wishing to make use of it.

The Attorney-General's Department is continuing to consult industry on a range of alternatives to make it as simple as possible for industry to identify their customers and comply with their obligations. The overriding aim is to make the best possible use of existing forms of identification including Australian passport, drivers' licenses, and other forms of identification.

- (e) See answer (d).
- (f) See answer (d).
- (g) See answer (d).
- (h) As part of the AML reform process, I provided an issues paper on customer verification to the members of my Ministerial Advisory Group. The issues paper is intended to facilitate consultation on the issue within the Ministerial Advisory Group and has not been distributed publicly.
- (i) The issues paper canvasses options for identity verification procedures and does not identify a preferred option.
- (j) In the context of AML reform, the Department is continuing to consult the banking and finance sectors, the real estate sector, the jewellery sector, gaming sector, lawyers and accountants.
- (k) The Attorney-General's Department has had ongoing bilateral discussions with industry sectors mentioned in answer (j).
- (l) No.
- (m) No, the Department did not receive advice from the Paris Task Force that recently visited Australia.
- (n) N/A
- (o) N/A
- (p) A team of FATF assessors visited Australia as part of a broader evaluation of Australia's AML system. The Task Force is expected to provide a written report on Australia's

compliance. The report is expected to be finalised by October this year. The discussion with the FATF team was limited to issues relating to the existing AML system.

(q) The FATF Recommendations 12 and 16 specify the transactions which FATF proposes be covered. The Recommendations state that:

**“12.** The customer due diligence and record-keeping requirements set out in Recommendations 5, 6, and 8 to 11 apply to designated non-financial businesses and professions in the following situations:

a) Casinos – when customers engage in financial transactions equal to or above the applicable designated threshold.

b) Real estate agents - when they are involved in transactions for their client concerning the buying and selling of real estate.

c) Dealers in precious metals and dealers in precious stones - when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.

d) Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the following activities:

- buying and selling of real estate;
- managing of client money, securities or other assets;
- management of bank, savings or securities accounts;
- organisation of contributions for the creation, operation or management of companies;
- creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

e) Trust and company service providers when they prepare for or carry out transactions for a client concerning the activities listed in the definition in the Glossary.

**16.** The requirements set out in Recommendations 13 to 15, and 21 apply to all designated non-financial businesses and professions, subject to the following qualifications:

a) Lawyers, notaries, other independent legal professionals and accountants should be required to report suspicious transactions when, on behalf of or for a client, they engage in a financial transaction in relation to the activities described in Recommendation 12(d). Countries are strongly encouraged to extend the reporting requirement to the rest of the professional activities of accountants, including auditing.

b) Dealers in precious metals and dealers in precious stones should be required to report suspicious transactions when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.

c) Trust and company service providers should be required to report suspicious transactions for a client when, on behalf of or for a client, they engage in a transaction in relation to the activities referred to Recommendation 12(e).

Lawyers, notaries, other independent legal professionals, and accountants acting as independent legal professionals, are not required to report their suspicions if the relevant information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege.”

- (r) While the FATF Recommendations only cover casinos, consultation has taken place with a range of gambling service providers such as TABs and bookmakers. These providers are currently covered by the FTR Act.



SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 154**

**Senator Ludwig asked the following question at the hearing on 23 May 2005:**

Review of Criminal Penalties:

- a) When is the review expected to begin?
- b) What is the expected timeline of the review?
- c) Who will be doing the review?
- d) Will any extra staff or other outside personnel be engaged to assist in the conduct of the review?
- e) Is any contribution expected from state Attorney-General's departments? Will any be sought?
- f) Is there a terms of reference for the review? If so, please provide. If not, why not? Will one be created and, if one will be created, when will it be ready (provide a copy when it is)?

**The answer to the honourable senator's question is as follows:**

- a) The review will begin towards the end of 2005.
- b) The review is expected to take eighteen (18) months.
- c) The review will be conducted by officers from the Criminal Law Branch of the Criminal Justice Division in the Attorney-General's Department.
- d) The review will be conducted using existing resources within the Criminal Justice Division.
- e) The review will be of Commonwealth Criminal Penalties and it is unlikely that any significant contribution will be expected from state Attorney-General's departments.
- f) There are currently no Terms of Reference for the review as staffing resources have just been allocated. Terms of Reference will be settled in the next two months.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 155**

**Senator Ludwig asked the following question at the hearing on 23 May 2005:**

In a timeframe of the last ten years, please provide information on...

- a) The number of persons extradited to and from Italy, Germany, Switzerland and China.
- b) The number of citizens of those countries extradited to Australia and vice versa.
- c) Are any discussion taking place with Chinese authorities regarding the establishment of an extradition treaty with that country?

If yes:

- i) When did the discussions begin?
- ii) Who is taking part in those discussions?
- iii) Have any draft models, discussion papers, etc. been released as a result of those discussions?
- iv) Is there an expected date of completion for these discussions?

**The answer to the honourable senator's question is as follows:**

- a) As reported in the annual reports of the Attorney-General's Department 1994-95 to 2003-04, there was a total of 24 people extradited to and from Italy, Germany, Switzerland and China. There have also been a total of 7 people extradited to or from these countries in the current financial year (2004-05).

There were 6 people extradited to Hong Kong (Special Administrative Region of the People's Republic of China since 1998-99), 10 people extradited to Germany, 4 people extradited to Italy, 3 people extradited to Switzerland, 3 people extradited from Hong Kong, 2 people extradited from Germany, 1 person extradited from Switzerland, and 2 people extradited from Italy.

- b) As reported in the annual reports of the Attorney-General's Department 1994-95 to 2003-04, there was a total of 14 citizens from Italy, Germany, Switzerland and China extradited to or from Australia. There have also been a total of 5 citizens from these countries extradited to or from Australia in the current financial year (2004-05). Citizens are not necessarily extradited to or from their country of citizenship.

There were 3 Hong Kong citizens extradited from Australia, 2 Hong Kong citizen extradited to Australia, 1 Chinese citizen extradited from Australia, 1 Chinese citizen extradited to Australia, 6 German citizens extradited from Australia, 2 Italian citizen extradited from

Australia, 1 Italian citizen extradited to Australia, and 3 Swiss citizens extradited from Australia.

- c) The Government follows the international practice that any discussions on a bilateral treaty are confidential to the parties until it is signed, unless both parties agree to disclose.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 156**

**Senator Ludwig asked the following question at the hearing on 23 May 2005**

- a) Since December 2004, how many incoming and outgoing mutual assistance requests involved an offence involving the import or export of goods, terrorism, offences committed on an airline or narcotics, and what was the conviction rate of those offences?
- b) Regarding Indonesia, please provide information as to the offences and conviction rates of the outgoing requests for mutual assistance.

**The answer to the honourable senator's question is as follows:**

- a) Records of conviction rates are not maintained for mutual assistance requests.

The following information details the number of requests made in the four broad areas identified in the question. Please note that offences involving drug importation and drug trafficking will normally involve the import or export of goods. To avoid double counting, these offences are dealt with under the heading of narcotics.

This information is accurate for the period 18 December 2004 to 16 June 2005 inclusive.

- i) Import or export of goods - 1 request

Defrauding customs	1 outgoing request
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- ii) Terrorism – 3 requests

Outgoing	2 requests
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Incoming	1 incoming request
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- iii) Offences committed on an airline – 0 requests

Records of offences committed on airlines are not maintained. However, officers of the Attorney-General's Department are not aware of any incoming or outgoing mutual assistance requests that relate to offences committed on airlines within the reporting period.

iv) Narcotics – 19 requests

Conspiracy to import drugs	1 outgoing request
Drug importation	
Outgoing	2 requests
Incoming	2 requests
Drug trafficking	
Outgoing	4 requests
Incoming	10 requests

b) Records of conviction are not maintained for mutual assistance requests.

There has been one outgoing request for mutual assistance to Indonesia in the specified time period. As this request concerns an ongoing law enforcement matter, the Department cannot disclose any particulars of the request.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 1.1**

**Question No. 157**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

The Hague Convention on international recovery of child support:

- a) What was the outcome of the Special Commission on the working draft of the Convention?
- b) Did the Commission recommend any changes to the working draft?
- c) If so, what were they and why were they deemed necessary?
- d) Did the Commission produce any reports or working papers on the draft?  
If so, please provide.
- e) Please provide a copy of the current working draft of the convention.
- f) Is there an expected date of completion for the Convention? If so, what is that date?

**The answer to the honourable senator's question is as follows:**

a) The Child Support Agency represented Australia at a Hague Conference Special Commission meeting held 4-15 April 2005 in The Hague, The Netherlands. The purpose of the meeting was to continue discussions for a new multilateral Convention on the International Recovery of Child Support and other Forms of Family Maintenance. This was the third meeting of this Special Commission. Previous meetings were held in May 2004 and May 2003.

The Child Support Agency has indicated that the outcomes of the Special Commission were as follows:

1. Revision of the working draft

During the Special Commission the working draft was revised by a Drafting Committee outside the plenary session, on the basis of the content of the discussion by delegates. The revised text was 'read' again in the plenary before the close of the Commission to identify outstanding issues to be discussed at the next meeting.

There were significant areas of consensus at the meeting and good progress was made on the draft text. However, there are still a number of areas where further discussion will be required. From Australia's perspective, it was particularly pleasing that a number of countries which had previously expressed reservations about recognising administrative assessments under the Convention no longer had such concerns.

2. Provision of an ongoing mandate to the Drafting Committee

At the close of the Commission the Drafting Committee was given a mandate to continue its work on the working draft considering possible amendments and revisions, and to prepare a tentative draft Convention for the next Special Commission meeting.

3. Provision of a mandate to the Administrative Cooperation Working Group and to the Forms Committee

The Administrative Cooperation Working Group is a group open to all States and Organisations participating in the Special Commission. The Group is to continue to work on the practical aspects of administrative cooperation relating to the international recovery of child support.

The Forms Committee was given a mandate to prepare draft standard 'transmittal' and 'acknowledgment' forms and to continue its work on other forms for use under the Convention. The draft forms will be submitted to the Drafting Committee to ensure that the language of the forms reflects that of the tentative preliminary draft, and vice versa.

b) As described above, the practice of the Special Commission is that the working draft is revised by a Drafting Committee outside the plenary session, on the basis of the content of the discussion by delegates. The Commission does not itself formally recommend changes. However, a number of changes were made to the working draft during the meeting.

c) The following changes were recommended by the Commission:

Article 1.

Words referring to the establishment of parentage were deleted as an object of the Convention. This reflects the view of some states that parentage is a secondary concern and should not be afforded too great a significance in the Convention.

Article 3.

A definition of "legal assistance" was inserted so the term has a standard meaning and does not have to be explained at various points in the document.

Article 5.

Two functions of Central Authorities - transmission and receipt of applications, and initiation of proceedings in respect of applications - were moved to Article 6. This has the effect that those functions can be performed by state bodies other than the Central Authority. This was considered necessary to account for the administrative arrangements in place in some states.

Article 6.

Additional words were added to clarify that the Convention does not impose an obligation on Central Authorities to exercise powers that can ordinarily only be exercised by judicial authorities. This was considered necessary to address the concerns of some states.

Article 7.

The wording was changed to clarify that the obligation upon a state to take specific measures applies when the state is satisfied that the measure is necessary to determine whether an application under the Convention should be initiated. It was considered necessary to delimit what would constitute a well-founded request.

Article 8.2.

Wording in reference to additional exceptions to this rule was deleted. It was considered that the exception of "services supplementary to those listed in Article 6" was broad enough to cover the other possibilities.

Article 10.

The provisions providing for applications for recognition of a decision establishing parentage and for establishment of parentage to be made under the Convention were deleted. A significant number of states opposed these provisions.

#### Article 12.

Wording was added to require a requested Central Authority to inform the requesting Central Authority of the status of the case within 3 months after acknowledgement of an application. This additional obligation was considered desirable by many states.

#### Article 13.3

This was amended so that in a child support case a state may apply a means test for legal assistance to the child only, but is not obliged to do so (as was the case in the previous draft).

#### Article 15.

This Article was restructured to amend its operation in cases where a state refuses to recognise a decision made on the jurisdictional basis of the habitual residence of the creditor. To resolve this problem the previous draft included an additional jurisdictional ground of 'similar factual circumstances'. This was revised so that if a state has made a reservation against recognition on the basis of creditor residence, it must nevertheless recognise the decision if the 'similar factual circumstances' ground applies. This was considered to be a more appropriate and overt solution to the particular difficulty. This Article was further amended to require a state refusing to recognise a decision because of reservations under the Convention to take all appropriate measures to establish a new decision. It was considered that this additional obligation will enhance the effectiveness of the Convention.

#### Article 17.

A violation of Article 40 was added as an additional ground for refusal to recognise and enforce a decision. It was considered desirable to attach this as a consequence of a violation of the Article 40 rule.

#### Article 18.

This Article was revised to more closely prescribe the procedures for applications for recognition and enforcement made through Central Authorities. This was considered necessary for the practical operation of the Convention.

#### Article 24.

Words were added to provide for recognition and enforcement of authentic instruments and private agreements under the Convention. The option for such a provision was previously noted in the draft but this was the first time text was proposed.

#### Article 33 bis.

This Article was added to require a public body seeking recognition or claiming enforcement of a decision to furnish documents necessary to prove that the conditions of the preceding Articles 32 and 33 are fulfilled. This was considered necessary for the practical operation of the Convention.

#### Article 34.

Two alternative proposals for this Article were considered, one that strictly required a requesting state to translate documents into the official language of the requested state (unless the requested state agreed otherwise), and the other that allowed for the requesting state to translate documents into either French or English if translation to the official language was not feasible. The revised text adopts a compromise position that requires the requesting state to translate to the official language of the requested state unless that is not possible, and in such case any further translation costs are to be borne by the requesting state.



d) Hard copies of the Working Documents produced by the 2005 Special Commission are attached. These documents are not available electronically. Note that the document numbering does not start from 1, as it is sequential from previous Special Commission meetings.

e) The current working draft is contained in Working Document 71. A copy of this document is attached.

f) There is no definite date for completion of the Convention. A further Special Commission meeting to consider the draft text is proposed for April 2006 and it is hoped that the final text will be settled at a Diplomatic Conference before the end of 2006.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.3**

**Question No. 158**

**Senator Ludwig asked the following question at the hearing on 23 May 2005:**

- a) What stage is the Australian Police Ministers Council at with implementing the Bush Fire preparedness recommendations?
- b) What stage are we at in the implementation?
- c) How many of the recommendations have been implemented, and which ones?
- d) Is there a timeline for the implementation of the recommendations? What is it?
- e) How much funding has been allocated by the government to the implementation of the recommendations?

**The answer to the honourable senator's question is as follows:**

The oversight of the implementation of the Australian Government's commitments from the Council of Australian Governments' (COAG) response to the National Inquiry on Bushfire Mitigation and Management is being coordinated by the Department of Transport and Regional Services. The following advice has been provided by that Department:

- a) The Inquiry's report and the COAG response were released by the Prime Minister on 24 January 2005. COAG decided that the Augmented Australasian Police Ministers' Council (A/APMC) would play a leading role in coordinating and monitoring the range of activities required to achieve a coherent approach to the implementation of the Report's recommendations. The A/APMC will be receiving a progress report on the implementation of the COAG response at its next meeting scheduled for October 2005.
- b) The members of COAG are implementing the commitments contained within the response as resources permit. The stage of implementation varies between jurisdictions.
- c) As of May 2005 DOTARS has been advised that action was not required for recommendation 10.1 and 12.1. Action is complete or substantially complete on responses relating to recommendations 6.1, 7.1, 8.4, 8.6, 9.1, 9.2, 10.2 and 11.1. Of the remainder it has been advised that action has commenced on the responses to 8.1, 8.2, 8.3, 8.7, 11.2, 11.3, 11.4, 13.1 and 14.1.
- d) The implementation of the responses to the recommendations will take varying periods of time depending on the nature of the response, the processes involved and the availability of resources within jurisdictions.
- e) The Australian Government has committed \$5.5 million a year for the three years 2004-2005 to 2006-2007 for the Aerial Firefighting Centre. Where appropriate the Australian Government will use existing allocations to meet its commitments. If individual action agencies consider that they require additional resources they will bring forward such proposals through the normal budgetary processes.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 1.1**

**Question No. 159**

**Senator Ludwig asked the following question at the hearing on 23 May 2005:**

- a) Is participation in the National Judicial College by invitation?
- b) How many judges have attended a national judicial college course in 2003-04 and thus far 2004-05?
- c) Please provide a breakdown of the attendance numbers in terms of the courts from which attending judges originate and the particular courses they attended.
- d) What is the aggregate total in fees that have so far been paid to the National Judicial College?
- e) What efforts are made to gather feedback from judges on the course?
- f) Is the course expected to undergo a review at any stage in the near future?
- g) Has it already undergone any reviews?
- h) Are there any papers (discussion, distribution, course notes, etc.) that are produced by the National Judicial College? If so, please provide.

**The answer to the honourable senator's question is as follows:**

- a) Judges and magistrates from all courts in Australia are eligible to attend College programs. Some programs are limited to particular categories of the judiciary (for example orientation programs are limited to new appointees).
- b,c) This information is provided in the attachment to the response to Question No.14.
- d) The College charges registration fees for attendance at some of its programs. The amount received by the College in fees in 2003-04 was \$79,962. In 2004-05 fees revenue is estimated to be \$180,000.
- e) This information is provided in the response to Question No.14.
- f,g) The Council of the College, and individual planning committees for programs, routinely review and revise College programs in the light of feedback from participants.
- h) The College has produced the following papers, copies of which are attached:
  - National Judicial College of Australia Annual Report 2003-04 – Attachment 1
  - National Judicial College of Australia Annual Report 2002-03 – Attachment 2
  - Publication on Judicial Education in Australia – Attachment 3

***NATIONAL JUDICIAL COLLEGE OF AUSTRALIA***

**ANNUAL REPORT 2003 - 2004**

## **Introduction**

This is the second Annual Report by the Council of the Judicial College of Australia. It relates to the year 1 July 2003 – 30 June 2004.

The College is supported financially by the Attorneys-General for the Commonwealth, for New South Wales, for Tasmania, for South Australia and for the Australian Capital Territory and the Northern Territory. The Council acknowledges the contribution that they are making to the standard of Australia's judiciary, through the work of the College. The Attorney-General for the Commonwealth in particular has been generous in his support for the College.

As will appear from this Report, a lot has been achieved by the College. At the date of this Report it is barely two years since the College appointed its first staff member, took occupation of its premises and began to operate. Bearing in mind the time and effort spent in establishing the College as an operating entity, and deciding on the approach to be taken to the provision of professional development for the Australian judiciary, we are pleased with the progress that has been made.

As will appear, we have developed two different professional development programs that lend themselves to ongoing change and improvement. We have presented each of them more than once. They have been well received. We have developed good working relationships with other bodies involved in the provision of professional development for the judiciary. We are developing a pilot program for the provision of professional development programs by distance education. If the pilot is successful, we will be able to reach many judicial officers at their place of work. We are developing a website through which we aim to provide useful material to judicial officers and to other bodies involved in the provision of professional development. We continue to give a good deal of attention to the best means of

providing professional development for the judiciary, and to identifying the real needs of the Australian judiciary in this respect.

During 2004 – 2005 we aim to increase the number of programs that we deliver, and we expect that other projects outlined below will come to fruition. This will require considerable work from all involved, but the strong support that we have received so far from the Australian judiciary and from others makes us think that we will achieve our aims.

In our Report we outline the constraints imposed on us by our limited funding. If our funding is increased, we will be able to achieve a good deal more. One of our tasks is to persuade Australia's governments of the value to the Australian community in investing in the professional development of its judiciary.

### **The College**

Attachment A to this Report provides information relating to the Council, the Regional Convenors, the Consultative Committee and the College Secretariat.

Attachment B repeats two portions of the first Annual Report. First, a second summarising the origin of the College. This is provided because not all readers of this report will be familiar with the origin of the College. The other portion contains a summary of the policies the Council has adopted in relation to the provision of professional development. This material is repeated because it reflects the basis upon which the Council continues to operate.

The College is based in premises provided by the Faculty of Law at the Australian National University. During the year the College moved into a refurbished suite of rooms. They provide suitable accommodation for the College. The Council has developed a good

working relationship with the Dean of Law, Professor Coper, and with other members of the Faculty. We are pleased with the relationship that has developed, and are grateful to the Dean and to the faculty for their support.

### **Funding**

During the year the College operated within its recurrent income of \$325,600. As the Council has said on other occasions, the funds available to the College are very limited. During the establishment phase of the College the limited funding has imposed some constraints on the Council.

However, these constraints were not severe. Initially the Council had to decide what kind of programs it would provide to Australia's judiciary, and how it would provide them. It also had to find premises and employ staff. Having decided on its preferred approach, it then had to develop its first programs. Now that stage has passed. The College is in a position to provide programs, and is being asked to provide them. Limitations attributable to our limited funding are assuming greater significance. The financial constraints under which we operate limit our ability to provide programs to Australia's judiciary.

Of necessity the College presents professional development programs on the basis that it will recover its costs, and make a modest profit, by charging a fee to participants in the programs.

A number of courts have informed the College that they lack the funds to meet the costs of more than a few participants in our programs. This is a significant problem. If the College proposes to present a program for a particular court, it would usually aim to have a little more than half of the participants in the program from the court in question. The balance of the participants would come from other courts and usually from other States. Getting this

mix is important. If the court in question cannot meet the cost of the number of participants required for a successful program, we cannot proceed with the program.

A constraint of lesser significance is the difficulty that most courts have in releasing judicial officers from their judicial duties so that they can attend programs. This has two aspects. First, there are heavy demands on the time of most judicial officers. Courts have difficulty finding replacements for the judicial officers so that they can attend College programs. Second, we have become increasingly aware of the need for the College to set dates for its programs well in advance (ideally, at least six months in advance) to give Courts as much time as possible to make arrangements to release judicial officers. In our first two years it has been difficult to give that much advance notice. In part this has been because Courts have had difficulty committing themselves to provide the required number of participants for a program to be presented for their judicial officers.

In short, the issue of funding is emerging as a significant one. Either the College needs to be sufficiently funded to provide programs at no cost to participating judicial officers (other than their own travel and accommodation) or the courts need to be provided with the funding to enable them to pay for their judicial officers to participate in the College programs.

### **A benchmark for professional development**

In the light of this, the College has invited the Judicial Conference of Australia (JCA) and the Australian Institute of Administration (AIJA) to develop a written statement of the amount of time that judicial officers should commit to their professional development and the time that should be made available each year to a member of the judiciary for professional development. That means time free from ordinary judicial duties. The statement is also intended to indicate the amount of funding that should be provided on an



annual basis for professional development for judicial officers. “Benchmark statements” along these lines have been prepared in other countries.

The statement will be developed in consultation with heads of jurisdiction, members of the judiciary, and other bodies involved in providing professional development for the judiciary.

The College aims to use the statement as a benchmark to encourage Australian governments to make an appropriate commitment to professional development for Australia’s judiciary. The College will also use the statement to encourage heads of jurisdiction to make arrangements to enable each judicial officer to be released from ordinary duties for the required amount of time each year. As well, the College will encourage individual judicial officers to recognise their own obligation to commit time to professional development, including some of their own time.

The Council regards the issue of adequate funding for professional development, and the commitment of courts and judicial officers to professional development, as a major issue.

We need to convince Australia’s governments that investing in the professional development of the judiciary is a sound investment. As the Chair of the Council said in the 2004 Sir Richard Blackburn Lecture, (2004) 14 JJA page 5 at page 8:

“The importance of the administration of justice, and the substantial investment that society makes in the system for the administration of justice, and in judicial officers, leads to the conclusion that it is in our national interest to ensure that judicial officers perform as well as they can.

That means, I suggest, ensuring that they maintain their skills at a high level, and that during the course of their judicial career they improve those skills with practice and with the benefit of experience, and that they adapt their skills and method of performing their duties to the changing expectations of society and to changed circumstances. As well, and the importance of this should not be overlooked, it means ensuring that they maintain their commitment to and enthusiasm for the administration of justice.

## **College programs and projects**

During the year the College presented programs that were very well received by participants. The Council is satisfied, on the basis of its own observations and on the basis of the responses of participants, that the policies underlying these programs are sound. Those policies are to be found in Attachment B.

In brief, our emphasis is on sharing and building on the experience of judicial officers participating in programs. The emphasis is on groups of judicial officers working together, and on discussion and the sharing of experience and knowledge, rather than on lectures and formal presentations. Our emphasis is on practical skills. In the nature of things, most of our programs are suitable for groups of no more than about 25 or 30 judicial officers. As far as possible we aim to present programs throughout Australia rather than bring participants to Canberra, although some of our programs have been and will be presented in Canberra. As a national organisation, our aim is to mix judicial officers from different courts and from different places, to ensure the widest exchange of experience and knowledge.

The Travelling Judicial Education Program (TJEP) is a program presented over one and a half days. It comprises three modules, each half a day in length. The first TJEP was presented in Adelaide in August 2003. Another was presented in Hobart in February 2004. These were well attended and enthusiastically received.

The Phoenix Program is a five day program. The concept is anew one. It is based on a group of about 30 judicial officers, about half of them being recently appointed and half being experienced. The Phoenix Program has two aims. The first is for experienced judicial officers to transfer the benefit of their hard won experience to recently appointed judicial officers. The second aim is to do this through a program that also helps the experienced judicial officers improve the manner in which they perform their work. A substantial part of

the program is based on group discussion led by members of the group, both newly appointed and experienced. As well we bring in a number of appropriately skilled presenters. The first Phoenix was presented in Canberra in August 2003. The second Phoenix was presented on the Gold Coast in May 2004. Each of these programs was for magistrates. These also were enthusiastically received by the participants.

The Council intends to continue with these programs. The content of each program can and will be varied, and, obviously enough, will be adjusted according to the work of the court for which the program is presented. However, a good deal of the material is generic in nature, and is applicable to all courts and to all judicial officers.

We have no doubt about the value of these programs. However, they require quite intensive preparation to ensure a high quality result. The fact that they require a relatively small group of participants limits the number of judicial officers who can benefit from each program. The Council looks forward to the stage when its funding will permit it to present TJEPs and Phoenix programs several times a year at different places around Australia.

The College presented a workshop on the recently enacted *Human Rights Act* for the judiciary of the Australian Capital Territory in June 2004. This also was well received.

The Council has assumed responsibility for the National Judicial Orientation Program (NJOP) from the Judicial Commission of New South Wales (JCNSW) and from the AIJA. Those bodies continue to be involved in the presentation of the NJOP. The NJOP was presented in Sydney in October 2003. The Council intends to continue to present the NJOP in Sydney.

The Council is well advanced in planning for programs for the year 2004 – 2005. It will continue with the TJEP, the Phoenix Program and with the NJOP. We will present as many of these programs as we are able to organise, subject to limitations attributable to the issue of funding. We will also provide single modules or sessions to be included in programs being organised by individual courts for their own members. This is an important aspect of the work of the College. The College has encouraged all courts to continue with their own programs, on the basis that the College will provide them with whatever help it can in presenting those programs and in developing suitable programs.

There is considerable interest among judicial officers in a program on Judgment Writing. During the year in question the College entered into an arrangement with the Judicial College of Victoria (JCV) for the joint presentation of a program on judgment writing in Melbourne in August 2004.

The Council believes that the provision of professional development programs by way of distance education will become a significant part of the College programs. Using information technology to deliver distance education programs should enable the College to reach more judicial officers than it would otherwise be able to reach. The use of distance education is not intended to replace programs such as the TJEP, Phoenix and NJOP. It is intended as a supplement.

This is an area in which the College needs to develop skills in the preparation and presentation of programs, and in the use of the information technology. We already know that the development of high quality programs is time consuming, and fairly expensive.

The Council has entered into a contractual arrangement with the Australian National University for the development of a pilot program on judgment writing. The cost of this is

being met from the College's funds. The Council has also entered into a contractual arrangement with Monash University for the development of a pilot program on disability awareness. This has been assisted by a generous grant from the Committee that organises the annual Supreme and Federal Court Judges' Conference.

We have high hopes for these pilot programs. We hope that we will be ready to test the pilots in the first half of 2005. All being well, we should then be able to begin offering them on a regular basis. We will then develop further programs for delivery by way of distance education. However, this is another area in which our limited funding will be an issue.

Progress with the development of our website has been relatively slow, due to other commitments. With a staff of only three, there is a limit to what we can achieve, and to the number of activities that we can undertake at one time. During the year 2004 – 2005 we will have available a newly designed website for the College. Thanks to a generous grant from the Commonwealth Attorney-General, we will embark upon developing an electronic library of otherwise unpublished or hard to find material that will assist judicial officers with professional development. We have in mind in particular some of the many papers that are delivered seminars around Australia, but are rarely published beyond the immediate participants.

During the year 2004 – 2005 we also plan to develop an electronic database with information about sentencing in relation to Commonwealth offences. We hope to undertake this project jointly with the Commonwealth Director of Public Prosecutions. In this respect also we have been assisted by another generous grant from the Commonwealth Attorney-General.

These have been the main activities in the area of professional development for the year in question.

**Regional Convenors Consultative Committee**

The College continues to draw on the knowledge and time of its Regional Convenors, all of whom are making a valuable contribution to the work of the College. The same applies to the Consultative Committee, which includes the Regional Convenors.

The Council and the Consultative Committee met over a weekend in Hobart in February 2004, immediately after the Hobart TJEP. The meeting was most productive. Members of the Consultative Committee made a number of suggestions that Council has adopted. One of them is the benchmark statement referred to above.

The Consultative Committee also emphasised the need for the College to promote itself, and the importance of judicial professional development for the judiciary, to the Australian community, and in particular to Attorneys-General. The Consultative Committee emphasised that the College should not focus entirely on the presentation of programs, but should promote itself as a national body and should also promote the cause of judicial education. At the suggestion of the Consultative Committee the Council is developing a Strategic Plan that will provide a concise statement of the College's objectives and activities. The Council aims to use the Strategic Plan to promote the College and the cause of professional development for Australia's judiciary.

**Conclusion**

The Council considers it important that it should have sound working relationships with JCNSW, JCV and the AIJA. It is anxious to avoid any waste or duplication of effort. Bearing in mind the limited funding available for judicial education, it is important that all available funds be used as efficiently as they can be. The Council is pleased to say that we have good working relationships with each of these bodies. The Council also aims to work

with the Education committees of individual courts, and hopes over time to be able to assist them with the programs that they provide.

Overall, the year has been a busy one. The work of the College makes considerable demands on the time of members of Council. However, we are conscious of the importance of the work and remain committed to the College. Provided the College can secure the necessary support, we believe that it will make a real contribution to the Australian judiciary.

**NJCA Council members, Council alternates, Regional Convenors,  
Consultative committee members and Secretariat members  
as at 30 June 2004**

**THE COUNCIL**

In the course of the development of proposals for the College it was generally agreed that the independence of the judicial arm of government required that a body devoted to judicial education be under the control of the judiciary. That is reflected in the constitution of the College which provides for control by the judiciary with outside representation. The Council is comprised of four judicial members, a member nominated by the Commonwealth Attorney General, and a member nominated by participating State and Territory Attorneys General. The Council members as at 30 June 2004 are:

Chief Justice John Doyle AC Supreme Court of South Australia	Nominee of the Chief Justices of the State or Territory Supreme Courts and chair appointed by the Chief Justice of the High Court
Justice John Dowsett Federal Court of Australia	Nominee of the Chief Justice of the Federal Court and the Family Court
Judge Jack Goldring* District Court of New South Wales	Nominee of the Chief Judges of the District or County Courts
Chief Magistrate Hugh Bradley Magistrates Court of the Northern Territory	Nominee of the Chief Magistrates of the Federal Magistrates' Court and Magistrates' or Local Courts
Mr Robert Cornall Secretary, Commonwealth Attorney General's Department	Nominee of the Attorney General of the Commonwealth
Mr Laurie Glanfield AM Director-General, New South Wales Attorney General's Department	Nominee of the Attorneys General of the participating States and Territories

\*Judge Tony Skoien(District Court QLD) replaces Judge Goldring as from 1 July 2004.

**COUNCIL ALTERNATES**

The Constitution of the College provides for each member of the Council to appoint an alternate to exercise some or all of the powers of that Council Member as required from time to time. The alternate members of the Council as 30 June 2004 are:

Justice Geoffrey Miller Supreme Court of Western Australia	Nominee of the Chief Justices of the State or Territory Supreme Courts
Justice Sally Brown Family Court of Australia	Nominee of the Chief Justices of the Federal and Family Court



Judge Peter Martino District Court of Western Australia	Nominee of the Chief Judges of the District or County Courts
Chief Magistrate Ronald Cahill Magistrates Court of the Australian Capital Territory	Nominee of the Chief Magistrates of the Federal Magistrates' Court and Magistrates' or Local Courts
Ms Kathy Leigh Commonwealth Attorney General's Department	Nominee of the Attorney General of the Commonwealth
Mr Timothy Keady Secretary of the Department of Justice and Community Safety, Australian Capital Territory	Nominee of the Attorneys General of the participating States and Territories

### **REGIONAL CONVENORS**

The College's Constitution provides for the Council to appoint, after consultation with the relevant Chief Justice or Chief Justices, a Regional Convenor for each State and Territory:

- (a) to provide liaison between the College and his/her region;
- (b) to advise as to appropriate subject matter for the College's programmes and methods of delivery;
- (c) to provide feedback concerning the College's programmes previously conducted;
- (d) to assist in the organisation of the College's programmes to be conducted within his/her region, including arrangement of appropriate facilities;
- (e) to stimulate interest amongst judicial officers in his/her region concerning the College's programmes and attendance thereat;
- (f) to recruit judicial officers to assist in the preparation and conduct of the College's programmes;
- (g) where appropriate, to co-ordinate the activities of all members of the Consultative Committee based within his/her region;
- (h) if practicable, in consultation with the Council, to organise a local chapter of the College in his/her region.

The following are regional convenors as at 30 June 2004:

Australian Capital Territory	Justice Terry Connolly Supreme Court of the ACT
New South Wales	Magistrate George Zdenkowski Magistrates' Court New South Wales
Northern Territory	Justice Sally Thomas Supreme Court of the Northern Territory
Queensland	Judge John Robertson District Court of Queensland
South Australia	Judge Brian Gilchrist Industrial Relations Court of South Australia

Tasmania	Magistrate Peter Dixon Magistrates' Court Tasmania
Victoria	Judge Wendy Wilmoth County Court of Victoria
Western Australia	Justice Geoffrey Miller Supreme Court of Western Australia

### **THE CONSULTATIVE COMMITTEE**

The College's Constitution provides for a Consultative Committee to:

- a) advise the Council as to how the College should meet the professional development needs of judicial officers;
- b) advise the Council as to the perceived quality and value of the College's programmes previously conducted; and
- c) facilitate good communications between the College and judicial officers.

The members of the Consultative Committee are the eight regional convenors and the following additional members:

Magistrate Robert Lawrence Magistrates Court of Western Australia	Nominee of the Australian Association of Magistrates
Justice John Byrne RFD Supreme Court of Queensland	Nominee of the Australian Institute of Judicial Administration
Mr Tony Abbott Piper Alderman Solicitors, Adelaide	Nominee of the Law Council of Australia
Justice David Lloyd Land and Environment Court NSW	Nominee of the Judicial Conference of Australia
Professor Eugene Clark University of Canberra	Nominee of the Council of Law Deans
Professor Larissa Behrendt University of Technology Sydney Ms Karen Curtis Australian Chamber of Commerce and Industry Mr Phillip French Disability Studies and Research Institute	Nominees of the Attorneys General of the Commonwealth and participating States and Territories

### **THE COLLEGE SECRETARIAT**

The administrative staff of the College as at 30 June 2004 are:

Mr John Mc Ginness	Director
Ms Wendy Forster	Conference Co-ordinator
Ms Jane Avent	Executive Assistant

## **THE ORIGIN OF THE NATIONAL JUDICIAL COLLEGE OF AUSTRALIA**

In the early 1990s calls were made for the establishment of a body dedicated to providing judicial education for the whole Australian judiciary. In 2000 the Australian Law Reform Commission's Report number 89 'Managing Justice' canvassed the issues and recommended the establishment of an Australian Judicial College. It proposed that the College be under the governance of judges and have responsibility for orientation training of new judicial appointees and continuing professional development of existing judicial officers.

In March 2000 the Standing Committee of Attorneys General (SCAG) formed a working group to consider the establishment of a National Judicial College. The working group found that there was a high level of support from the judiciary and other interested persons for the establishment of a national college. The working group report in May 2001 stated the case for a National Judicial College as follows:

“Currently judicial officers in Australia attend a diverse range of judicial education programmes but the availability varies greatly between jurisdictions. A national approach to judicial education would address the needs of judicial officers throughout Australia. A national college would ensure that education for judicial officers was planned and coordinated at a national level, both increasing quality and avoiding duplication. Judicial officers from across jurisdictions and from different geographical regions would have the opportunity to exchange information and experiences. This would maximize the benefit derived by judicial officers and the community from professional development programmes. The establishment of a national judicial college would bring Australia into line with developments in other common law jurisdictions in relation to the provision of judicial education.”

The working group's report was accepted in principle by SCAG in July 2001 and the working group was asked to implement the proposals in its report.

The National Judicial College of Australia was established in May 2002 as an independent entity, incorporated as a company limited by guarantee. It is funded by contributions from the Commonwealth and some State and Territory governments. The College will report annually to the Council of Chief Justices and to the Standing Committee of Attorneys General. The College will provide professional development programs to judicial officers in Australia and, on occasion, will conduct courses for non-judicial officers, such as senior court administrators and tribunal members.

At the official launch of the College in August 2002, the first chair of the Council of the College, Chief Justice John Doyle of South Australia, said the following about the need for judicial education in Australia:

“ I believe that the case for a National Judicial College for judicial education is self-evident. However, it is worth restating it very briefly. The work of the judiciary is demanding. Judges and Magistrates are expected to have professional legal skills of a high order. They should also have a wide range of practical judicial skills to enable them to carry out judicial work properly. Some of these practical skills are peculiar to the judicial role, some are skills that are also required in other professions.

The administration of justice involves much more than professional and practical competence. There is a qualitative aspect to the administration of justice which calls for judicial officers to have a real enthusiasm for their work, a strong belief in the importance of justice, and a commitment to the administration of justice in the fullest sense of the word. While these attitudes and beliefs are instilled in us in our professional life, experience tells us that over time judicial officers can become cynical and can suffer what is generally called "burn out". Experience tells us that most judicial officers can benefit from programmes of professional development that help them avoid this phenomenon.

Finally, judicial officers tend to occupy judicial office for fairly lengthy periods. This is in the public interest. It takes time to develop fully the skills required of a judicial officer, and it is in the public interest that those who have fully developed those skills put them to the public benefit for as long as possible. The fact that judicial officers hold office for substantial periods of time mean that they are likely to benefit from programmes of professional development that reinvigorate, refresh and enthuse.

Thus, the members of the Australian judiciary can benefit from programmes of professional development that focus on their legal skills, their practical judicial skills, and their approach to their work and which help them to maintain fitness and enthusiasm for the work. The scope for programmes for professional development is substantial. In the past it was assumed that, somehow or other, in the course of a judicial career, a judge or magistrate would receive the stimulus for self-improvement, and the refreshment and re-invigoration that we know we need. We now know that this assumption is too optimistic. There is a real need for organised programmes of professional development. The judiciary, as a profession, has come to understand this, as have the other professions."

## **THE COLLEGE'S POLICIES ON JUDICIAL EDUCATION**

In considering the development of the College's programs, the Council of the College has identified some policies it intends to pursue. These policies have been formed as a result of the Working Group's consultations with judicial officers and other interested persons in 2001/2002, thorough discussions in meetings of the Council and again at the first meeting of the College's Consultative Committee in Canberra in February 2003. The policies are summarised below.

The role of the College is to assist judges in their professional development. Programmes should be developed to meet real needs. They must be delivered in ways which maximize the benefit to be derived by judicial officers and the community and take account of the particular sensitivities incidental to activities concerning judicial officers.

In developing programs the emphasis should be on matters not adequately covered by readily available sources such as text books and journals. In particular, emphasis should be on practical skills, a large aspect of judicial work. The College appreciates the importance of providing programs on social and cultural awareness issues including issues relating to disability awareness, persons from non English speaking and indigenous backgrounds and the protection of children. Other important matters include recent legal developments; legal, and programs concerning judicial physical and mental health. In general the College would not expect programs to focus upon substantive law. That area will usually be better addressed in other forums or by private study.

In Australia there are a large number of judicial officers with different responsibilities. Needs may be quite specialized. Although there are some common aspects to all judicial work, the College will not assume that one program will be suitable for all, or even most judges. This may lead to our offering specialized courses to small groups. The College must identify and try to satisfy the real needs of the judiciary and of the community.

Judicial officers are a group of people who, by reason of talent, experience, education and training, have been identified as suitable to receive the authority of the state to resolve disputes between citizens and between the state and citizens. They will be busy people who are themselves regularly asked to participate in programs as speakers and teachers. Any program developed by the College must be worthy of the time which participants will be asked to invest in it.

The College should adopt best practices for adult professional learning. The emphasis should not be on formal lectures. Rather the College will use structured discussion of practical problems and other similar forms of active learning, for example self-teaching in small discussion groups, based on well-planned, practical problems.

The focus on discussion rather than lectures means that most programs will be suitable for groups of no more than 25 to 30 participants.

The College's programs will be participant focussed rather than "teacher focussed". Judicial officers collectively will often bring more to college programs than any one presenter or group of presenters and the emphasis should be on sharing and building upon the experience of participants; presenters should guide discussion and encourage participation, but should not be seen as a faculty separate from the participants.

The College's role is not to standardize judicial approaches to problems or issues or to label any acceptable approach as "right" or "wrong", nor should there be any public comment upon the extent to which any judge, in his or her work, has complied with, or failed to comply with approaches suggested in the course of any program.

The Council believes that those who are carrying out judicial work are usually best placed to lead professional development programs, bearing in mind that almost always this involves a mix of technical and practical skills. The accumulated experience and skill of the judiciary are valuable national assets. The College should harness and enhance them in ways which are more appropriate to their true value. Thus most of the educational programs of the College will be led by experienced and respected judicial officers. However, the College will also draw on academic lawyers and members of other professions who have appropriate expertise and experience. In particular, the College hopes to build a fruitful relationship with the members of the Faculty of Law at the ANU.

As far as possible, the College will take its programs to the Australian judiciary, rather than bring them to Canberra to attend courses. There is a place for both approaches, but the emphasis should be on providing programs to the Australian judiciary in their home towns. The College's programs must be designed to be easily conducted at various places around the country and allow for different presenters to present the same program in different cities. To the extent that it is practical, we will develop "template programs" that can be readily repeated, with or without changes. Presenters should change regularly to maximize input from the whole judiciary and to avoid the institutionalization of the views of a small group.

One of the objectives of nationally organised professional development activities is that judicial officers from across jurisdictions and from different geographical regions will have the opportunity to exchange information and experiences. This would maximize the benefit

derived by judicial officers and the community from professional development programmes. The College aims as much as possible to increase opportunities for the exchange of experience between jurisdictions.

**NATIONAL JUDICIAL COLLEGE OF AUSTRALIA**

**ANNUAL REPORT 2002 - 2003**

# NATIONAL JUDICIAL COLLEGE OF AUSTRALIA

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25 September 2003

To: The Council of Chief Justices of Australia and New Zealand

I am pleased to send to you, in accordance with clause 17 of the Constitution of the National Judicial College of Australia, a report on the operations of the College during the financial year 2002-2003.

This is the College's first annual report.

Yours sincerely

John Doyle AC  
Chief Justice of South Australia  
Chair of the NJCA Council



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## **THE ORIGIN OF THE NATIONAL JUDICIAL COLLEGE OF AUSTRALIA**

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The working group's report was accepted in principle by SCAG in July 2001 and the working group was asked to implement the proposals in its report.

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At the official launch of the College in August 2002, the first chair of the Council of the College, Chief Justice John Doyle of South Australia, said the following about the need for judicial education in Australia:

“ I believe that the case for a National Judicial College for judicial education is self-evident. However, it is worth restating it very briefly. The work of the judiciary is demanding. Judges and Magistrates are expected to have professional legal skills of a high order. They should also have a wide range of practical judicial skills to enable them to carry out judicial work properly. Some of these practical skills are peculiar to the judicial role, some are skills that are also required in other professions.

The administration of justice involves much more than professional and practical competence. There is a qualitative aspect to the administration of justice which calls for judicial officers to have a real enthusiasm for their work, a strong belief in the importance of justice, and a commitment to the administration of justice in the fullest sense of the word. While these attitudes and beliefs are instilled in us in our professional life, experience tells us that over time judicial officers can become cynical and can suffer what is generally called "burn out". Experience tells us that most judicial officers can benefit from programmes of professional development that help them avoid this phenomenon.

Finally, judicial officers tend to occupy judicial office for fairly lengthy periods. This is in the public interest. It takes time to develop fully the skills required of a judicial officer, and it is in the public interest that those who have fully developed those skills put them to the public benefit for as long as possible. The fact that judicial officers hold office for substantial periods of time mean that they are likely to benefit from programmes of professional development that reinvigorate, refresh and enthuse.

Thus, the members of the Australian judiciary can benefit from programmes of professional development that focus on their legal skills, their practical judicial skills, and their approach to their work and which help them to maintain fitness and enthusiasm for the work. The scope for programmes for professional development is substantial. In the past it was assumed that, somehow or other, in the course of a judicial career, a judge or magistrate would receive the stimulus for self-improvement, and the refreshment and re-invigoration that we know we need. We now know that this assumption is too optimistic. There is a real need for organised programmes of professional development. The judiciary, as a profession, has come to understand this, as have the other professions."

## **THE COUNCIL**

In the course of the development of proposals for the College it was generally agreed that the independence of the judicial arm of government required that a body devoted to judicial education be under the control of the judiciary. That is reflected in the constitution of the College which provides for control by the judiciary with outside representation. The Council is comprised of four judicial members, a member nominated by the Commonwealth Attorney General, and a member nominated by participating State and Territory Attorneys General. The members of the Council are:

Chief Justice John Doyle AC  
Supreme Court of South Australia

Nominee of the Chief Justices of the State or  
Territory Supreme Courts  
and chair appointed by the Chief Justice of the  
High Court

Justice John Dowsett  
Federal Court of Australia

Nominee of the Chief Justice of the Federal  
Court and the Family Court

## **The Council contd.**

Judge Jack Goldring  
District Court of New South Wales

Nominee of the Chief Judges of the District or  
County Courts

Chief Magistrate Hugh Bradley  
Magistrates Court of the Northern Territory

Nominee of the Chief Magistrates of the Federal  
Magistrates' Court and Magistrates' or Local  
Courts

Mr Robert Cornall  
Secretary, Commonwealth Attorney  
General's Department

Nominee of the Attorney General of the  
Commonwealth

Mr Laurie Glanfield AM  
Director-General, New South Wales  
Attorney General's Department

Nominee of the Attorneys General of the  
participating States and Territories

The Constitution of the College provides for each member of the Council to appoint an alternate to exercise some or all of the powers of that Council Member as required from time to time. The alternate members of the Council are:

Justice Geoffrey Miller  
Supreme Court of Western Australia

Nominee of the Chief Justices of the State or  
Territory Supreme Courts

Justice Sally Brown  
Family Court of Australia

Nominee of the Chief Justices of the Federal  
and Family Court

Judge Christopher Lee  
District Court of South Australia

Nominee of the Chief Judges of the District or  
County Courts

Chief Magistrate Ronald Cahill  
Magistrates Court of the Australian Capital  
Territory

Nominee of the Chief Magistrates of the Federal  
Magistrates' Court and Magistrates' or Local  
Courts

Ms Kathy Leigh  
First Assistant Secretary,  
Civil Justice Division  
Commonwealth Attorney General's  
Department

Nominee of the Attorney General of the  
Commonwealth

Mr Timothy Keady  
Secretary of the Department of Justice and  
Community Safety, Australian Capital  
Territory

Nominee of the Attorneys General of the  
participating States and Territories

During the year the Council met in Canberra on six occasions.

## REGIONAL CO-ORDINATORS

The College's Constitution provides for the Council to appoint, after consultation with the relevant Chief Justice or Chief Justices, a Regional Convenor for each State and Territory:

- (a) to provide liaison between the College and his/her region;
- (b) to advise as to appropriate subject matter for the College's programmes and methods of delivery;
- (c) to provide feedback concerning the College's programmes previously conducted;
- (d) to assist in the organisation of the College's programmes to be conducted within his/her region, including arrangement of appropriate facilities;
- (e) to stimulate interest amongst judicial officers in his/her region concerning the College's programmes and attendance thereat;
- (f) to recruit judicial officers to assist in the preparation and conduct of the College's programmes;
- (g) where appropriate, to co-ordinate the activities of all members of the Consultative Committee based within his/her region;
- (h) if practicable, in consultation with the Council, to organise a local chapter of the College in his/her region.

The following were appointed as regional co-ordinators appointed by the Council:

New South Wales	Magistrate George Zdenkowski Magistrates' Court New South Wales
South Australia	Judge Brian Gilchrist Industrial Relations Court of South Australia
Queensland	Judge John Robertson District Court of Queensland
Victoria	Judge Wendy Wilmoth County Court of Victoria
Western Australia	Justice Geoffrey Miller Supreme Court of Western Australia
Tasmania	Magistrate Peter Dixon Magistrates' Court Tasmania
Northern Territory	Justice Sally Thomas Supreme Court of the Northern Territory
Australian Capital Territory	Justice Mary Finn Family Court of Australia

## THE CONSULTATIVE COMMITTEE

The College's Constitution provides for a Consultative Committee to:

- a) advise the Council as to how the College should meet the professional development needs of judicial officers;
- b) advise the Council as to the perceived quality and value of the College's programmes previously conducted; and
- c) facilitate good communications between the College and judicial officers.

The members of the Consultative Committee are the eight regional convenors and the following additional members:

Magistrate Robert Lawrence Magistrates Court of Western Australia	Nominee of the Australian Association of Magistrates
Justice John Byrne RFD Supreme Court of Queensland	Nominee of the Australian Institute of Judicial Administration
Mr Tony Abbott Piper Alderman Solicitors, Sydney	Nominee of the Law Council of Australia
Justice Ronald Sackville Federal Court of Australia	Nominee of the Judicial Conference of Australia
Professor Rosalind Atherton (July to December 2002) Macquarie University Professor David Barker (January to June 2003) University of Technology Sydney	Nominee of the Council of Law Deans
Professor Larissa Behrendt University of Technology Sydney	Nominee of the Attorneys General of the Commonwealth and participating States and Territories
Ms Karen Curtis Australian Chamber of Commerce and Industry	Nominee of the Attorneys General of the Commonwealth and participating States and Territories
Mr Phillip French Disability Studies and Research Institute	Nominee of the Attorneys General of the Commonwealth and participating States and Territories

The Council of the College undertook detailed planning in preparation for the first meeting of the Consultative Committee of the College. The Consultative Committee met in Canberra on a Saturday and Sunday in February 2003. The meeting enabled members of the Council, Regional Convenors, other members of the Consultative Committee, and College staff to establish appropriate working relationships to facilitate the performance by participants of their respective functions in the College.

The discussions at that meeting were aimed at giving Committee members a general understanding of how the College came to be established, of its structure and of its operations, and of the functions of the Council, Regional Convenors, the Consultative Committee and the Secretariat. As well, participants had an opportunity to discuss:

- a) the unmet needs for professional development of the Australian judiciary;
- b) the approach the College should take to discharging its obligation to different jurisdictions;
- c) the best ways of providing professional development to judicial officers;
- d) the use of information technology in providing professional development to judicial officers;
- e) the role of the College in orientation programs;
- f) the order of priority that the College should set for its activities in 2003 and 2004.

The discussions that took place were thorough and productive. The Council intends to arrange a similar meeting early in 2004.

## **THE COLLEGE SECRETARIAT**

The administrative staff of the College are:

Mr John Mc Ginness	Director
Ms Wendy Forster	Executive Assistant

## **THE 2002-2003 YEAR IN REVIEW**

### Administrative issues

Following registration of the College as a company in May 2002, the Council of the College had to deal with a wide range of administrative matters to establish its operations.

In July 2002, following a process of calling for expressions of interest from Australian universities, the Australian National University was selected to host the College. The College and the University signed a detailed memorandum of understanding governing their relationship.

In August 2002 the official launch of the College took place in Canberra. Links to copies of speeches at the launch by the Commonwealth Attorney General, the Hon Daryl Williams QC MP and by the Hon John Doyle AC, Chief Justice of South Australia, are available on the College's website [www.njca.com.au](http://www.njca.com.au)

The College's first staff (a full time Director and part time Executive Assistant) began work in October 2002. The Secretariat's offices were set up in temporary premises at the Law Faculty of the Australian National University in Canberra. A wide range of administrative issues incidental to establishment of the College as a company needed to be resolved including obtaining insurance, appointment of auditors and accountants, establishing financial and other records systems, establishing an interim College website, registration of domain names and notification of company details to the Australian Securities and Investments Commission. During the year the College obtained endorsement from the Australian Taxation Office as an tax exempt

charitable entity on the basis of its character as a non profit organisation established for educational purposes. In January 2003 the Chair of the Council of the College wrote to the Commonwealth Assistant Treasurer requesting an amendment to legislation to have the College declared a deductible gift recipient for the advancement of education. In March 2003 the Commonwealth Attorney General wrote to the Commonwealth Assistant Treasurer supporting the College's request.

### Plans for judicial education activities

During the year under review, plans for the presentation of the College's first judicial education programs were largely completed. The first two programs took place in August 2003. Although these events took place after the year under review, it is convenient to deal with them in this report.

#### *The Travelling Judicial Education Program*

The first program, entitled the Travelling Judicial Education Program, was held in Adelaide on 1 and 2 August 2003. The College's aim is to repeat all or parts of this program at other places in Australia, hence the title. The program contained half day modules on litigants in person, sentencing and expert evidence. The lead presenters were Justice Murray Wilcox (Federal Court, Sydney), Justice Terry Buddin (Supreme Court New South Wales) and Justice Ted Mulligan (Supreme Court, South Australia). Most of the participants were from South Australia, coming from all parts of the judiciary of that State. As well judicial officers attended from Western Australia and Victoria. The development of the program required a significant amount of administrative planning and co-ordination. As envisaged when the idea of regional co-ordinators was incorporated in the College's constitution, Judge Brian Gilchrist (regional co-ordinator for South Australia) assisted by Ms Jill Robinson (Human Resources Manager, Industrial Court of South Australia), played a major role in dealing with aspects such as arranging an appropriate venue, obtaining the participation of assistant presenters, encouraging participation by judicial officers and working with the College's secretariat on registration, accommodation and travel arrangements.

#### *The Phoenix Magistrates Program*

The College's first residential program, entitled the Phoenix Magistrates Program, was held in Canberra from 4 to 8 August 2003. The program was devised following a meeting in February 2003 between the Chair of the College's Council, Chief Justice John Doyle, and the Council of Chief Magistrates. The program had two aims:

- to provide an orientation program for new magistrates;
- to provide a program of professional development, reflection and workshops for experienced magistrates.

In developing the program the College relied on a planning committee based in Adelaide (comprised of Chief Justice John Doyle, Chief Magistrate Kelvyn Prescott; Deputy Chief Magistrate Andrew Cannon; Garry Hiskey SM and Peter Wilson SM) and a group of consultants (Chief Magistrate Hugh Bradley NT; Chief Magistrate Ron Cahill ACT; Mr George Zdenkowski SM NSW; Professor Greg Reinhardt (Australian Institute of Judicial Administration - AIJA); and Ms Ruth Windeler (Judicial Commission NSW)). The program included sessions on an overview of the magistracy in Australia, civil litigation and small claims, managing litigants in person, the process of decision making, delivering ex tempore decisions, writing judgments, court craft (including observation of list management at the Canberra Magistrates Court), ethical



issues, children and family matters, the role of a Chief Magistrate and professional relationships between magistrates, technology for magistrates, stress management issues, sentencing, alternative dispute resolution, list and diary management. The program included opportunities for magistrates to interact with staff and students of Law Faculty of the ANU.

The Phoenix program placed a strong emphasis on using the knowledge and skills of the participating magistrates. Experienced magistrates led many of the sessions. Sessions were also presented by Chief Magistrate Ian Gray (Victoria), Chief Magistrate Ron Cahill (ACT) and Justice Ken Crispin (ACT). Other presenters included Associate Professor Kathy Mack and Professor Sharyn Roach Anleu (Flinders University), Professor Arie Freiberg (Melbourne University), Professor Greg Reinhardt (Australian Institute of Judicial Administration) and Mr John White (Office of Commonwealth Director of Public Prosecutions). Staff from the Australian National University presented sessions on technology and stress management. The College expects to present this program in other capital cities in 2004.

Responses from participants in each program indicates that they were well received.

### *Survey of judicial officers*

To assist the College's planning of its future judicial education activities, in early 2003 the College conducted a survey of judicial officers around Australia about their professional development needs and interests. The survey was carried out on behalf of the College by Centre for Education and Academic Methods at the Australian National University. 234 judicial officers responded to the survey.

The results are still being analysed by the College but some highlights from responses to the survey are:

- High levels of interest among judges and magistrates in court craft (judgment writing, assessing the credibility of witnesses, litigants in person, case management), information technology skills and issues such as judicial conduct and sentencing;
- Low level of interest in administration (office management, financial management, staffing);
- Some topics interested judges more than magistrates (case management, appeal court review, civil litigation) while others interested magistrates more than judges (sentencing, crime, scientific and medical developments);
- on average judicial officers devote 4 to 5 days each year to professional development activities;
- Preference for traditional modes of delivery of professional development (workshops, conferences), moderate interest in self directed learning (private study, web based study) and low interest in online discussion or debate. Clear aversion to evening workshops;
- Some variation between States in levels of interest in particular topics.

## **THE COLLEGE'S POLICIES ON JUDICIAL EDUCATION**

In considering the development of the College's programs, the Council of the College has identified some policies it intends to pursue. These policies have been formed as a result of the Working Group's consultations with judicial officers and other interested persons in 2001/2002, thorough discussions in meetings of the Council and again at the first meeting of the College's Consultative Committee in Canberra in February 2003. The policies are summarised below

The role of the College is to assist judges in their professional development. Programmes should be developed to meet real needs. They must be delivered in ways which maximize the benefit to be derived by judicial officers and the community and take account of the particular sensitivities incidental to activities concerning judicial officers.

In developing programs the emphasis should be on matters not adequately covered by readily available sources such as text books and journals. In particular, emphasis should be on practical skills, a large aspect of judicial work. The College appreciates the importance of providing programs on social and cultural awareness issues including issues relating to disability awareness, persons from non English speaking and indigenous backgrounds and the protection of children. Other important matters include recent legal developments; legal, and programs concerning judicial physical and mental health. In general the College would not expect programs to focus upon substantive law. That area will usually be better addressed in other forums or by private study.

In Australia there are a large number of judicial officers with different responsibilities. Needs may be quite specialized. Although there are some common aspects to all judicial work, the College will not assume that one program will be suitable for all, or even most judges. This may lead to our offering specialized courses to small groups. The College must identify and try to satisfy the real needs of the judiciary and of the community.

Judicial officers are a group of people who, by reason of talent, experience, education and training, have been identified as suitable to receive the authority of the state to resolve disputes between citizens and between the state and citizens. They will be busy people who are themselves regularly asked to participate in programs as speakers and teachers. Any program developed by the College must be worthy of the time which participants will be asked to invest in it.

The College should adopt best practices for adult professional learning. The emphasis should not be on formal lectures. Rather the College will use structured discussion of practical problems and other similar forms of active learning, for example self-teaching in small discussion groups, based on well-planned, practical problems.

The focus on discussion rather than lectures means that most programs will be suitable for groups of no more than 25 to 30 participants.

The College's programs will be participant focussed rather than "teacher focussed". Judicial officers collectively will often bring more to college programs than any one presenter or group of presenters and the emphasis should be on sharing and building upon the experience of participants; presenters should guide discussion and encourage participation, but should not be seen as a faculty separate from the participants.

The College's role is not to standardize judicial approaches to problems or issues or to label any acceptable approach as "right" or "wrong", nor should there be any public comment upon the extent to which any judge, in his or her work, has complied with, or failed to comply with approaches suggested in the course of any program.

The Council believes that those who are carrying out judicial work are usually best placed to lead professional development programs, bearing in mind that almost always this involves a mix of technical and practical skills. The accumulated experience and skill of the judiciary are valuable national assets. The College should harness and enhance them in ways which are more appropriate to their true value. Thus most of the educational programs of the College will be led by experienced and respected judicial officers. However, the College will also draw on academic lawyers and members of other professions who have appropriate expertise and experience. In particular, the College hopes to build a fruitful relationship with the members of the Faculty of Law at the ANU.

As far as possible, the College will take its programs to the Australian judiciary, rather than bring them to Canberra to attend courses. There is a place for both approaches, but the emphasis should be on providing programs to the Australian judiciary in their home towns. The College's programs must be designed to be easily conducted at various places around the country and allow for different presenters to present the same program in different cities. To the extent that it is practical, we will develop "template programs" that can be readily repeated, with or without changes. Presenters should change regularly to maximize input from the whole judiciary and to avoid the institutionalization of the views of a small group.

One of the objectives of nationally organised professional development activities is that judicial officers from across jurisdictions and from different geographical regions will have the opportunity to exchange information and experiences. This would maximize the benefit derived by judicial officers and the community from professional development programmes. The College aims as much as possible to increase opportunities for the exchange of experience between jurisdictions.

As the College's current funding is sufficient only to cover its central administrative costs, the programs delivered by the College must be financially self-supporting. This means that courts nominating participants will be asked to pay program fees designed to cover the costs of presenting the program.

Until recently programs of professional development for judicial officers have been provided mainly by voluntary committees working within the various courts. The Judicial Commission of New South Wales and the Judicial College of Victoria provide professional development opportunities to judicial officers in those States. Some programs are best conducted locally, such as programs relating to jurisdiction-specific legislation. The National College should strive to complement local programs, avoid duplication and offer some programs in conjunction with other educational bodies.

The College will do everything it can to ensure fruitful co-operation with the AIJA, the Judicial Commission of New South Wales and the Judicial College of Victoria, and with existing education committees. The College is co-operating with these bodies to develop an Internet calendar of judicial education programs which can be accessed at <http://150.203.87.85/jud-education.htm>. The College's aim is to avoid duplication and to co-operate as much as possible with other institutions in the field.

## **THE FUTURE**

The Travelling Judicial Education Program will be repeated in other capital cities. The Phoenix magistrates program will be presented in at least once in 2004 at a location still to be decided.

The College wishes to develop modules on topics suitable for inclusion in judicial education activities of individual courts.

Responses by judicial officers around Australia to the College's survey of their wishes for professional development indicated judgment writing is a major topic of interest. The College hopes to develop a residential program on judgement writing to be offered in mid to late 2004.

The College will make as much use as it can of distance education by electronic means. The use of distance education will be particularly important to enable the College to reach Australia's magistrates. They are the largest single group within the judiciary, and they are geographically dispersed throughout the country.

Developing high quality distance education programs will not be easy. We want to develop programs that can be integrated into programs that are presented in the traditional face-to-face manner, and also stand-alone electronically delivered programs. Developing these programs is costly. A challenge for the College is to find the resources required.

At this stage not all Attorneys General have agreed to support the College financially. One of the College's aims is to demonstrate the merit of supporting the College through the quality of the programs it provides.

The first year of the College has been demanding. Meeting the needs of professional development of the Australian judiciary is a large task.

There is a limit to what the College can achieve with two staff. Council members have had to involve themselves closely in developing our programs. Other demands on their time limit what they can do for the College. Managing with its limited financial and human resources is one of our challenges.

The Council of the College is conscious of the need to demonstrate that we can meet the needs of the Australian judiciary, but we are also aware of the importance of providing high quality programs. It must avoid the temptation to present programs that can be easily organised but might make little real contribution to the professional development of the judiciary.

Despite the difficulties, the members of the Council believe that the College can make a significant contribution to the Australian judiciary, provided that it is given the resources needed. The members of the Council are firmly committed to the task they have.

## **CONTACT DETAILS FOR THE COLLEGE**

The College Secretariat can be contacted as follows:

National Judicial College of Australia

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Website                  [www.njca.com.au](http://www.njca.com.au)

## **JUDICIAL EDUCATION IN AUSTRALIA**

## **Background**

The majority of judges and magistrates in Australia are selected from among the ranks of very experienced legal practitioners. It is common for a person to be appointed only after 20 to 30 years experience as a practicing lawyer in the courts. Thus on appointment judicial officers not only have academic qualifications in law but also extensive experience as practitioners in the courts. They are presumed to possess the necessary skills and experience for judicial functions because of this experience.

Judges and magistrates in Australia are appointed by federal and state Governments. Although legislation sets minimum requirements (for example 5 years experience after attaining qualification as a lawyer), in practice governments consult existing judges and elected representatives of the legal profession before selecting persons for appointment. Typically appointees have the recognition of existing judges and other lawyers as persons who have outstanding ability in the law and legal practice.

Judicial officers tend to occupy judicial office for fairly lengthy periods. The fact that judicial officers hold office for substantial periods of time means that they are likely to benefit from programs of on going professional development. In addition it takes time to develop fully the skills required of a judicial officer, and it is in the public interest that those who have fully developed those skills put them to the public benefit for as long as possible. Thus, the members of the Australian judiciary can benefit from programs of professional development that focus on their legal skills, their practical judicial skills, and their approach to their work and which help them to maintain fitness and enthusiasm for the work. The courts and judicial education bodies in Australia conduct these organised programs of professional development.

### **Judicial education in the courts**

Until recently most professional development programs for judicial officers in Australia were developed and delivered by committees of judges or magistrates in Australian courts. Many courts hold annual conferences or more regular meetings of judicial officers which include elements of professional development. The focus of these programs is often on updating judicial officers on developments in the law or topics of particular relevance to the work of the court in question. Some information on these events is available in the annual reports of Australian courts (links to court websites are available via the [Links](#) page on the website of the National Judicial College of Australia).

There is a [judicial education calendar page](#) on the website of the National Judicial College of Australia.

### **The National Judicial College of Australia**

The National Judicial College of Australia (NJCA) was established in May 2002 as an independent entity, funded by contributions from the Commonwealth and some State and Territory governments. It is controlled by a governing Council, a majority of whose members are judicial officers.

The College's [Constitution](#) provides that the College is to assist judicial officers to administer the law in a just, competent and speedy way by offering them opportunities to:

- (i) share lessons learned from experience, leading to identification and adoption of best professional practices;
- (ii) broaden and enhance their general and legal educational standards;
- (iii) participate in educational programs intended to broaden their understanding of the processes and consequences of change in our society;
- (iv) participate in educational programs intended to broaden their understanding of the extent and consequences of diversity in various aspects of society and to help them acquire skills to deal with that diversity;
- (v) undertake individual learning programs;
- (vi) develop their skills in management (including case management), conduct of trials and appeals, and judgment writing;
- (vii) develop other skills relevant to judicial office ;
- (viii) participate in educational programs which will help judicial officers develop substantive and procedural law, thus shaping for the future the law and its administration; and
- (ix) participate in educational programs which will help judicial officers maintain physical and mental health while exercising judicial office.

The College provides professional development programs to all judicial officers in Australia. The Council of the College has adopted some policies which it will pursue in developing professional development for judicial officers. These are set out in the College's [first annual report](#).

Some examples of the College's programs follow:

#### *The Phoenix Magistrates Program*

The College provides a residential program, entitled the Phoenix Magistrates Program, every year. The program had two aims:

- to provide an orientation program for new magistrates;
- to provide a program of professional development, reflection and workshops for experienced magistrates.

The program is developed by a Committee of judges and magistrates. It includes sessions on making decisions and writing judgments, court craft, ethical issues, sentencing, alternative dispute resolution, children and family matters, cultural awareness, professional relationships between magistrates, technology for magistrates, list and diary management, and stress/lifestyle issues. The Phoenix program places a strong emphasis on using the knowledge and skills of the participating magistrates. Chief Magistrates and other experienced magistrates lead many of the sessions. Other session leaders include academics from Australian universities, medical experts and private consultants.

In 2005 the College will trial a Phoenix Program to provide a program of professional development, reflection and workshops for new and experienced judges.



### *The National Judicial Orientation Program*

The College is assuming responsibility for the National Judicial Orientation Program in 2004 and in future years. The program is aimed at newly appointed superior and intermediate court judges from around Australia. The program includes sessions on judicial ethics and conduct, contempt, assessing the credibility of witnesses, evidence, judgment writing, cultural awareness, court craft, unrepresented litigants, sentencing, alternative dispute resolution, psychological and physical health.

### *The Travelling Judicial Education Program*

The College presents a Travelling Judicial Education Program, a series of 1.5 day programs for judicial officers in capital cities around Australia. The program contains half day modules on subjects such as litigants in person, sentencing, disability awareness and expert evidence. The aim of the program is to offer judicial officers the opportunity to revisit key areas of their work while benefiting from exchanges with judicial officers from other Australian jurisdictions. Each module features discussion and problem solving by participants with little formal lecture content. The College also offers modules from the Travelling Judicial Education Program for inclusion in annual court conferences or seminars. In 2004 modules were included in annual conferences of Magistrates courts in Western Australia (identification by witnesses), the Northern Territory (communication in the court room) and South Australia (Commonwealth criminal code). A one day program on human rights issues was also delivered to judicial officers from the Australian Capital Territory and the Federal Court.

### **Distance education**

There are approximately 850 judges and magistrates around Australia and magistrates in particular are geographically dispersed. The difficulty in getting leave from busy court lists and the financial costs of travel to capital cities or other States are major barriers for some judicial officers in attending face to face presentations. For these reasons in 2004 the College began developing pilot programs in technology based distance to supplement its face to face programs. The first programs, which will be available in 2005, will deal with judgment writing and disability awareness.

### **Other Australian judicial education bodies**

#### *Australian Institute of Judicial Administration*

The Australian Institute of Judicial Administration is a research and educational institute associated with Monash University. It is funded by the Standing Committee of Attorneys-General and also from subscription income from its membership.

The principal objectives of the Institute include research into judicial administration and the development and conduct of educational programmes for judicial officers, court administrators and members of the legal profession in relation to court administration and judicial systems.

The Institute has published widely in matters of judicial administration and associated subjects including areas such as case management, cultural awareness, judicial ethics, technology and the courts, complex criminal trials and cross-vesting legislation, to name a few.

The Institute runs a number of regular activities in the area of judicial education including programs for court administrators, court librarians, magistrates and judges that are run either each year or biennially. It has also been involved in developing courses in relation to a number of specialised areas including gender awareness programs, courses relating to cultural awareness, court technology and case management. Information on the topics covered in its programs are available on the Institute's website <http://www.aija.org.au/>

#### *Judicial Commission of New South Wales*

The Judicial Commission was established in 1986 by NSW State legislation. The Commission's principal functions are to investigate complaints against the judiciary, to achieve consistency in sentencing and to organise continuing education and training of judicial officers in NSW. It is funded by the NSW Government.

The JCNSW has an extensive publication program, with the production of 'Bench Books' for each court, a regular journal (the Judicial Officers Bulletin), research monographs, statistical papers, and online facilities (the Judicial Information Research System, which includes a sentencing database as well as online access to cases and statutes). Information on the topics covered in its programs are available on the Commission's website: <http://www.judcom.nsw.gov.au/>

#### *Judicial College of Victoria*

The Judicial College of Victoria was established in 2003. It is involved in assisting with court conferences, organising seminars and workshops for judges and magistrates. It is also reviewing and updating sentencing manuals and benchbooks for Victorian courts. The College's website is : <http://www.judicialcollege.vic.edu.au>

#### *The Judicial Conference of Australia*

The JCA was established in 1993. Its objects all relate to the public interest in maintaining a strong and independent judiciary within a democratic society that adheres to the rule of law. The Conference's Governing Council consists of judges and magistrates drawn from all jurisdictions and levels of the Australian court system. Further information about the Conference is available at its website: <http://www.jca.asn.au/>

## Judicial education overseas

Some Australian based organisations are involved in providing judicial education to overseas courts.

The **Centre for Democratic Institutions** (CDI) is funded by the federal government. Its main area of interest is in developing good governance in developing countries. Its focus is on developing parliamentary institutions but it also funds projects for improving the judiciary in developing countries. Website: <http://www.cdi.anu.edu.au/judiciary.htm>

The **Federal Court of Australia** provides assistance to judiciaries in Asia and the South Pacific. In particular, the Court conducts a major judicial training program with the Supreme Court of Indonesia, which was funded by the Australia Agency for International Development. In late 2004 the court also acquired responsibility for the management of interim judicial education activities in the Pacific formerly co-ordinated through the Pacific Judicial Education Program. Website: <http://www.fedcourt.gov.au/>

The **Asia Pacific Training Centre** (Glebe, NSW), an associate of the International Development Law Organisation, delivers judicial education in the Asia Pacific region. Website: <http://www.idli.org/asia.htm>

Some international bodies involved in judicial education are:

The **Asia Pacific Judicial Educators Forum** was established for the purpose of providing an opportunity for the member bodies to exchange information and resources, in order to improve the quality of judicial education, particularly in developing countries. In addition, it will promote and encourage judicial education throughout the region. One of its functions is to act as a clearing house for information on available judicial education. Its headquarters are located at the Philippine Judicial Academy and membership is open to judicial education institutions and organisations in the Asia Pacific region. [http://www.cdi.anu.edu.au/asia\\_pacific/AJEForum\\_Feb2003.htm](http://www.cdi.anu.edu.au/asia_pacific/AJEForum_Feb2003.htm)

### **Commonwealth Judicial Education Institute**

The Institute was established in 1998 to:

- provide support and linkage among existing Commonwealth judicial education bodies;
- encourage the sharing of information, human and fiscal resources inter-nationally and inter-regionally;
- maintain linkages with American judicial education bodies to share information and resources;
- encourage the establishment of new national and regional judicial education bodies in the Commonwealth;
- develop programs and teaching tools for the use of all;
- deliver judicial education programs at the invitation of the Chief Justice in partnership with national judicial education bodies;
- organize study tours of justice systems and judicial education processes;
- encourage interaction among judges and jurisdictions;
- provide sustainable infrastructure for judicial education;

Website: <http://www.dal.ca/~cjei/index.html>

## **Further information**

Further information about judicial education in Australia is available on in the NJCA [website](#).

November 2004  
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SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.1**

**Question No. 160**

**Senator Ludwig asked the following question at the hearing on 23 May 2005:**

Australian Commission for Law Enforcement Integrity:

- (a) Is there a timeline for the establishment of ACLEI? If so, what is the date that ACLEI is intended to be completely established?
- (b) Is there a charter for ACLEI? If so, please provide.
- (c) Do we have any available information on:
  - (i) How many personnel will be engaged under ACLEI?
  - (ii) Will there be any sworn officers? If so, what will be the breakdown of sworn personnel to unsworn personnel?
  - (iii) Will any personnel be transferred from existing agencies to ACLEI? How many?
- (d) What powers will this body have? Will it have Royal Commission-style powers as was originally announced? If not, why is there a variation?
- (e) What sorts of coercive powers will the body have?

**The answer to the honourable senator's question is as follows:**

This matter is under consideration by the Government and definitive responses are therefore not available.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 161**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) How has work progressed on the development of the generic request form for interstate enquiries regarding missing persons and unidentified remains?  
If they have been completed, could you provide a copy of the form?  
If they have been completed, on what date was it completed?  
If they are still outstanding, is there an expected date for completion?  
Have any or all states adopted it? Which ones?
- b) What other work is the PCGMP currently undertaking?

**The answer to the honourable senator's question is as follows:**

- a) The generic request form for interstate enquiries on missing persons was circulated as a draft to all states and territories on 26 November 2004. The final document was circulated and accepted by all states and territories for adoption on 2 February 2005. A copy of the form is attached.

The generic request form for unidentified remains may not be required due to proposed enhancements to the CrimTrac database. The development of this form was discussed during the Police Consultative Group on Missing Persons (PCGMP) meeting on 16 June 2005. It was agreed to suspend any further development of this document until the enhancements to CrimTrac could be evaluated.

- b) On 16 and 17 June 2005 the PCGMP discussed the proposed enhancements to the CrimTrac database. The NMPU will provide a coordinated PCGMP/ National Advisory Committee on Missing Persons (NACMP) response to CrimTrac.

The PCGMP has identified issues in the interpretation applied to the Privacy Principles by state and Commonwealth agencies. The narrow interpretation of the Privacy Principles applied by state and Commonwealth agencies has hindered law enforcement efforts to locate missing persons. The PCGMP is preparing a submission to the Federal Privacy Commissioner (FPA) seeking cooperation from the Commission in progressing future strategies to overcome this issue.

The PCGMP is preparing a submission to the Commonwealth Attorney-General's Department seeking legislative reform, to enable the exchange of information between Commonwealth and state agencies and the private sector, to support efforts to locate long term (six months) missing persons.

The PCGMP is progressing the implementation of a Memorandum of Understanding between state and Commonwealth agencies to ensure a coordinated response to missing persons during major local and international events, such as the 2002 Bali bombings and the Boxing Day Tsunami.

## National Missing Persons

### Request for Information

Information requested from: NSW / QLD / NT / WA / SA / VIC / TAS / ACT / ALL

#### MISSING PERSON

Surname: \_\_\_\_\_ Other Names: \_\_\_\_\_

Sex: \_\_\_\_\_ DOB: \_\_\_\_\_ Photo available: Yes / No

Description: \_\_\_\_\_

Date Missing and  
Circumstances of  
disappearance:

\_\_\_\_\_

#### OFFICER IN CHARGE

Name: \_\_\_\_\_ State MPU: \_\_\_\_\_

Date: \_\_\_\_\_ Phone: \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_

#### INFORMATION REQUESTED

**General Police Mainframe**  
(including intelligence reports, case  
management and firearms information)

**Roads & Traffic Authority**  
(including driver's licence and vehicle  
registration)

**Unidentified Bodies/Remains**

**Births, Deaths & Marriages**

**State Electoral Roll**

**Land Titles (deed poll)**

**Govt Housing Trust/Commission**

**Utilities (gas, electricity)**

**Mental Health Institutions**

**Dept of Education**

**Corrective Services**

**State Coroner's Office**

**Other**

#### OFFICER COMPLETING REQUEST

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Phone: \_\_\_\_\_ Information attached: Yes / No

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 162**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) Is the Taser X26 still the model used by Specialist Response and Security Tactical response teams?
- b) Could you provide an update as to whether there have been any incidents involving the use of stun-guns?
  - i) Please provide the details of those incidents.
- c) Are there any guidelines specifically covering the use of these Tasers?
- d) What are these guidelines? Could we get a copy of the formal guidelines?
- e) If not, what guidelines cover the use of Tasers, and how are they covered?

**The answer to the honourable senator's question is as follows:**

- a) Yes.
- b) There have been nil incidents as of 15 June 2005 involving the use of the Taser X26.
- c) Yes.
- d) The guidelines for the use of the Taser X26 are contained within the AFP Commissioner's Order on the Use of Force (Commissioner's Order 3) and the Taser X26 training package. Commissioner's Order 3 is not available to the public as it contains police methodology and working procedures relating to the use of force.
- e) See the response to part (d).



SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 163**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

Since February, what has the AFP done to find the lighter weight vest and helmet mentioned by Commissioner Keelty at Estimates that provide as much protection as possible? What is the status of those investigations?

**The answer to the honourable senator's question is as follows:**

Prior to February 2005 the AFP undertook a review of the issue of specialist equipment including vests and helmets. Following the review, 100 new light weight vests and 100 helmets were obtained. The AFP continues to review operational safety equipment requirements and is preparing an open request for tender to obtain further vests and other equipment.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 164**

**Senator Ludwig asked the following question at the hearings on 24 May 2005:**

Regarding language training:

- a) Are any specific languages being targeted? If so, which ones and why were these ones chosen?
- b) Why was there a need for this additional language training?
- c) How many personnel will receive this training?
- d) What is the timeframe for them receiving the training?
- e) Which personnel in particular will be receiving the training?
- f) Who is going to be providing the language training?
- g) How were they chosen?
- h) Could you provide a breakdown of the costs?

**The answer to the honourable senator's question is as follows:**

- a) The following languages are being targeted to assist in identified counter terrorist activities:
  - Tagalog
  - Bahasa Indonesian
  - Cantonese
  - Mandarin
  - Arabic
  - Thai

Regular reviews of language training will ensure the capability meets operational requirements.

- b) The strategic direction of the AFP has changed significantly with an increasing international focus emerging from transnational crime. The AFP is aligning strategic direction with operational capability development, which includes language and cultural awareness training.
- c) All operational and administrative staff engaged in counter terrorist activity will be offered language training in the language most relevant to their tasks. Other AFP members will be offered language training to ensure a pool of linguists is available to meet operational requirements associated with counter terrorist activities.

As of 16 May 2005, 28 members commenced training in Tagalog, Bahasa, Arabic, Russian, Mandarin and Cantonese.

At least five more members will commence language training in June 2005 in Russian, Tagalog, Bahasa, and Thai.

d) Funding for language training has been provided over 4 and a half years through the new policy initiative 'Fighting Terrorism at its Source'. It is planned that AFP members reach a high conversational level of fluency.

e) Training will be offered to AFP members engaged in counter terrorist activities and other interested members to ensure operational capability for in-country or overseas deployment.

f) The Canberra Institute of Technology (CIT) Solutions Pty Ltd.

g) After consultation with other Commonwealth agencies the AFP used a direct source process to engage CIT Solutions Pty Ltd.

h) The following funding allocation was projected under the initiative:

- 1 Jan 2004 – 30 Jun 2005      \$1.5 million
- 1 Jul 2005 – 30 Jun 2009      \$3.1 million per financial year

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 165**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) Who or which committee is responsible for setting the remuneration rates for AFP employees?
- b) How many times does this committee meet per year? What are the dates on which it met in the last year?
- c) Are there minutes of the meetings of these committees that are available to the committee? If so, please provide?
- d) Are there guidelines in place for setting of the remuneration rates? Please provide.
  - i) How often are these guidelines updated?
  - ii) When were the last time they were updated or otherwise modified?
  - iii) If not, why not? Are there any plans to develop guidelines?
- e) Does the Committee release a summary or report of its reasons for classifying certain occupations at a particular rate? If yes, please provide. If not, why not?

**The answer to the honourable senator's question is as follows:**

- a) There is no one person or committee responsible for setting remuneration rates for AFP employees.

For non Senior Executive Service (SES) level staff, rates of base salary are derived from a salary spine attached to a classification structure (one in the AFP Certified Agreement and one in the Protective Service Officer Certified Agreement). Classification structures can change over time, but at any point are based on bands of relative work value. Changes to classification arrangements are negotiated and settled as part of Certified Agreement making.

Remuneration beyond base rates of salary (extraneous payments) is derived from the application of provisions for particular types of work or particular circumstances as determined through Certified Agreements or Determinations made under the *AFP Act* (the Act).

Classification of SES employees is derived from the structure in place for the Australian Public Service generally. Remuneration for SES employees is determined by the Commissioner, in consultation with the Executive, under the provisions of the Act.

- b) The AFP does not use a committee. Certified Agreement bargaining rounds occur at determined intervals. The current AFP Certified Agreement expires on 30 June 2006; the PSO Certified Agreement expires on 19 April 2006.

Determinations under the Act may be made at any time and have individual application periods.

- c) Not applicable.

- d) There are no specific guidelines in place for setting remuneration rates. In terms of classification rules and remuneration guidelines, the AFP broadly follow arrangements that apply in the Australian Public Service. For example, in setting or negotiating classification arrangements the AFP will have regard to advice provided by the Public Service Commissioner as issued from time to time. In Certified Agreement bargaining the AFP refer to the Workplace Relations

Arrangements for Non-APS Commonwealth Authorities issued by the Department of Employment and Workplace Relations.

Outcomes in relation to extraneous payments will be the product of bargaining rounds and/or the settlement of industrial agreements.

Outcomes in relation to some matters covered by Determination, for example overseas allowances, are informed by what is applicable in other Commonwealth agencies overseas (for example the Department of Foreign Affairs and Trade).

There are no plans to develop AFP specific guidelines.

e) Information about the classification of certain occupations at a particular rate (at a particular level in the classification structure) is available on the AFP website. This includes the classification methodology, role descriptions, work level standards and role capability information.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 166**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- (a) In relation to the Australian Federal Police Reform Programme that finalises at the end of the financial year, can the AFP outline what the money was spent on and provide a breakdown of the figures?
- b) Was the money completely spent (\$111 million)? Was it within budget?
- c) Has that reform programme now been completed?

**The answer to the honourable senator's question is as follows:**

- (a) The AFP Reform Programme (Stage 1) was undertaken and funded in the years 1998-99 to 2000-01. \$110.5m over 4 years was included in the 2001-02 Budget for Stage 2 of the Reform Programme. The funding was provided to enable the AFP to continue the progress made under Stage 1 in improving operational performance, through maintaining additional staff funded within Stage 1, continuing the improved training, mobility and restructuring initiatives and to fund the ongoing depreciation costs associated with equipment and facilities funded under Stage 1.

Funding details are as follows:

	<b>TOTAL 2001-02 \$ M</b>	<b>TOTAL 2002-03 \$ M</b>	<b>TOTAL 2003-04 \$ M</b>	<b>TOTAL Ongoing \$ M</b>	<b>TOTAL \$ M</b>	
<b>Salary and Related Accruals</b>	12.988	13.158	13.335	13.335	52.816	
<b>Recruitment &amp; Training Costs</b>						
- L&D Strategy	2.750	2.750	2.750	2.750	11.000	
<b>Restructure and Mobility</b>						
- Mobility	0.900	0.900	0.900	0.900	3.600	
- Ongoing salary costs from Stage 1	4.853	4.853	4.853	4.853	19.412	
- Insitu Progression	1.400	1.400	1.400	1.400	5.600	
<b>Depreciation</b>						
- Ongoing depreciation Costs from Stage 1	5.371	5.491	4.590	1.440	16.892	
<b>TOTAL</b>	<b>28.262</b>	<b>28.552</b>	<b>27.828</b>	<b>24.678</b>	<b>109.320</b>	
Efficiency Dividend	-1%	n/a	- 0.286	- 0.564	- 0.811	1.660
Outturn Prices (exc depreciation)	2.1%	n/a	0.478	0.962	1.443	2.884
<b>TOTAL COST</b>	<b>28.262</b>	<b>28.745</b>	<b>28.227</b>	<b>25.310</b>	<b>110.544</b>	

- (b) The funding over the 4 years 2001-02 to 2004-05 has been completely spent, and remained within budget.

- (c) The initiatives contained within the Reform Programme have all now been fully implemented, although the AFP continues to seek to improve all aspects of operational performance and outcome delivery as appropriate.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 167**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) Please provide a brief outline of the co-operation and interoperability between the AFP and the ACC?
- b) Is the AFP involved in every ACC Arrest?

**The answer to the honourable senator's question is as follows:**

- a) The AFP works closely with the ACC on a number of levels including the ACC Board, Operational and Intelligence work, and administrative cooperation. The underpinning framework for cooperation with the ACC is the *Australian Crime Commission Act 2002 (the Act)*.

*ACC Board*

Under the Act, the Board is the primary mechanism by which all Australian Police Services, including the AFP, interact with the ACC. The Board sets the ACC's Menu of Work via Determinations authorised under Section 7C(1) of the Act. The majority of ACC operational work is conducted jointly with other police services. The AFP, via its secondees and through joint operations conducted under the Determinations, is involved in the majority of this work.

The ACC Board also sets the National Criminal Intelligence Priorities which provide the ACC with a basis for conducting and developing its intelligence and investigative work for the following year. As a Board member agency, the AFP's intelligence priorities and interests are taken into account, along with other Board agencies, in the formulation of the NCIPs, ensuring that ACC intelligence products are of benefit to the AFP.

*Secondment of AFP Officers to the ACC*

There are currently 24 AFP officers seconded to the ACC with the majority located in Sydney and Melbourne. The ACC relies heavily upon its seconded workforce from the AFP and other agencies as it does not have the ability to appoint investigators with police powers in its own right. Sworn AFP secondees to the ACC are able to use their police powers when investigating criminal activity involving Commonwealth offences.

The officers are funded by the ACC via reimbursement to the AFP and are seconded for an average of two years. These officers are involved in a range of operational roles including investigative work, surveillance work and other roles as required. During their secondment the AFP officers are under the command of the ACC and are subject to both ACC and AFP Professional Standards and integrity requirements.



### *Joint Operations*

In addition to the secondments described above, the AFP also assists the ACC in joint operations on a needs basis. Depending on the operation undertaken, the AFP may deploy technical, investigative or intelligence assets to assist the ACC. In accordance with Section 7(C) of the *ACC Act 2002*, any joint operations undertaken with the ACC are conducted under the appropriate ACC Board Determination. During joint operations AFP officers may come under the command of the ACC or the agency designated as lead agency for the operation; however they remain subject to the AFP's integrity and governance framework.

### *Special Members*

The AFP also grants access to the Special Member provisions of the AFP Act to designated ACC individuals. These powers provide the ACC employees with certain police powers including 'use of force'. The granting of powers is necessary to allow ACC employees in certain high-risk functions such as Surveillance and Special Projects to have the protections necessary for them to undertake their tasks safely.

Any ACC employees designated as AFP Special Members are subject to AFP requirements relevant to use of force and must meet minimum training and experience requirements.

### *Intelligence*

As the national criminal intelligence agency, the ACC works closely with the AFP to collect and produce criminal intelligence products. Intelligence is collected via operations conducted by either agency and shared with the other. Intelligence is also collected during Joint Operations and shared between participating agencies. The AFP has also provided an Intelligence Analyst to work within the ACC's Drugs Intelligence Team.

In addressing the National Criminal Intelligence Priorities, the ACC produces operational and strategic intelligence against subjects which the AFP has a direct interest in. The ACC provides operational and strategic intelligence to the AFP and consults closely with the AFP in the drafting of major intelligence products. The AFP and ACC also collaborate on the production of joint-agency intelligence products and conduct regular liaison at management and analyst levels on intelligence issues.

AFP intelligence analysts have access to the ACC-maintained Australian Criminal Intelligence Database (ACID) and the Australian Law Enforcement Intelligence Net (ALEIN) which provide the IT infrastructure necessary to share intelligence between agencies effectively and efficiently. The AFP has the ability to export data holdings from its internal database to ACID.

The AFP and ACC (along with Charles Sturt University) cooperate on running the national Strategic Intelligence Course and the AFP provides lecturers, assessors and the resources of the AFP's Barton College for the duration of the two-week residential course.

### *Accommodation*

The AFP provides office space to the ACC in its Canberra and Melbourne offices on a long term tenancy basis. The ACC is also collocated with the AFP in Commonwealth premises in Adelaide and Perth. Shared office space provides efficiencies for both agencies including shared costs and closer working relationships.

## *PROMIS*

The Police Real-time Online Management Information System (PROMIS) is the AFP's principal case management database. The ACC also uses its own PROMIS system which is supported by the AFP via an agreement between the agencies.

- b) The ACC executes arrests in the course of its Determinations which may or may not involve AFP officers. As indicated above, the ACC's investigative capability consists of officers from a number of Australian Police Agencies, including the AFP.

The involvement of AFP officers depends on the nature of the arrest being made (Commonwealth or State offences) and the type of operation being conducted. Because of the close working relationship between the ACC and the AFP including the provision of secondees described above and through extensive joint operations, AFP officers can be expected to be involved in a significant number of ACC arrests; however the AFP is not necessarily involved in every arrest.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 168**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) Could you provide a list of the types of surveillance devices that the AFP intends to source?
- b) Where does the AFP source these surveillance devices from?
- c) Is there a tender process to determine which company provides the surveillance devices?
  - i) If so, what stage is it at?
  - ii) I assume it was closed? If so, how were the tender applicants chosen?
- d) Is there a timeframe for the procurement of the surveillance devices?

**The answer to the honourable senator's question is as follows:**

- a) All types of device lawful under the Surveillance Devices Act 2004. That is Listening, Optical, Tracking and Data. There are a number of different variations on each to meet varying operational requirements.
- b) Devices are sourced from or through:
  - Commercial Suppliers (within and outside Australia)
  - Internal Development (in some cases together with other agencies)
  - Other Agencies (within and outside Australia)
- c) The approach adopted is dependent upon the nature of the device, the security issues that affect its availability, technical requirements, and its cost. Some surveillance devices are commercially available on the open market and where such devices can meet our technical requirements, the AFP adopts its normal procurement processes including open tender, where required, to obtain these items.
- d) Overall, no. Devices are still in use that were procured 10 or more years ago, and development and assessment of devices is an ongoing requirement in order to;
  - Improve the standard of device product
  - Replace technologies that have been compromised
  - Take advantage of new technological opportunities and installation methodologies

The focus since the introduction of the *Surveillance Devices Act 2004* on December 18 of that year has primarily been on developing or acquiring tracking and data surveillance capabilities, as our capabilities in the other areas of listening and optical devices are adequate at this stage.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 169**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) How many trafficking matters have you had referred to you from detention centres (use the time period 00-01-02-03-04-05)?
- b) Please provide a breakdown into years and how many of those that have resulted in:
- i) An investigation.
  - ii) Charges
  - iii) Convictions

**The answer to the honourable senator's question is as follows:**

The number of complaints received by the AFP through Department of Immigration, Multiculturalism and Indigenous Affairs correspondence that related to potential victims in detention centres can be broken down as follows.

	<b>Total Referred</b>	<b>2005</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>
<b>Referred</b>	14	2	2	9	0	1
<b>Investigations</b>	14	2	2	9	0	1
<b>Charges</b>	0	0	0	0	0	0
<b>Convictions</b>	0	0	0	0	0	0

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 170**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

Of the referrals that the AFP has received from international war crime tribunals from 2000 onwards:

- (a) How many are there?
- (b) What countries do these referrals relate to (in terms of where the alleged offence was committed)?
- (c) To which countries do they relate?

**The answer to the honourable senator's question is as follows:**

- (a) Twelve.
- (b) The alleged offences all occurred in the former Yugoslavia.
- (c) All of the referrals have come from the International Criminal Tribunal for the Former Yugoslavia in The Hague, Netherlands.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 171**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) How many calls in total has the child sex/drug hotline received?
- b) Can you provide a percentage of what the incoming calls were for, (eg. The child sex hotline, the drugs hotline, etc)?
- c) Could you provide us with a running estimate on the costs of operating the hotline?
- d) How is the hotline advertised? (ie. how do people know to call it? Where is it advertised, and what is the cost of the advertisements?)
- e) How many calls identified as 'nuisance calls' are received?

**The answer to the honourable senator's question is as follows:**

- a) From 1 June 2004 to 31 May 2005, a total of 4,332 calls were received on the Drug Intelligence Reporting Centre Hotline (DIRC).
- b) An analysis of the calls for this period identified the following categories:
  - 34 calls related to child sex - 0.8%.
  - 629 calls related to drugs – 14.5%
  - 273 calls related to criminal history enquiries – 6.2%
  - 1332 calls related to state offences –referred through to Crime stoppers / local police - 31%
  - 95 nuisance /crank calls – 2.5%
  - 65 calls related to missing persons – 1.5%
  - 198 calls related to Family Law – 4.5%
  - 427 calls relating to AFP for example: recruiting, information – 10%
  - 1279 calls relating to Other, for example, taxation – 29%
- c) DIRC Operating Costs (2004 - 05)

Received Call Costs	\$3,230.00
Listing of DIRC 1800 number in all directories	\$12,695.00
Service and Equipment charges	\$330.00
<b>Total</b>	<b>\$16,255</b>

- d) The DIRC 1-800 number appears in all Australian Telephone Directories in upper case bold as ***DRUG INTELLIGENCE REPORTING CENTRE HOTLINE.***

It was also included in a pamphlet sponsored by Department of Foreign Affairs and Trade and the National Missing Persons Unit, titled *What to do when someone is missing overseas*.

Cost of including the 1-800 number in all Australian telephone directories is approximately \$12,695 per annum. There is no cost involved in including the number in the Community Information publications.

e) Between 1 June 2004 and 31 May 2005 the number of nuisance calls received totalled 95.



SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 172**

**Senator Ludwig the following question at the hearing on 24 May 2005:**

The Government will provide \$7.6 million over two years to the Australian Federal Police to work with regional law enforcement agencies to trial the application of biometric technology at key regional transit points. This measure will enhance border security in the Asia-Pacific region.

- a) What is the impetus for this scheme?
- b) Could you provide a breakdown of the \$7.6 million?
- c) What is the rollout timeframe for the transit points?
- d) Will any other countries be contributing to the trial?
- e) How many personnel will be allocated to the trial?
- f) Which foreign ports will this be provided at?
- g) How were these ports chosen?
- h) If you can't provide that information – is it correct that none of these will be in Australia?
- i) Can you give us a ballpark of where these systems are going to be rolled out?
- j) Which regional law enforcement agencies will the AFP be working with?
- k) What sort of trials will they be running?
- l) What exactly are we trialling what are we looking for?
- m) How exactly will the AFP be involved? What will they be doing?
- n) What sort of biometric system will they be using? Smartgate? Or another system?

**The answer to the honourable senator's question is as follows:**

This project is part of the cross-portfolio Regional Counter-Terrorism Package New Policy Initiative, and aims to enhance border security capabilities in the region to mitigate the threat of, and respond to, terrorism.

This project is still in its early stages and is being managed in close consultation with key stakeholders. Much of the information sought cannot be provided for operational reasons, or because it is still too early in the life of the project. However at this point the AFP can advise the following:

- The initiative has projected the following allocation of funds:
  - 2005/2006 - \$5.3m.
  - 2006/2007 - \$2.3m.

- Scoping will commence 1 July 2005 when funding becomes available. This will be initiated through the establishment of dialogue with regional counterparts and consultation with Commonwealth stakeholders.
- One project manager has been selected to manage the scoping phase. Resource commitment beyond the scoping phase cannot yet be determined.
- The systems will be used but specific locations cannot be disclosed.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 173**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) Regarding the 37 AFP specific investigations resulting from the National Security Hotline – are these all on national security related issues, or are they also related to general crime?
- b) What is the status of the one charge that has been laid as a result of a call to the Hotline?
- c) Has it gone to trial? If so, what stage is the trial at? Is it past the committal stages and, if so, which level of court?
- d) Is it a matter which has received media attention?
- e) When was the charge laid?

**The answer to the honourable senator's question is as follows:**

- a) Not all of the 37 specific investigations referred to the AFP were national security related. Some of the investigations were general crime. Of the 37 investigations, 34 are being conducted by ACT Policing. As with all National Security Hotline reports the State or Territory police force has primacy of the investigation.

<b>Other Crime Type</b>	<b>Number</b>
Fraud	4
General	2
Drug	2
Suspect Person(s)	22
Suspect Transaction	1
Infrastructure Threat	1
Miscellaneous (hoax, prank)	5
<b>Total</b>	<b>37</b>

- b) The charge having been laid on 1 April 2003 was subsequently withdrawn by the South Australian Director of Public Prosecutions.
- c) No.
- d) No.
- e) See answer provided to b).

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 174**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) Have any investigations begun as a result of the sex slave survey in Queensland?
- b) Have any charges been laid, or prosecutions begun?
- c) Why is this survey confidential?

**The answer to the honourable senator's question is as follows:**

- a) No.
- b) No.
- c) This project was centred on heightening awareness in Queensland and attempting to identify victims of sexual servitude. This was a community awareness project and not a survey in the strictest interpretation. Numerous people from Government and Non-Government organisations were approached throughout Queensland, including welfare and support groups, legal brothels and adult entertainment venues.

Detailed explanations were provided to participants about the AFP's approach to sexual servitude in Australia and details of the victim support program. Information obtained from this project including any responses and participant details were treated in a confidential manner. The AFP treated this information confidentially in an effort to provide anonymity to the participants which in turn could assist the AFP in eliciting information in the future from these potential sources.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 175**

**Senator Ludwig asked the following question at the hearing on 24 May 2005:**

- a) Is there a cost to foreign police agencies wishing to enrol officers in the Human Trafficking and Child Sex Tourism Specialist Investigation Program?
- b) If so, what is it?
- c) Have any other foreign police agencies expressed interest in attending the course?

**The answer to the honourable senator's question is as follows:**

- a) To date the program has been provided at no cost to foreign police agencies.
- b) N/A.
- c) Yes, - Thailand, Sri Lanka and Canada.