## Our vision

Excellence in judicial performance

## Our purpose

To assist judicial officers attain excellence in judicial performance

## Our values

Integrity. Teamwork. Trust. Responsiveness. Impartiality. Fairness. Confidentiality. Transparency. Innovation. Professionalism. Continuous Improvement. Consistency.

## Our history

The Judicial Commission of New South Wales is an independent statutory corporation and a part of the judicial arm of government. It was established under the *Judicial Officers Act* 1986 in response to calls for a formal mechanism to review sentences and sentencing practice, and to give effect to judicial accountability.

In its 18 years of operation the Commission has established a reputation as one of the leading institutions of its kind in the world. Many of the Commission's programs, including its computerised Judicial Information Research System (JIRS) and bench books, have been used as models both in Australia and overseas.

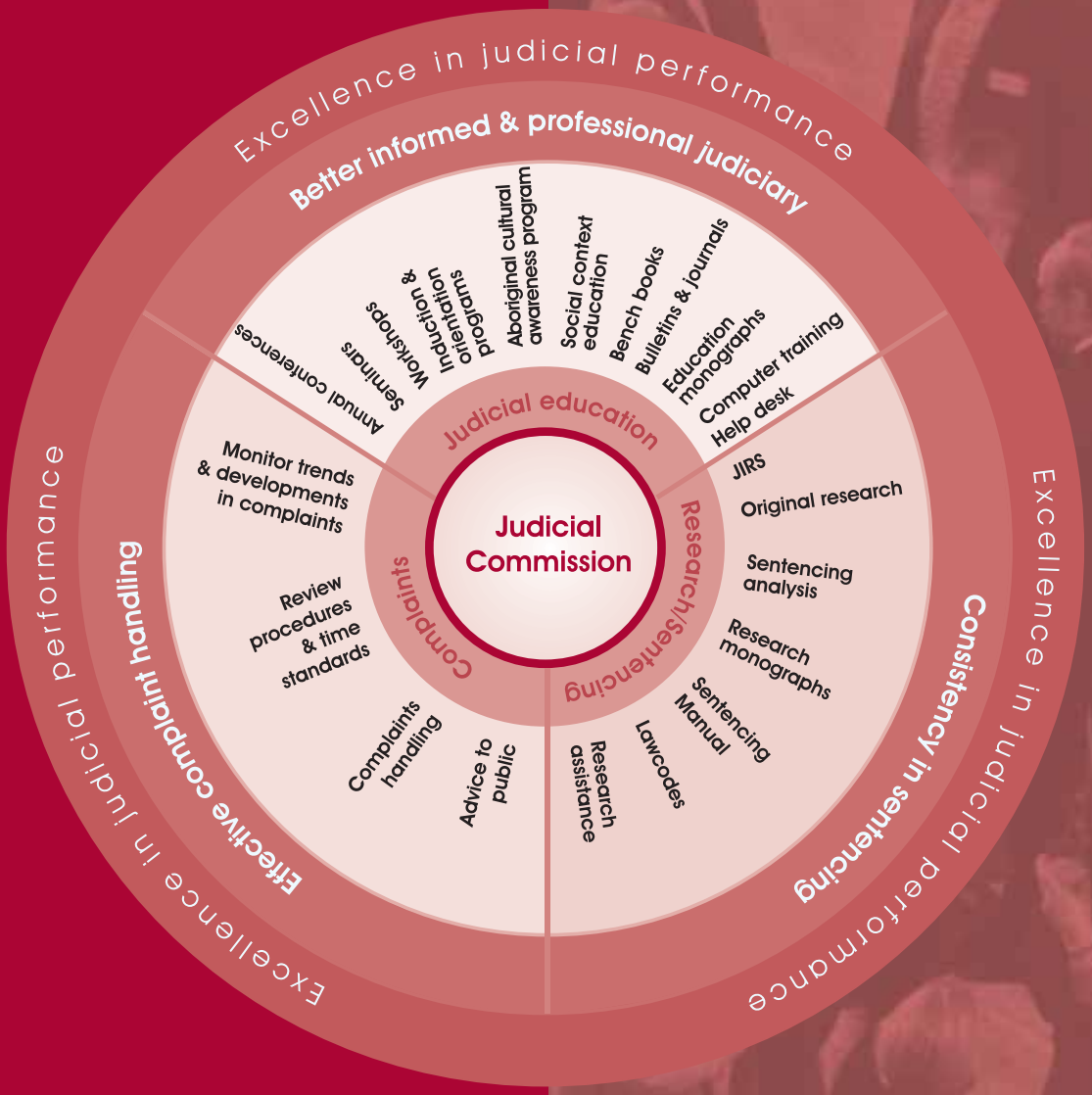
## Key achievements in 2004–05

- Determined 97% of complaints within 6 months of receipt: see page 37
- Published a monograph and DVD on *The Role of the Judge*: see page 17
- Judicial officers attended 1,718 days of face-to-face judicial education, an increase of 36% over the previous year: see page 19
- Achieved 89% satisfaction rate for our conference and seminar program: see page 20
- Published three major research studies and four *Sentencing Trends & Issues* papers: see page 22
- Increased the accessibility of JIRS by making it available over the internet for judicial officers and other subscribers: see page 29
- Developed an XML-based single source publishing system: see page 21
- Redeveloped the software for the Lawcodes database: see page 31
- Introduced the *What's New* flyer: see page 22
- Received a silver award for the Commission's 2003–04 annual report in the Australasian Reporting Awards

## Key future directions

- Continue to tailor educational sessions to the specific needs of judicial officers
- Increase knowledge, attitudes and skills of judicial officers in their practical day-to-day work
- Continue to develop an effective distance education program for judicial officers
- Focus on education dealing with sexual assault matters
- Ensure judicial officers receive timely advice about significant legal developments affecting sentencing law and practice
- Focus research attention on sentencing issues of relevance to the courts
- Monitor the impact of new legislation on sentencing practice and sentencing patterns
- Further enhance the procedure for examination of complaints

**Figure 1: Strategic overview of the Judicial Commission**




## Legislative charter

The Commission's principal functions under the *Judicial Officers Act* 1986 are to:

- organise and supervise an appropriate scheme for the continuing education and training of judicial officers
- assist the courts to achieve consistency in imposing sentences
- examine complaints against judicial officers.

The Commission may also:

- give advice to the Attorney General on such matters as the Commission thinks appropriate
- liaise with persons and organisations in connection with the performance of its functions.

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10 October 2005

The Honourable R J Debus MP
Attorney General
Parliament House
Sydney NSW 2000

Dear Attorney

The Judicial Commission of New South Wales has pleasure in presenting to you the report of its activities for the year ended 30 June 2005.

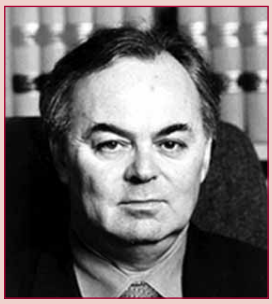
This report is submitted in accordance with section 49 of the *Judicial Officers Act* 1986 and section 12 of the *Annual Reports (Departments) Act* 1985. It is required to be laid before both Houses of Parliament.

Yours sincerely

J J Spigelman AC
President

E J Schmatt PSM
Chief Executive

# President's Foreword



Over the course of the year 2004–05 the Judicial Commission of New South Wales has continued to perform its various functions designed to maintain and to improve the quality and efficiency of judicial decision-making in this State.

The three principal fields in which the Commission operates are outlined in detail in the Forewords of previous Annual Reports:

- the handling of complaints concerning judicial officers in 1996–97
- the education programs and publications in 1997–98
- service to the criminal justice system in the form of bench books and sentencing information in 1998–99.

Each of these functions continued to be performed in 2004–05 in the manner outlined in these earlier Forewords.

The achievements of the Judicial Commission in these respects over the course of the last year are set out in detail in this Report. I highlight a few of these achievements.

The Commission published, jointly with the Australian Institute of Judicial Administration (AIJA), an education monograph and DVD entitled *The Role of the Judge*. This publication will be a useful resource for new judicial officers and has been widely distributed.

The Commission has continued to share its expertise and experience with other jurisdictions, both in Australia and in the Asia Pacific Region. This has included continued participation in the China–Australia Human Rights Technical Co-operation Program. In addition, in July 2004 the Commission provided the expertise of its Chief Executive to assist with a review of the Royal School for Judges and Prosecutors, Cambodia.

The Commission has continued to be involved in the conduct of the National Judicial Orientation Program, which was developed by the Judicial Commission and the AIJA and is now conducted by the National Judicial College of Australia. The Commission is represented on the steering committee established for this program.

The Commission will continue to focus on the provision of high quality and relevant programs to assist judicial officers to undertake their professional responsibilities. The emphasis will be on the provision of timely and practical information whether through publications, conferences and seminars, or the computerised JIRS containing sentencing and other information. The Commission will also continue its initiatives to ensure that New South Wales' judicial officers are aware of social context issues involving children, women, sexual offences, domestic violence and ethnic minorities.

Programs designed to achieve consistency in approach to sentencing will be pursued, including further developments of JIRS and the undertaking of original research into topics of assistance to sentencers.

The Commission will continue to ensure that complaints against judicial officers are handled in a timely and appropriate manner.

The success of our programs depends on judicial support and encouragement. The assistance we receive from judicial officers who give freely of their own time to be involved in the development and delivery of our programs is very much appreciated.

I wish to express the collective appreciation of the Commission to its staff, who have always carried out their roles in a dedicated, diligent and professional manner. Their contribution attracts the admiration of the entire body of judicial officers in this State.

J J Spigelman AC
President

# Year at a Glance

| Key result area and strategies | Performance measures | Performance targets 2004–05 |
|---|---|---|
| **Promoting excellence in judicial performance through judicial education** | | |
| Conduct educational conferences and seminars — see page 12 | Number of judicial education days per annum | Conduct 1,300 judicial education days |
| | % of attendance at annual conferences | 90% voluntary attendance on average |
| | Overall satisfaction rating with judicial education | 85% average satisfaction rate on education evaluations |
| | Production of distance education resources | — |
| Provide publications — see page 21 | Publication of the *Judicial Officers' Bulletin* | 11 issues of the *Judicial Officers' Bulletin* |
| | Publication of *What's New* | — |
| | Publication of *The Judicial Review* | 2 issues of *The Judicial Review* |
| | Currency of the *Criminal Trial Courts Bench Book* | 3 updates to the *Criminal Trial Courts Bench Book* in hard copy and online |
| | Currency of the *Local Courts Bench Book* | 4 updates to the *Local Courts Bench Book* |
| | Publication of a bench book for the civil jurisdiction | Commence preparation of a manuscript for the *Civil Trial Courts Bench Book* |
| | Publication of education resources | Publish Education Monograph 3<br>Commence production on Education Monograph 4 |
| Conduct computer training — see page 23 | Number of computer training sessions conducted | 100 computer training sessions |
| | Provision of help desk service | Resolve 80% of calls within 15 minutes |
| **Promoting consistency of approach to sentencing through research** | | |
| Provide sentencing information online via the Judicial Information Research System (JIRS) — see page 26 | Usage of JIRS | Average usage of JIRS greater than 30,000 page hits per month |
| | Reliability of JIRS computer hardware | JIRS availability greater than 95% |
| | Number of enhancements to JIRS | 3 or more enhancements to JIRS |
| | Accuracy and timeliness of sentencing information on JIRS | Judgments loaded on JIRS within 48 hours of receipt |
| | | Summaries of judgments prepared within 2 weeks of receipt |
| | | Sentencing statistics audited, processed and loaded on JIRS within 2 months of receipt |
| Undertake original research and publish material on sentencing — see page 30 | Number of *Sentencing Trends & Issues* and monographs published | 5 *Sentencing Trends & Issues* and 2 monographs |
| | Publication of additional research material | Complete manuscript of second edition of *Sentencing Manual* |
| | Provide research assistance | Respond to all requests immediately and resolve 80% of calls within 2 days |
| Maintain and develop the Lawcodes database — see page 31 | Accuracy and timeliness of information on Lawcodes | — |
| | | — |
| | Assistance to users of Lawcodes database | — |
| **Promoting judicial accountability through effective complaint handling** | | |
| Review and update policies, procedures and time standards for examination of complaints | Time standard for acknowledgment of complaints | All complaints acknowledged within 1 week of receipt |
| | Time standard for disposal of complaints | 90% of complaints finalised within 6 months of receipt |
| | | 100% of complaints finalised within 12 months of receipt |

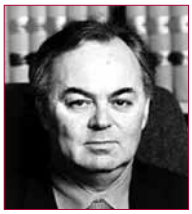
| Achievements 2004–05 | Performance targets 2005–06 |
|---|---|
| | |
| Conducted 1,718 judicial education days — see page 19 | Conduct 1,500 judicial education days |
| 88% voluntary attendance on average | 90% voluntary attendance on average |
| 89% average satisfaction rate on education evaluations | 85% average satisfaction rate on education evaluations |
| Released the *Role of the Judge* DVD | Produce a DVD on expert evidence<br>Commence development of an online database of conference papers |
| Achieved | 11 issues of the *Judicial Officers' Bulletin* |
| 9 issues published | 11 issues of *What's New* |
| Achieved | 2 issues of *The Judicial Review* |
| 4 updates published | 3 updates to the *Criminal Trial Courts Bench Book* in hard copy and online |
| Achieved | 4 updates to the *Local Courts Bench Book* |
| Project on hold pending commencement of new legislation | Commence preparation of a manuscript for the *Civil Trial Courts Bench Book* |
| Achieved<br>Not achieved — see page 21 | Commence production on Education Monograph 4<br>Publication of *Presentation Manual*<br>Preparation of a manuscript for the *Equal Treatment Bench Book* |
| 214 computer training sessions — see page 23 | 100 computer training sessions |
| Achieved | Resolve 80% of calls within 15 minutes |
| | |
| Average usage of JIRS 32,468 page hits per month | Average usage of JIRS greater than 30,000 page hits per month |
| JIRS availability greater than 99% | JIRS availability greater than 95% |
| Achieved | 3 or more enhancements to JIRS |
| Achieved | Judgments loaded on JIRS within 1 working day of receipt |
| Achieved | Summaries of judgments prepared within 5 days and not longer than 14 days of receipt |
| Achieved subject to minor qualification — see page 28 | Sentencing statistics audited, processed and loaded on JIRS within 2 months of receipt |
| 4 *Sentencing Trends & Issues* and 3 monographs — see page 22 | 1 *Sentencing Trends & Issues* and 1 monograph |
| Not achieved — see page 31 | Publish second edition of *Sentencing Manual* |
| Achieved | Respond to all requests immediately and resolve 80% of calls within 2 days |
| — | Code and distribute all new and amended offences before their commencement |
| — | Complete redevelopment of Lawcodes software by July 2006 |
| — | Resolve all user enquiries within 24 hours |
| | |
| Achieved | All complaints acknowledged within 1 week of receipt |
| 97% of complaints finalised within 6 months | 90% of complaints finalised within 6 months of receipt |
| 100% of complaints finalised within 8 months | 100% of complaints finalised within 12 months of receipt |

# Our Organisation

## MEMBERS OF THE JUDICIAL COMMISSION

As prescribed by the *Judicial Officers Act* 1986, the Judicial Commission consists of six official members, being the heads of jurisdiction of the State's five courts and the President of the Court of Appeal, and four members appointed by the Governor of New South Wales. The President of the Commission is the Chief Justice of New South Wales.

### Official Members



**The Honourable Chief Justice Spigelman AC**

was appointed Chief Justice of New South Wales on 25 May 1998 and has occupied the position of President of the Commission from that date.

**The Honourable Justice Mason AC**

was appointed President of the Court of Appeal on 4 February 1997 and became a member of the Commission on 1 January 2004.

**The Honourable Justice Wright**

was appointed President of the Industrial Relations Commission on 22 April 1998.

**The Honourable Justice McClellan**

was appointed Chief Judge of the Land and Environment Court on 25 August 2003.

**The Honourable Justice Blanch AM**

was appointed Chief Judge of the District Court on 13 December 1994.

**His Honour Judge Price**

was appointed Chief Magistrate on 12 September 2002.

## Appointed Members

**Mr Steven Rares SC**

was appointed a member of the Commission for three years from 21 April 2004. Mr Rares, a legal practitioner, was appointed following consultation by the Minister with the Presidents of the Law Society and Bar Association: *Judicial Officers Act* 1986, s 5(5)(a).

**Dr Michael Dodson AM**†

was appointed a member of the Commission for three years from 4 April 2001 and reappointed for three years from 21 April 2004.

**Mr Alan Cameron AM**†

was appointed a member of the Commission for three years from 8 August 2001 and reappointed for three years from 8 August 2004.

**Dr Judith Cashmore**†

was appointed a member of the Commission from 1 December 2004 to 7 August 2007.

† Dr Dodson, Mr Cameron and Dr Cashmore are persons who, in the opinion of the Minister, have high standing in the community. They were appointed following consultation by the Minister with the Chief Justice: *Judicial Officers Act* 1986, s 5(5)(b).

## Meetings of the Commission

In 2004–05, the Commission met each month except for January. In addition one special meeting was convened to deal with an urgent matter. All Members attended each meeting, unless leave of absence was granted. The Chief Executive or his delegate attended the meetings to report on the operations of the Commission.

# Executive Management

## Chief Executive

### Mr Ernest Schmatt PSM Dip Law (BAB)

Mr Schmatt is responsible for all of the Commission's operations. He has input into all aspects of the Commission's work, from financial management to research, complaints, information systems management and education activities.

Mr Schmatt held senior legal and management positions in the public sector before his appointment, in October 1987, as the first Deputy Chief Executive of the Judicial Commission. In March 1989, he was appointed to the position of Chief Executive of the Judicial Commission. He is a solicitor of the Supreme Court of New South Wales and the High Court of Australia. Mr Schmatt was awarded the Public Service Medal in the 1997 Queen's Birthday Honours List for service to public sector management and reform, public sector industrial relations and judicial education in New South Wales.

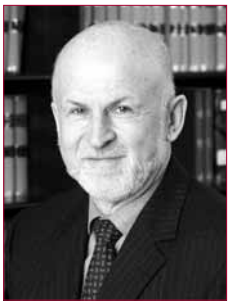
## Education Director

### Ms Ruth Windeler BSc (University of Toronto, Canada)

Ms Windeler is responsible for the Commission's judicial education program. She works closely with the Education Committees of each court to plan and organise all Commission conferences and seminars, and is also responsible for the Commission's publishing program.

Ms Windeler has held the position of Education Director since May 1996. Her career in professional education and training began in 1975 in Canada and includes appointments in a number of Commonwealth countries. She has been Director of the Canadian Advocates' Society Institute; Co-ordinator and Instructional Design Administrator for the Institute of Professional Legal Studies in New Zealand; Director of Standards and Development for the Law Society of Hong Kong; Secretary to the Advocacy Institute of Hong Kong; and Head of the Department of Continuing Medical Education and Re-certification for the Royal Australasian College of Surgeons.

## Director, Research and Sentencing



### Mr Ivan Potas BA LLM (ANU)

Mr Potas is responsible for the Commission's research program and for the content of the Commission's Judicial Information Research System (JIRS).

Mr Potas was previously the Research Director at the Commission for a period of three years, from 1991–1993, and then resumed that position in 1997. Before joining the Commission, he worked as Senior Criminologist with the Australian Institute of Criminology in Canberra. He is admitted as a barrister and solicitor of the Supreme Court of the Australian Capital Territory and the High Court of Australia, and as a solicitor of the Supreme Court of New South Wales. He has extensive research experience and has published a number of books and articles on sentencing.

## Director, Information Systems and Strategic Planning

### Mr Murali Sagi BEng MBA (CSU) GradCertPSM (UWS)

Mr Sagi is responsible for the Commission's Information Management and Technology, Strategic Planning and the Lawcodes project. Mr Sagi also assists the Chief Executive in preparing strategic planning documents, business cases and policy documents.

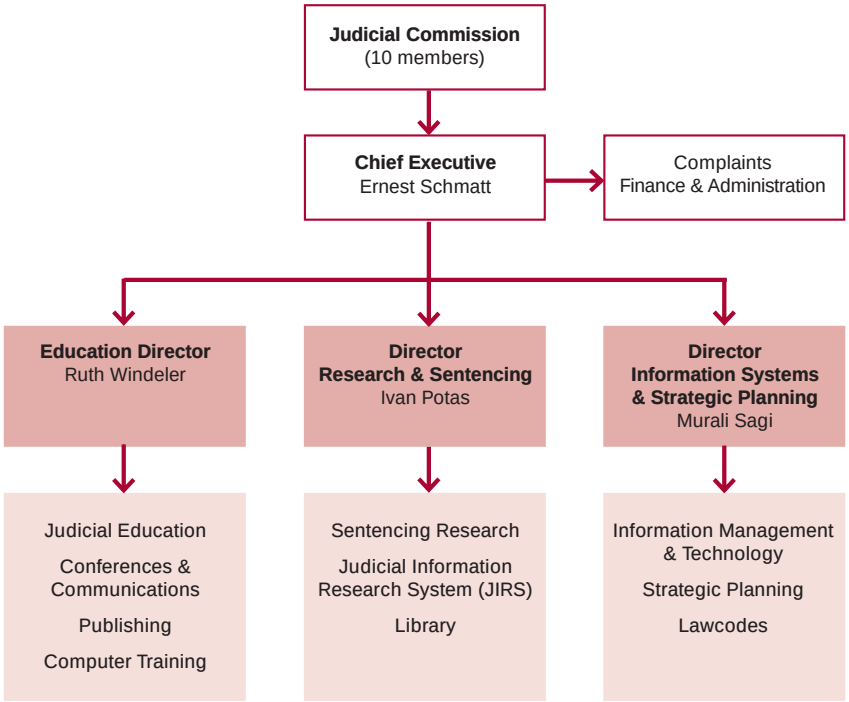
Mr Sagi has held the position of Director, Information Systems since January 2000. He has played a major role in the successful development and implementation of JIRS. He has over 20 years of experience in managing complex information technology projects in both the government and private sectors. Mr Sagi was named as the "Chief Information Officer — Government" of the year at the prestigious National Information Technology & Telecommunications Awards 2003. In addition Mr Sagi's expertise has been sought by AusAID, UNDP and Asia Development Bank to provide technical assistance for capacity building projects in Indonesia, Cambodia and India.

## Commission staff

The Commission is supported by a staff of 37, including specialists in legal education, legal research and information technology: see page 39 for more detailed information about Commission staff.

The Commission is also assisted in its work by a significant number of judicial officers, who give generously of their time to serve on the various committees established by the Commission: see Appendix 3 for details.

**Figure 2: Our structure**



# Judicial Education

## Strategic objectives

- Contribute to high standards of judicial performance
- Provide judicial officers with up to date information on law, justice and related areas
- Assist in the development of appropriate skills and values

## Major strategies

- Conduct conferences and seminars
- Publish professional reference material
- Provide computer training

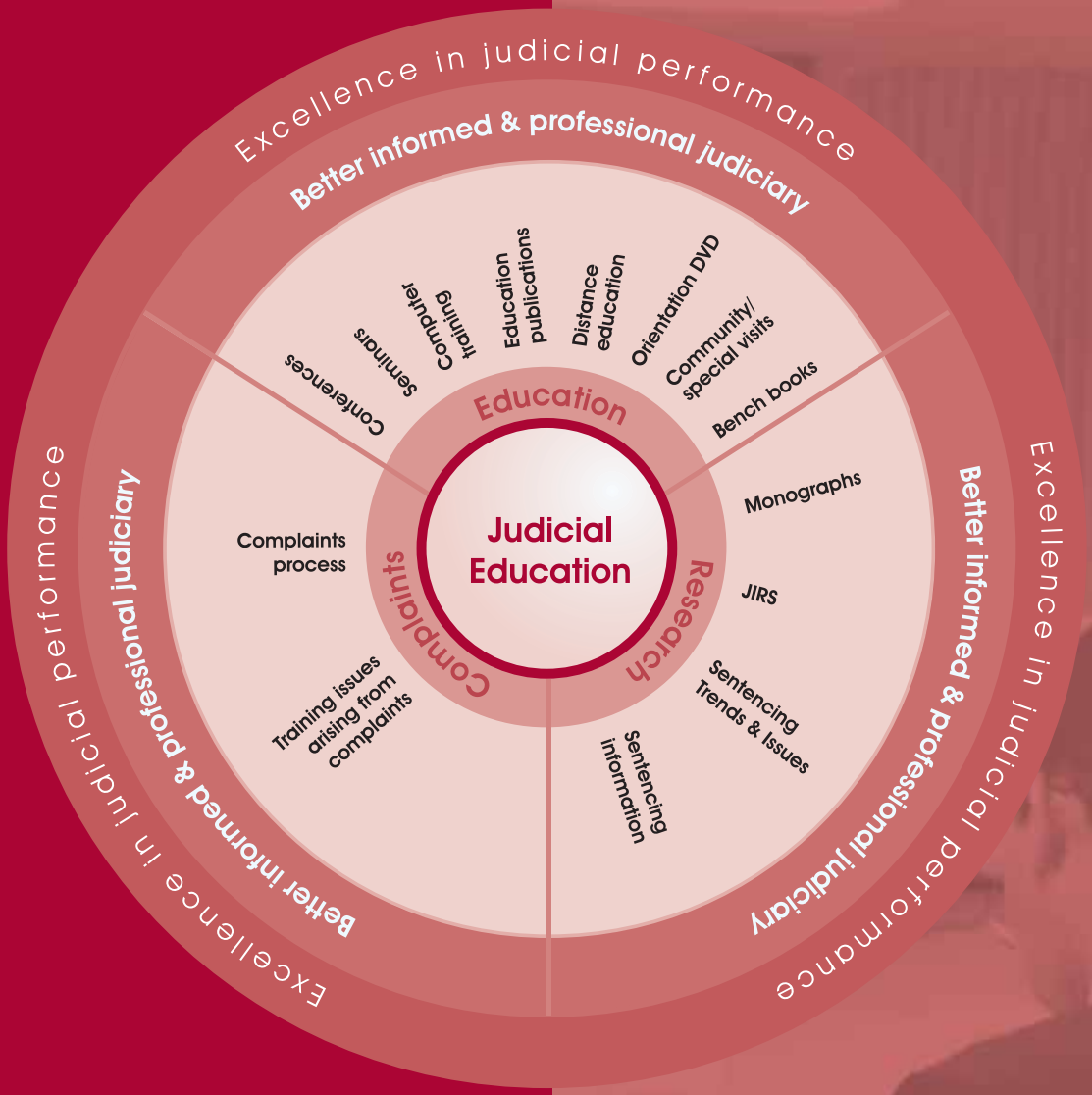
## Future directions

- Continue to tailor educational sessions to the specific needs of judicial officers
- Increase knowledge, attitudes and skills of judicial officers in their practical day-to-day work
- Continue to develop an effective distance education program for judicial officers
- Focus on education dealing with sexual assault matters
- Continue to educate judicial officers about social context issues involving women, children, domestic violence and ethnic minorities

## Key achievements 2004–05

- Provided a more diverse and interactive professional development program
- Restructured the twilight seminar program to tailor it more to the needs of judicial officers, leading to an increase in attendance
- Published a monograph and DVD on *The Role of the Judge*
- Judicial officers attended 1,718 days of face-to-face judicial education, an increase of 36% over the previous year
- Achieved 89% satisfaction rate for our conference and seminar program
- Developed an xml-based single source publishing system
- Answered 587 help desk calls and resolved 80% within 15 minutes

**Figure 3: The core role of judicial education**




## Overview

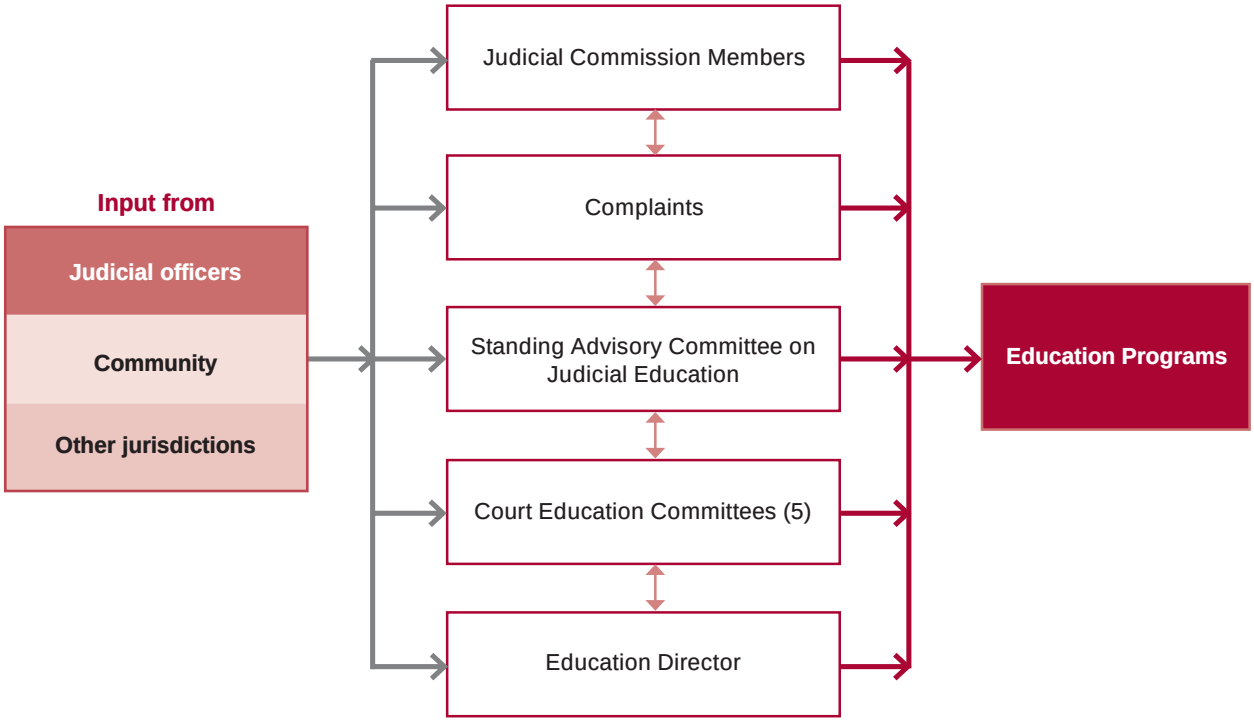
The focus of the Commission's judicial education program is on enhancing professional expertise, facilitating development of judicial knowledge, attitudes and skills, and promoting the pursuit of juristic excellence: see Figure 3 for an overview of the core role of judicial education in the Commission's work.

# CONFERENCES AND SEMINARS

The Commission conducts an ongoing program of professional development tailored to the needs of the five courts and to individual judicial officers. The sessions range from induction and orientation courses for new appointees to specialist sessions on topics relating to changes in legislation, practice and procedure, judicial skills and social issues. The Commission's professional educator guides the curriculum development process and judicial officers provide input about the content and format of the programs to ensure that each session is relevant and current: see Appendix 3 for the composition of Education Committees.

Input is received from the community about issues they perceive as relevant to the continuing education of judicial officers through the community representatives on the Judicial Commission, staff representation on interagency committees, approaches from community and interest groups, and presentations by independent experts at educational sessions. Valuable information gathered from complaints is also used to help tailor and design future education sessions: see Figure 4.

**Figure 4: Judicial education design process**



## Meeting educational needs

The two most critical factors that contribute to meeting the educational needs of judicial officers are that sessions are topical and relevant, and that they are delivered in a format that encourages learning. In order to address these factors, this year the Commission conducted sessions on a diverse range of topics and encouraged the use of an interactive delivery style.

**Diverse and highly topical sessions** included "Recent developments in criminal law", "The psychology of and how to deal with sex offenders", "Issues involved in sentencing Aboriginal offenders", "Substance abuse", "The impact of domestic violence on children", "Understanding and managing the difficult litigant", "Judicial stress" and "Alternatives to full-time custodial sentences".

**Interactive sessions:** This year the courts embraced a more participatory learning style for judicial officers, including:

- judgment writing workshops conducted for the Supreme Court and the Industrial Relations Commission
- breakfast and luncheon sessions held on practice and procedure for District Court judges
- twilight and weekend seminars conducted on day-to-day issues faced by judicial officers
- streamed sessions held at the Supreme Court annual conference
- small group break-out sessions at the Supreme Court, Industrial Relations Commission and District Court Annual Conferences to encourage more interaction and discussion.

*The Honourable Justices Howie and Gzell were among the participants at the Judgment Writing Workshop for Supreme Court judges held in August 2004.*

*Country magistrates attended an informative and practical demonstration of the NSW Police In Car Video Project at the Northern Regional Magistrates' Conference in April 2005 at Tamworth.*

*Senior Children's Magistrate Scott Mitchell and Children's Registrar Tracey Sheedy presented two very interactive and practical sessions on care matters at the Southern and Northern Regional Magistrates' Conferences.*

## Distance education

There has been a growing demand for distance education resources to complement the Commission's existing education programs, particularly for those judicial officers who do not sit in Sydney and find it difficult to attend seminars. In 2004–05, the Commission continued to explore alternative ways of providing information by:

- recording two sessions from annual conferences dealing with unrepresented litigants and making them available for judicial officers to borrow on DVD or CD ROM
- producing *The Role of the Judge* DVD: see page 17
- producing a script for a new DVD on expert evidence: see page 18
- developing a proposal to expand the education section on JIRS to include a database of all conference papers. It is expected that work will commence on designing and developing the database in 2005–06.

## Education focus in 2004–05

### Sexual assault

The judicial education program in 2004–05 contained a strong focus on sexual assault issues, including:

- sessions on care matters in child sexual assault cases and the psychology of and how to deal with sex offenders at the Children's Court seminar
- a luncheon seminar informing District Court judges about the Pre-Trial Diversion of Offenders (Child Sexual Assault) Program, a specialist treatment program for parental child sexual assault offenders, their victims and families
- sessions on care, including a case study involving domestic violence, for magistrates at the Metropolitan Seminar Series and the Regional Seminars
- examination of issues dealing with sexual assault as part of the Evidence Acts Review Forum: see page 18
- a criminal law update session, including discussion of sexual assault cases, cross-examination and admissibility of evidence, at the Supreme Court Annual Conference 2004 and the District Court Annual Conference 2005
- a session on criminal law, incorporating the topics of evidence, gender awareness and sexual assault, at the National Judicial Orientation Program (conducted with the AIJA and the National Judicial College of Australia)
- using role plays to explore several scenarios dealing with sexual assault matters during the pre-bench training sessions for new magistrates
- publication of research into recent sentencing developments in the area of child sexual assault: see page 22
- publication of articles on sexual assault in the *Judicial Officers' Bulletin*, including "Sexual assault update — How the prudent judge can avoid error".

Further educational programs on sexual assault are planned for the second half of 2005 and early 2006.

### Judicial skills

The design of this year's judicial education program placed particular emphasis on increasing judicial officers' knowledge and skills relating to their day-to-day practical work:

- Two very successful judgment writing workshops were conducted — one for judges and masters of the Supreme Court, and the other for members of the Industrial Relations Commission. Professor James Raymond, an internationally renowned expert in legal writing, led these very practical two-day workshops. The workshop is designed to develop judgment writing skills, provide pointers on writing clearer and more succinct judgments, and provide helpful tips and checklists. The participants rated the workshops very highly and found the sessions practical, thought provoking and very helpful to their judicial work. Further workshops will be conducted in 2005–06.

- The Honourable Justice Linda Dessau and His Honour Judge Wodak conducted sessions on judgment writing at the National Judicial Orientation Program and the District Court Annual Conference.
- Skills development sessions were held on court craft, including jury trial management (preparation, demeanour, handling witnesses, intervention, sensitivity), civil trial management, and managing a case in the Local Court.
- A presentation skills session was held for Industrial Relations Commission members. This session was a follow-on from the successful presentation skills session conducted for magistrates in January 2004 and was complemented by a manual which will be edited and published by the Commission in 2006.

### Aboriginal cultural awareness

The Commission continued to work with the AIJA to increase awareness about Aboriginal issues. Activities included:

- a twilight seminar on "How the pieces fit together: The NSW custodial correctional system for women" presented by Chief Superintendent Downes. Ms Downes outlined the present situation with Aboriginal women offenders and indicated plans for the future
- an overnight visit to Nowra, which provided judicial officers with an opportunity to meet with the Shoalhaven Aboriginal Community. This included exchanging views and sharing experiences with a number of Elders. Visits were made to Nowra's Aboriginal Cultural Centre, the Jerrinja Reserve and the Bomaderry Homes
- a cultural awareness cruise of Sydney Harbour on the Deerubbun conducted by the Tribal Warrior Association and attended by 19 judicial officers. The activity was designed to increase awareness as to what coastal life for Aboriginal people was like in the past compared to today
- publication of an extended issue of the *Judicial Officers' Bulletin* focusing on Aboriginal issues in sentencing
- inclusion of a session on Aboriginal English at the Local Courts Metropolitan and Regional Seminars.

Future activities in this very important area, including visits to local Aboriginal communities, will depend upon available funds and our success in recruiting an Aboriginal Project Officer in the 2005–06 financial year.

*During their visit to the Shoalhaven Aboriginal Community, judicial officers were particularly interested to hear about the impressive success the Circle Sentencing Program has had in reducing recidivism and crime in the Nowra area. Participants on the trip are pictured here with Aunty Maude Moore, an Elder from the Shoalhaven Aboriginal Community (far right).*

### Annual conferences

The Commission conducted an annual conference for each of the five courts in NSW in 2004–05. A total of 271 judicial officers (on average, 88%) attended their court's annual conference in 2004–05. Sessions covered a broad range of areas with an emphasis on interactive learning: see Appendix 5 for a list of education topics.

## Restructuring the seminar program

### Twilight seminars

The Commission has conducted twilight seminars over recent years to facilitate discussion about topical issues and provide opportunities for exchanging ideas between courts. As part of an ongoing review of programs and delivery methods, the Commission considered various ways to provide effective after hours judicial education in convenient locations. The resultant restructuring of the "out-of-hours" education program has led to increased attendance.

### District Court occasional seminars

In order to meet the specific educational needs of District Court judges and encourage attendance at judicial education sessions, the Commission and the District Court introduced a series of breakfast and luncheon meetings during 2004–05. These seminars were structured to encourage candid discussion between judges and to enhance the collegiate atmosphere of the Court.

The breakfast seminars feature presentations by District Court judges for their colleagues on matters of criminal law practice and procedure (eg "Sentencing developments" and "Sentencing mentally ill offenders"). Attendance is restricted to court members as a means of encouraging an open and honest exchange of views.

The luncheon seminars featured presentations by speakers on topical matters followed by open discussion. Presenters at these sessions included The Honourable Bob Debus, Attorney General; Ms Catriona McComish, Senior Assistant Commissioner of Community Offender Services; and Mr Dale Tolliday from Cedar House and the Pre-Trial Diversion Program for Sexual Offenders.

These events have been very well attended and further seminars are planned for 2005–06, including sessions on "Jury management" and "The impact of sexual offences on victims".

## Judicial induction and orientation

### Magistrates' program

The Local Courts have had an extensive induction scheme since 1988. Some of the key elements include:

- **Pre-bench training workshop:** Conducted over two days, this workshop focuses on developing awareness of fundamental aspects of court craft and procedure, for example, dealing with an unrepresented litigant, bail, indictments, sentencing principles and skills, ethical issues and decision-making skills. The sessions are conducted by two or three senior magistrates for one or more new magistrates, and include role plays and feedback on performance as a magistrate. The Education Director provides educational input at the workshop.
- **Mentor scheme:** This provides a very useful informal, immediate, source of practical assistance for new appointees when it is most needed. The Chief Magistrate pairs each appointee with an experienced member of the court. While the relationship is developed as appropriate between the parties, each is given suggested guidelines which identify their roles and responsibilities, and outline realistic expectations for getting help when it is needed.
- **Magistrates' orientation program:** A five-day residential course conducted for appointees with between 5–18 months experience and designed to build on existing experience and encourage critical self reflection within the context of a peer group. This program consolidates fundamental judicial skills and disposition such as court craft, decision-making, sentencing, judicial ethics, judicial administration and conduct. The training is intensely practical and harnesses leading-edge techniques in adult education and continuing professional development. It compares favourably with any counterpart

overseas. It has been continually refined since its inception in 1988 and is very highly appreciated by participants. Although there were not enough new appointments to warrant holding this program in 2004–05, it will be held in November 2005.

### Orientation resources

In 2004–05 the Commission and the AIJA produced two educational resources as a way of reinforcing the information provided to judicial officers at orientation programs:

- *The Role of the Judge* (Education Monograph 3), a collection of essays originally presented at the National Judicial Orientation Program, aims to provide guidance for newly-appointed judicial officers about their role and how to perform that role well. The monograph was distributed in August 2004 to all judicial officers in NSW.
- *The Role of the Judge,* an orientation DVD which complements the monograph, covers various components of judicial life and includes contributions from senior judicial officers from around Australia who share their views on some important aspects of the judicial officer's role and about the transition to the bench. The DVD was distributed in March 2005 to all judicial officers in NSW.

Both resources are provided to all new judicial officers in NSW on appointment, as well as to participants in the National Judicial Orientation Program.

### Assistance to other jurisdictions

The Commission worked in co-operation with many domestic and international agencies to share its expertise with judges from overseas jurisdictions. Highlights include:

- **The China–Australia Human Rights Technical Co-operation Program:** In March 2005, a delegation of ten judges and officials from the Supreme People's Court of China attended a half day seminar at the Judicial Commission on the Commission's role in sentencing and on a discussion of sentencing options and community corrections programs. This was part of a wider program conducted by the Human Rights and Equal Opportunity Commission in order to assist judicial reforms in China intended to increase the flexibility of sentencing options in the Chinese justice system.
- **The District Court of New Zealand:** The Commission has developed links with the District Court of New Zealand and invited representatives of that Court to attend our educational programs. This year one District Court judge attended the NSW District Court Annual Conference.
- **Dust Diseases Tribunal of NSW:** The Commission provided the Tribunal with assistance and educational content in designing its Annual Conference program.
- **Drug Court of NSW:** This year, for the first time, the Commission assisted in designing and conducting the Drug Court Practitioners' Conference which provided an opportunity for discussion amongst key relevant experts and partners involved in the Drug Court program.

*A 24 member delegation of judges from Shandong, China visited the Commission in September 2004 and met with the Chief Executive, Ernie Schmatt, to learn about the Commission's role.*

- **Council of Australasian Tribunals (COAT):** The Commission provided COAT with assistance in co-ordinating a two-day workshop on judgment writing for seven tribunal members in September 2004.
- **International Association of Women Judges (IAWJ):** The Commission is providing administrative and educational assistance to the IAWJ for its 8th Biennial Conference in Sydney in May 2006.
- **Cambodia:** The Commission was invited to participate as part of a mission organised by Australian Legal Resources International, to undertake a review of the Royal School for Judges and Prosecutors, Cambodia. The review examined the performance of the School in its first year of operation. The mission presented a report, including recommendations, to the School for its consideration.

  Under the auspices of the United Nations Development Program Cambodia, an officer of the Commission also undertook an assignment in Cambodia to examine ways in which information and communication technologies can be applied to ensure that judicial decisions are widely available in paper and electronic formats.

## Liaison with other Australasian Judicial Educators

The Commission continued to liaise with its counterparts in Australia and overseas during 2004 and 2005. The Australasian Judicial Educators' Meeting, held twice a year, provides an opportunity for judicial educators to exchange ideas, discuss programs and keep abreast of developments in judicial education. Regular correspondence, telephone conversations and face-to-face meetings throughout the year also allow colleagues to share experiences and expertise.

A number of projects were conducted jointly between judicial education organisations in 2004–05 including:

- the National Judicial Orientation Program, conducted by the National Judicial College of Australia with the assistance of the Commission and the AIJA, and with the co-operation of the Judicial College of Victoria

*The joint conference of the NSW Land and Environment Court and the Victorian Civil and Administrative Tribunal provided an opportunity for participants to exchange ideas about different approaches to resolving planning disputes.*

- the Evidence Acts Review Forum, a special seminar reviewing the Commonwealth and State Evidence Acts, conducted jointly with the National Judicial College of Australia, the Australian Law Reform Commission and the NSW Law Reform Commission. The workshop included discussions about the issues paper, and judicial education sessions on the Evidence Acts covering "The hearsay rule and its exceptions", "Opinion evidence, tendency and co-incidence evidence" and "The credibility rule and its exceptions"
- a joint conference of the NSW Land and Environment Court and the Victorian Civil and Administrative Tribunal conducted with the Judicial College of Victoria in Canberra
- the Aboriginal Cultural Awareness Program conducted jointly with the AIJA: see page 15
- production of *The Role of the Judge* monograph and DVD jointly with the AIJA: see page 17
- developing a script and starting production on a DVD on expert evidence jointly with the AIJA.

In 2005–06, the Commission, with its interstate and national counterparts, will consider a proposal to develop national judicial education standards. We will also work on joint programs and publications, performance indicators for judicial education providers, and curriculum development efforts. The Commission will also continue to participate as a member of the Asia Pacific Judicial Educators Forum.

## Conference and seminar program review

In 2004–05 judicial officers attended 1,718 days of face-to-face judicial education across 35 different educational programs: see Table 1. This far exceeded our target of 1,300 judicial education days which we attribute to the increased number of programs offered (13 more than in the previous year) and a more diverse seminar program.

Sessions were held both in and out of court hours, at times and venues most convenient to judicial officers. The program included a number of small group interactive sessions and other innovative learning tools in order to motivate participants to learn.

The high participation rate for what is a voluntary program is an indication that judicial officers find the Commission's conference and seminar program valuable and effective.

**Table 1: Conference and seminar activity 2000–05**

| | 2000–01 | 2001–02 | 2002–03 | 2003–04 | 2004–05 | target 2005–06 |
|---|---|---|---|---|---|---|
| Days of education[1] | 915.5 | 1,358 | 1,339 | 1,267 | 1,718 | 1,400 |
| Number of different programs | 19 | 28 | 26 | 22 | 35[2] | 31 |
| Annual conferences[3] | 4 | 7 | 6 | 5 | 5 | 4 |
| Workshops — country & metropolitan magistrates | 2 | 4 | 4 | 6 | 4 | 3 |
| Workshops — judgment writing | – | – | – | – | 3 | 4 |
| Pre-bench training sessions | 10 | 6 | 8 | 1 | 5 | 4 |
| Week-long orientation programs | 2 | 2 | 2 | 2 | 1[4] | 3 |
| Special seminars for all courts | 3 | 1 | 5 | 5 | 2 | 4 |
| Children's Court conferences | n/a | 2 | 2 | 3 | 3 | 2 |
| Indigenous programs | 0 | 7 | 2 | 2 | 3 | 2 |
| Seminars for new magistrates | 2 | 0 | 0 | 0 | 1 | 1 |
| District Court occasional seminars | – | – | – | 2 | 7 | 4 |
| Drug Court Practitioners' Conference | – | – | – | – | 1 | 1 |
| Days of training for Indonesian judges | 3 | 3 | 4 | 4 | 0[5] | 0 |

1 Note: A day of education is based on 5–6 instructional hours attended by a judicial officer. It is calculated by multiplying the number of participants by the duration of the conference: eg, 18 participants x 2 days = 36 education days.

2 As part of our goal to deliver a more diverse range of programs, we designed and offered more programs tailored to the needs of individual courts, primarily for District Court judges and in the area of practical skills development.

3 Fewer annual conferences were conducted in 2000–01 because of rescheduling due to the Olympic Games and the abolition of the Compensation Court in 2003–04 led to a permanent reduction in the number of annual conferences conducted.

4 The Magistrates' Orientation Program was not held in 2004–05 because there were not enough new appointments to warrant holding the program. Those appointed in 2004–05 will attend a program in November 2005.

5 The Federal Court is now responsible for the training program for Indonesian judges.

## Program evaluation

To ensure that the Commission's conference and seminar program meets the needs of judicial officers, participants are asked to evaluate each conference and seminar according to its usefulness, content and delivery. Our target is an 85% satisfaction rate on each program. In 2004–05, the overall satisfaction rating with judicial education was 89%: see Table 2.

**Table 2: Participant evaluation of 2004–05 education programs**

| Program | Usefulness/ relevance(%) | Content (%) | Design/ style (%) | Average (%) |
|---|---|---|---|---|
| **Aboriginal Cultural Awareness Program** | | | | |
| Seminar on Women Offenders | 86 | n/a | 85 | 86 |
| **Annual Conferences** | | | | |
| Supreme Court Annual Conference | 78 | 80 | 83 | 80 |
| Industrial Relations Commission Annual Conference | 89 | 95 | 95 | 93 |
| Land and Environment Court Joint Conference with Victorian Civil and Administrative Tribunal | 85 | 83 | 88 | 85 |
| District Court Annual Conference | 93 | 88 | 93 | 91 |
| Local Courts Annual Conference | 86 | 77 | 86 | 83 |
| **Workshops (country & metropolitan magistrates)** | | | | |
| Local Courts Metropolitan Seminar Series I | 92 | 90 | 87 | 90 |
| Local Courts Metropolitan Seminar Series 2 | 91 | 89 | 86 | 89 |
| Local Courts Southern Regional | 96 | 92 | 96 | 95 |
| Local Courts Northern Regional | 93 | 90 | 86 | 90 |
| Family Law Update for New Magistrates | 96 | 92 | 96 | 95 |
| **Judicial Skills Workshops** | | | | |
| Judgment Writing Workshop — Supreme Court | 89 | 94 | 91 | 91 |
| Judgment Writing Workshop — Industrial Relations Commission | 84 | 87 | 91 | 87 |
| **Average Rating** | **89** | **88** | **89** | **89** |

Note: The formula used to calculate the results is as follows — Participants' ratings are converted from grades (A, B, C, D & E) to the numeric values 5, 4, 3, 2 & 1 respectively. The numeric values are then totalled, averaged and expressed as a percentage.

# PUBLICATIONS

The Commission's publishing program complements the conference and seminar program. It provides professional reference material to assist judicial officers in the performance of their judicial functions. Our monographs, bulletins and journals are also supplied on a subscription basis to university law libraries, court libraries, interested individuals and research organisations in NSW, interstate and internationally. Published material covers criminal law, sentencing, judicial administration, practice and procedure, and social context issues. All publications are provided in hard copy and many are provided online via JIRS and the Commission's website.

In 2004–05 the Commission continued to respond in a timely way to developments in the law with informative publications in print and online. Priority was given to publishing research material which delayed work on future education monographs.

## Bench books

Bench books are court-specific looseleaf documents containing material of practical assistance to judicial officers. They are an important means of ensuring that judicial officers are informed about significant changes to the law or to trial practice and procedure. Bench Book Committees for each court oversee the legal content, which is regularly updated to reflect changes to legislation and case law: see Appendix 3 for the composition of Bench Book Committees.

In 2004–05, the Commission:

- published four updates to the *Criminal Trial Courts Bench Book*
- published four updates to the *Local Courts Bench Book.*

Due to substantive legislative changes the Commission's *Civil Trials Bench Book*, *Industrial Relations Commission Bench Book* and *Sentencing Manual* have become outdated. The Commission anticipates releasing new looseleaf editions of these services in 2005–06.

## XML-based single source publishing system

The Commission has completed its development of an XML-based content management system for publishing bench books. This system was implemented in 2004–05 and is being used to produce the *Criminal Trial Courts Bench Book*, the *Local Courts Bench Book* and the new *Sentencing Manual*. The transition to the XML-based system has required training, which will continue in 2006, to ensure that staff acquire the higher level of specialised skills needed to produce updates. The knowledge gained in developing this system has also allowed the Commission to develop a template for writing case summaries which reduced the number of steps in preparing the case summaries for JIRS from 30 to three and contributed to a significant improvement in productivity. Other government agencies have expressed interest in using our expertise in this area to publish some of their manuals.

## Bulletins and journals

- The *Judicial Officers' Bulletin* is a monthly newsletter featuring topical articles of relevance to judicial officers, summaries of leading cases and legislative updates: see Appendix 6 for a list of articles published in the bulletin this year. In 2004–2005 the Commission met its target of publishing 11 issues of the bulletin, both in hard copy and on JIRS.
- The *What's New* JIRS flyer is a new resource published monthly. It contains a list of important criminal law and sentencing decisions, as well as legislative changes posted on JIRS each month. The first issue was published in September 2004 and feedback from judicial officers indicates they find it informative and very useful.
- *The Judicial Review* publishes selected conference papers with a focus on legal developments and judicial practice and procedure: see Appendix 6 for a list of articles published this year. In 2004–05 the Commission met its target of publishing two issues.

## Sentencing Trends & Issues

*Sentencing Trends & Issues* are short research studies on sentencing law and practice. The Commission aimed to publish five of these studies in 2004–05, however, only the following four were published because one study was converted into a more detailed and comprehensive study and was published as a monograph:

- "The Use and Limitations of Sentencing Statistics" (No 31, December 2004) provides an appreciation of the value and place of sentencing statistics in the judicial process.
- "Pre-sentence Custody and Other Constraints on Liberty" (No 32, May 2005) examines how courts should take these factors into account when sentencing.
- "Successful Completion Rates for Supervised Sentencing Options" (No 33, June 2005) reports on the success and failure rates of supervised community-based orders.
- "Trends in the Use of s 12 Suspended Sentences" (No 34, June 2005) discusses trends in the use of suspended sentences of imprisonment.

## Research monographs

Research monographs are detailed studies of sentencing and related issues. In 2004–05, the Commission exceeded its target and published three monographs:

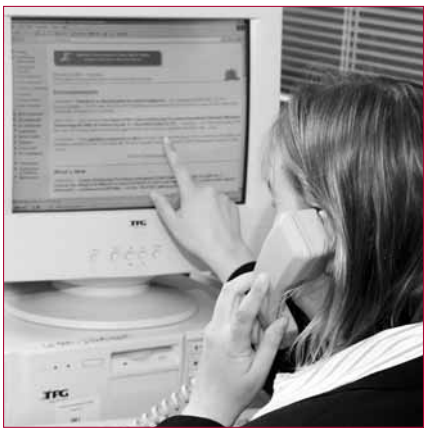
- *Sentencing Offenders Convicted of Child Sexual Assault* analyses the sentences handed down to offenders convicted of child sexual assault in the NSW District Court. It also analyses conviction and sentence appeals for child sexual assault. The study revealed that the courts have recognised a change in community attitude to sexual assaults, and that offenders who commit child sexual assault offences today can anticipate being dealt with more severely by the sentencing courts than in the past.
- *The Nexus Between Sentencing and Rehabilitation in the Children's Court of NSW* explores the means that are available to the Children's Court to achieve the goal of rehabilitation at sentence.
- *Crown Appeals Against Sentence 2001–2004* sets out the legal principles governing Crown appeals against sentence and closely analyses 293 of the 310 Crown appeals determined by the NSW Court of Criminal Appeal between 2001 and 2004.

*Commission publications help ensure that judicial officers are informed about sentencing practice and sentencing patterns, and other topics of importance such as judicial skills.*

# COMPUTER TRAINING

The Commission maintains its commitment to facilitating and supporting the use of computer technology by the NSW judiciary. This is particularly illustrated through the provision of our help desk service. Although help desk hours are officially 8 am to 6 pm, Monday to Friday, support is frequently requested and provided after hours at night, on weekends and public holidays.

The Commission presented 214 group and individual computer training sessions in 2004–05, focusing on productivity tips and new software. This represents a significant increase on the 136 training sessions conducted in 2003–04. The Commission continued to provide training support in regional areas via field trips and on location at regional conferences.



*Providing support on how to use JIRS is a very important element of the Commission's computer support strategy.*

**Figure 5: Computer support 2000–05**

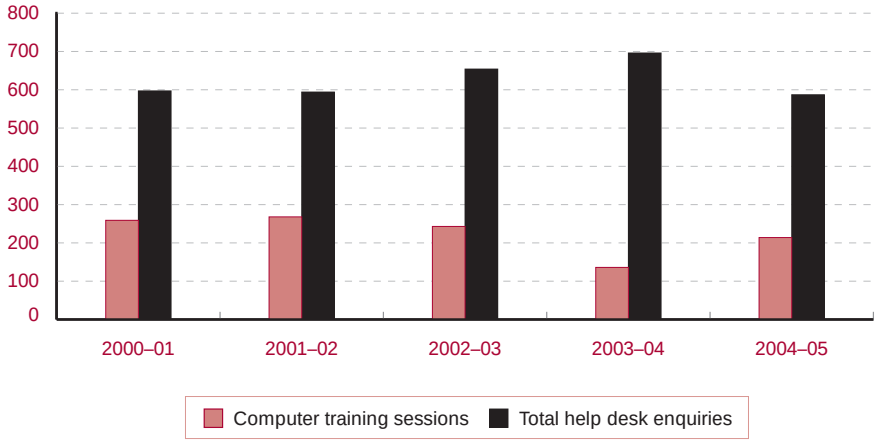
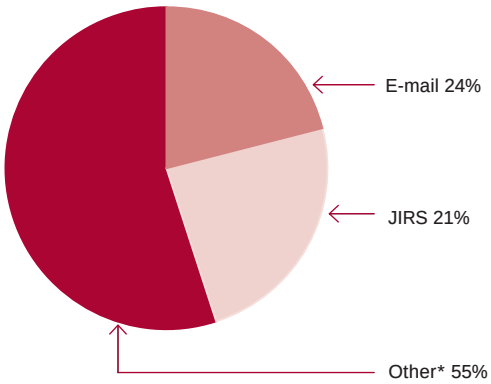



**Figure 6: Help desk enquiries by subject**




* "Other" includes enquiries regarding word processing, transcript analysis, internet, software programs, training requests, hardware faults.

# Research & Sentencing

## Strategic objectives

- Assist the courts to achieve consistency of approach in imposing sentences
- Ensure the courts have timely and relevant information about sentencing patterns
- Undertake research on issues relevant to sentencing

## Major strategies

- Provide statistical and legal information through the Judicial Information Research System (JIRS)
- Analyse sentencing trends and publish original research on aspects of sentencing and related topics
- Maintain and further develop the Lawcodes database

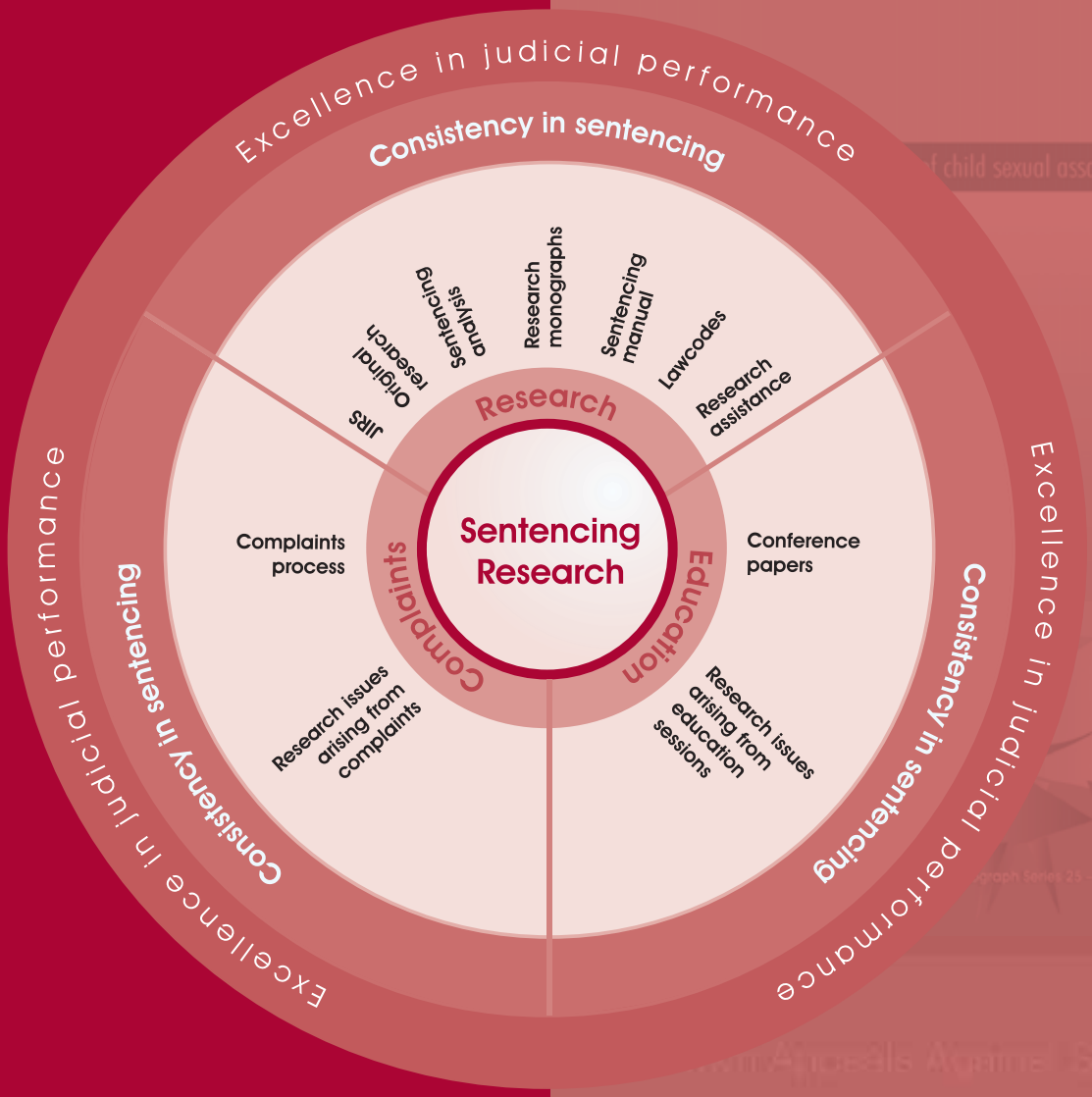
## Future directions

- Ensure judicial officers receive timely advice about significant legal developments affecting sentencing law and practice
- Focus research attention on sentencing issues of relevance to the courts
- Monitor the impact of new legislation on sentencing practice and sentencing patterns

## Key achievements 2004–05

- Published three major research studies and four *Sentencing Trends & Issues* papers: see page 22
- Introduced the *What's New* flyer: see page 22
- Increased the accessibility of JIRS for judicial officers and other subscribers by making it available over the internet
- Redeveloped the software for the Lawcodes database

**Figure 7: Inter-relationships between research, education and complaints**



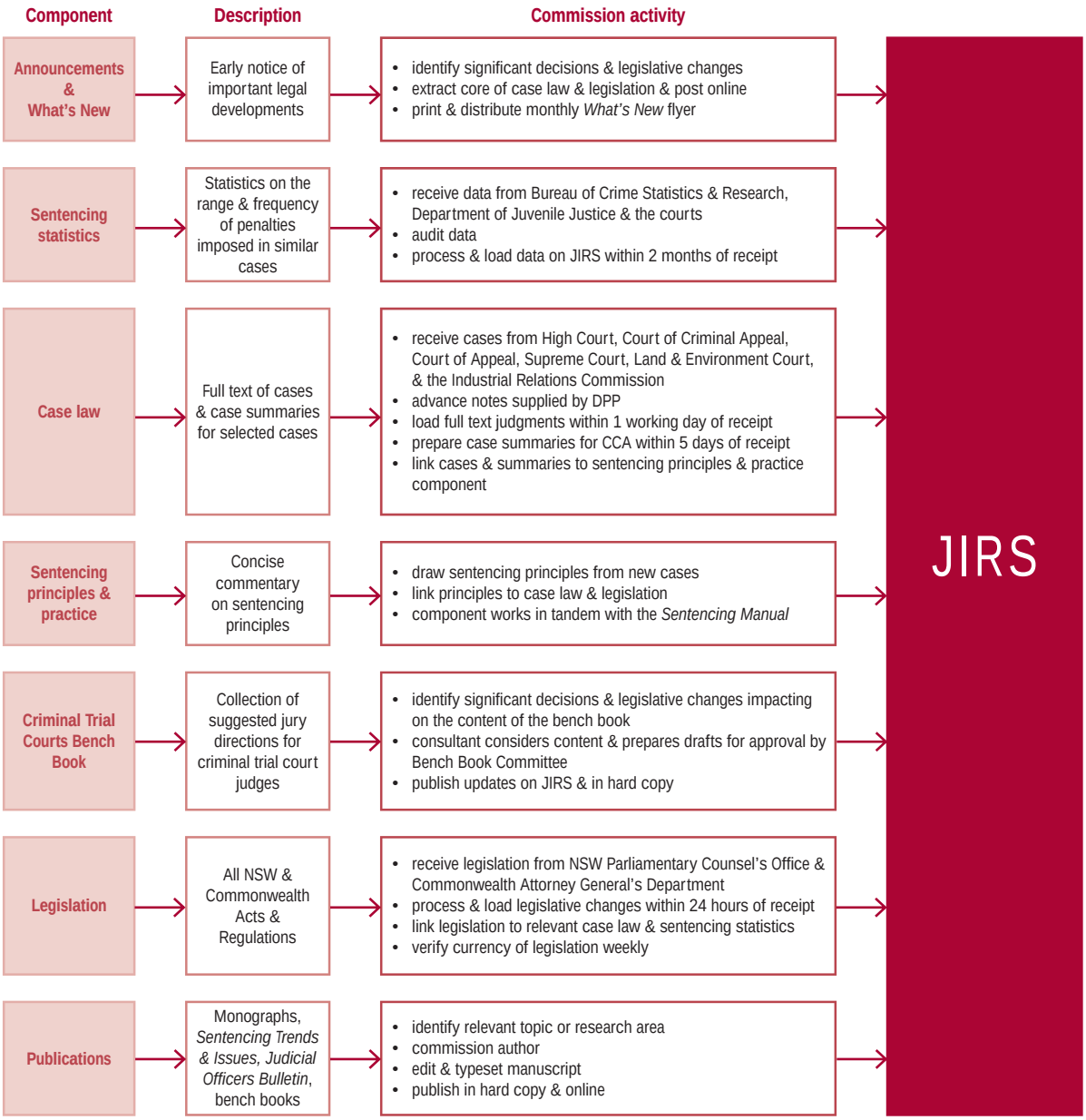

## Overview

The Commission's research program is focused on providing judicial officers with information about developments in criminal law and sentencing. It does this by monitoring sentences, analysing sentencing practice and providing information about trends in sentencing patterns. In 2004–05 particular emphasis was placed on writing the *Sentencing Manual* and maintaining JIRS: see Figure 7 for an overview of the research program.

# JUDICIAL INFORMATION RESEARCH SYSTEM (JIRS)

JIRS is an online judicial support system developed by the Commission which is designed to provide judicial officers with timely access to information and assist in decision making. JIRS contains case law, legislation, sentencing principles and practice, sentencing statistics and online publications: see Figure 8.

**Figure 8: JIRS — A complete online source of primary, secondary and statistical reference material**



## Keeping judicial officers informed

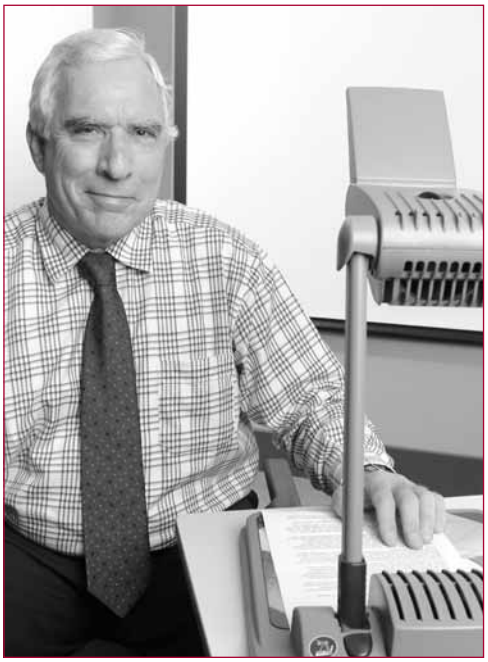
Sentencing law changes rapidly. In the past year, numerous decisions interpreting the provisions of the *Crimes (Sentencing Procedure) Act* 1999 and standard non-parole period offences have brought significant change to sentencing practice. JIRS is one of the key tools the Commission uses to ensure that judicial officers are fully informed about the latest developments in the law, and a substantial proportion of research effort is devoted to maintaining and updating the legal reference material available on JIRS.

The "What's New" component of JIRS is a high priority because it provides early notice of important legal developments. What's New items distil the core of new case law and legislation for JIRS users: the 191 items posted on JIRS in 2004–05 covered sentencing, judicial directions to juries, criminal procedure, evidence law, criminal offences, High Court cases, recently enacted legislation, and civil procedure. The monthly *What's New* JIRS flyer supplements the material available on JIRS: see page 22.

By loading new judgments onto JIRS within 48 hours of receipt, the Commission ensures that judicial officers have easy access to current case law. The Commission also prepares summaries for cases from the Court of Criminal Appeal. In 2004–05, 400 case summaries were loaded onto JIRS, the majority within five days of receipt. This material is particularly useful as it provides a summary of each case and identifies the most important aspects of these decisions. Each summary is linked to the full text of the decisions thereby providing a very efficient means of identifying and retrieving relevant cases.

## Sentencing statistics

The sentencing statistics component is a key feature of JIRS. It promotes consistency of approach to sentencing by providing information on the statistical range of sentences previously imposed for particular offences in the higher courts, the Local Courts and the Children's Court. The statistics separate sentencing data into discrete legal categories, including penalty type, term of sentence, non-parole periods and fine



*The Commission's research officers, including Graham Hazlitt, are called upon to present their research findings at conferences and seminars.*

*Rowena Johns, Principal Research Officer, and Emma Knight, Senior Research Officer, help ensure that judicial officers are kept informed about recent developments in criminal law and sentencing.*

amounts. These statistics are used and relied upon by the courts on a daily basis.

Data is received quarterly from the NSW Bureau of Crime Statistics and Research. The Commission aims to load data onto JIRS within two months from the date of receipt. This target was met with only one qualification: there was a four week delay loading data received in March 2005, for the quarter ending December 2004, because priority was given to completing other projects.

The District Court Statistics Collection System developed by the Commission aims to improve the collection of sentencing data from the District Court. The full benefit of the collection system is not being achieved because it is currently limited to the Downing Centre.

The Commission and the Department of Juvenile Justice have worked together to improve the Children's Court sentencing data, in particular, the Commission has developed a program which automatically selects the principal offence and incorporates validity checks. This should improve our ability to provide sentencing statistics for the Children's Court in a timely manner.

## JIRS usage

In addition to judicial officers, the other main users of JIRS are the Office of the Director of Public Prosecutions, Legal Aid Commission, the Public Defenders Office and legal practitioners. Making JIRS available to these other users, who play an important part in the sentencing process, contributes to our primary aim of achieving consistency of approach to sentencing.

JIRS usage fell by nearly 11% this year from an average of 36,308 hits per month in 2003–04 to an average of 32,468 page hits per month in 2004–05. Some of this fall can be attributed to improvements to the navigation within JIRS. It is anticipated that usage of JIRS will increase in 2005–06 when it is more widely available over the internet to a larger subscriber base.

**Figure 9: Number of JIRS pages accessed by users each year, 2000–05**

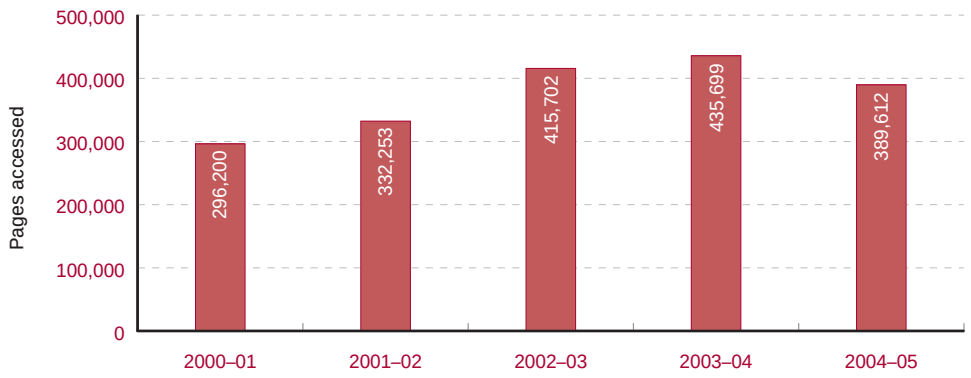
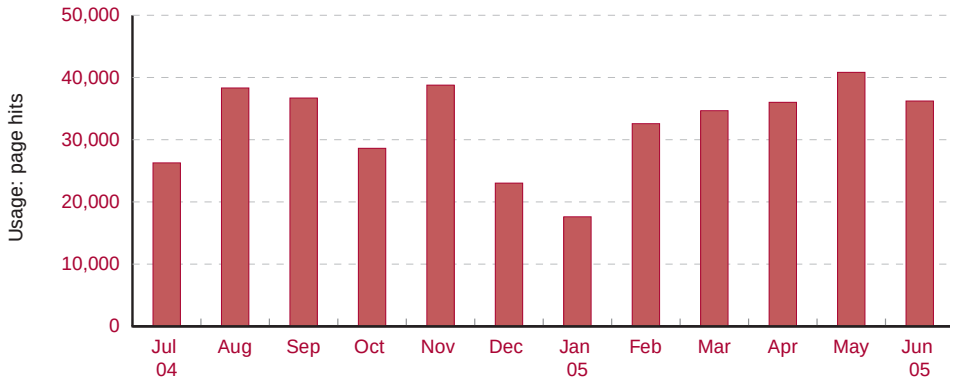


**Figure 10: Number of JIRS pages accessed by users each month, July 2004–June 2005**




## Improvements to JIRS

JIRS operates as an intranet and is available via the Attorney General's Department's wide area network. In 2004–05, the Commission made significant enhancements to JIRS, including:

- redesigning the underlying architecture of JIRS in order to make it available over the internet to judicial officers and other subscribers
- redesigning the legislative component of JIRS in order to better process the raw data obtained from the Parliamentary Counsel's Office
- improving the currency of legislation on JIRS — legislation is now updated automatically within 24 hours of Parliamentary Counsel releasing the new and amended legislation to the Commission
- enhancing the "point in time" feature for selected legislation on JIRS, including the *Crimes Act* and the *Bail Act*. This feature allows judicial officers to refer to legislation as it applied when the offence being tried was committed
- adding a "Defined Terms" index which allows users to search for defined terms across all NSW and Commonwealth legislation
- adding a new link for each NSW Act to enable the user to go directly to the subordinate legislation authorised by that Act
- improving the productivity of updating of JIRS by implementing automatic judgment conversion scripts and a new XML-based case summary template
- adding functionality to the "What's New" section by enabling the user to view the text under specific categories
- adding NSW Environmental Planning Instruments to the legislation database.

In 2005–06 the main goals with regard to the JIRS operating system are to consolidate the existing JIRS servers, further improve the infrastructure for ease of maintenance, improve the documentation, and redevelop the sentencing statistics viewer.

# ORIGINAL RESEARCH

## Research assistance and enquiries

In 2004–05, the Commission:

- dealt with 78 research enquiries from judicial officers, practitioners, libraries, subscribers and government agencies regarding sentencing information
- provided substantial research assistance to the judicial officers who review and revise the Commission's bench books.

## Statutory Review of the *Crimes (Sentencing Procedure) Act* 1999

Following a request from the Attorney General, the Commission agreed to provide statistical and legal assistance to the Criminal Law Review Division of the Attorney-General's Department in their review of the *Crimes (Sentencing Procedure) Act* 1999 and the operation of the standard non-parole provisions contained in the *Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Act* 1999. The Commission assisted with the compilation of submissions, and then compared the submissions with the statistical data already held in the sentencing principles and practices component of JIRS. Importantly, Commission statistics were used to identify any changes to sentencing patterns since the introduction of standard minimum non-parole periods. The process of identifying and reviewing the relevant case law also had direct benefits for the sentencing principles and practices component of JIRS.

## Assistance to the Sentencing Council

In 2004–05, the Commission continued to exchange information with the Sentencing Council on matters of mutual interest. In particular, we supplied the Council with:

- statistics relating to the use of s 12 suspended sentences
- a random sample of Local and High Court cases which would assist the Council undertake research into the relevant factors which may influence a court in determining whether a custodial sentence should be suspended
- information about standard non-parole period offence cases.

## Research studies

The Commission's research studies evaluate different aspects of sentencing law and practice. The following research studies are in progress (see also page 22 for details of published studies):

- **A Legal Analysis of Successful Conviction Appeals** will examine the legal basis of successful conviction appeals in the Court of Criminal Appeal over a four-year period. It will attempt to identify whether there is a pattern of error that could be avoided in future cases.
- **Partial Defences to Murder 1990–2004** seeks to analyse cases handed down from 1990–2004 involving an accused charged with murder who relied on the partial defence of provocation and/or diminished responsibility.
- **Sentencing Armed Robbers and the Impact of the Guideline in *Henry*** will analyse sentences for armed robbery offences handed down after the guideline judgment in *R v Henry*. Work has been delayed on this research study because of competing priorities.
- **The impact of the PCA guideline judgment on sentencing drink drivers** will review the impact of the guideline judgment on sentencing practice in order to identify and describe any changes in the pattern of sentences since the guideline was delivered.
- **The impact of standard non-parole periods on sentencing** will analyse sentences imposed for offences with legislatively prescribed standard non-parole periods with the intention of identifying any sentencing patterns for these offences and comparing them to pre-existing patterns in order to evaluate the impact of the legislation.

*Hugh Donnelly, Manager Research and Sentencing, oversees the Commission's research program.*

### The Sentencing Manual

The *Sentencing Manual* is a compendium on sentencing principles and practice structured around the *Crimes (Sentencing Procedure) Act* 1999. In addition to the legislation it incorporates information derived from the leading judgments of the NSW Court of Criminal Appeal and the High Court. First published in 2001, it was anticipated that the second edition would be completed by June 2005, however, the sheer size of the task and the number of changes to the law meant that this was not possible. During 2004–05, work continued on revising and updating the content for a second edition to ensure that it incorporates the most recent sentencing decisions. A first draft was close to completion in June 2005 and the final manuscript will be completed by December 2005. The *Sentencing Manual* will publish in looseleaf format and also on JIRS, replacing the sentencing principles and practices component.

## LAWCODES

The Lawcodes project aims to facilitate the electronic exchange of information between justice system agencies by establishing common codes to describe offences. This ensures that offence information remains consistent as it moves through different agencies. Public access to the Lawcodes database is provided on the Commission's website.

### Lawcodes users

Lawcodes data are used by the Commission, District and Local Courts, NSW Police, Australian Federal Police, the Bureau of Crime Statistics and Research, the Department of Corrective Services, both the Commonwealth and NSW Offices of the Director of Public Prosecutions, the Roads and Traffic Authority, the Department of Juvenile Justice, the Department of Agriculture, and local councils. As a multi-agency database, it is essential that Lawcodes is responsive to user needs. In 2004–05, all enquiries from Lawcodes users were answered within 24 hours and there are no outstanding enquiries.

### Lawcodes Software Redevelopment

Additional funding provided by NSW Treasury during 2004–05 enabled the Commission to focus on redeveloping the Lawcodes database. It is expected that the new system will be available to all users as a web-based version of Lawcodes by July 2006.

### Lawcodes requirements

The *Supreme Court Rules* have been amended to require indictments to specify the Lawcode for each offence charged. In order to facilitate this, all new or amended offences have been coded and distributed in the weekly update upon or prior to the commencement date, thus ensuring that the Lawcodes database is both timely and accurate.

*Stephen Cumines, Manager, Lawcodes, is responsible for maintaining and developing the Lawcodes database.*

# Complaints Against Judicial Officers

## Strategic objectives

- Promote judicial accountability through effective complaint handling
- Promote good practice and higher standards of judicial performance
- Enhance public confidence in the judiciary

## Major strategies

- Provide advice to the public about the Commission's complaints function and process
- Examine and finalise complaints received effectively and in a timely manner
- Monitor patterns in the nature and scope of complaints received

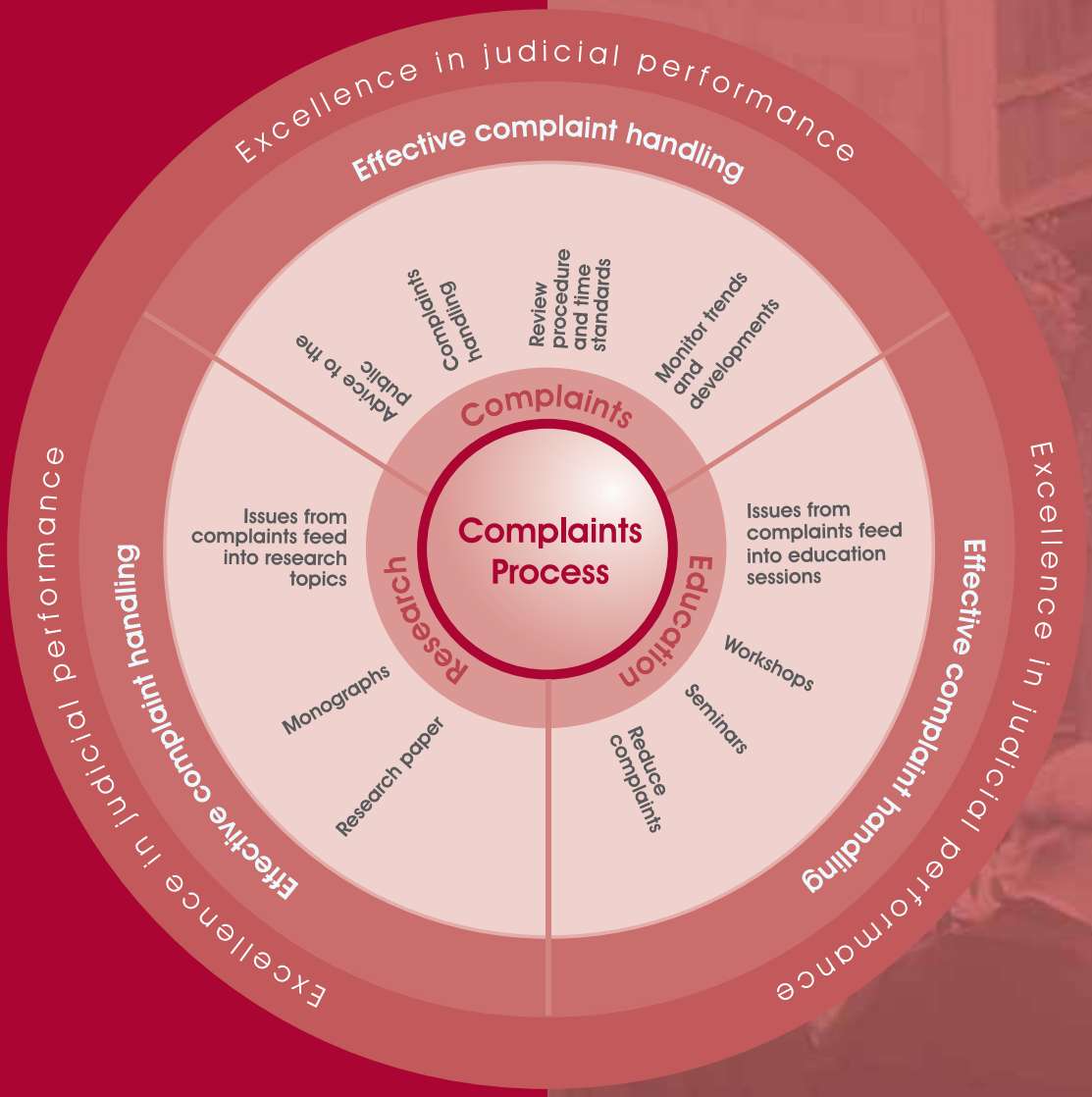
## Future directions

- Further enhance the procedure for examination of complaints

## Key achievements 2004–05

- All complaints acknowledged within one week of receipt
- 83% of complaints determined within three months of receipt
- 97% of complaints determined within six months of receipt

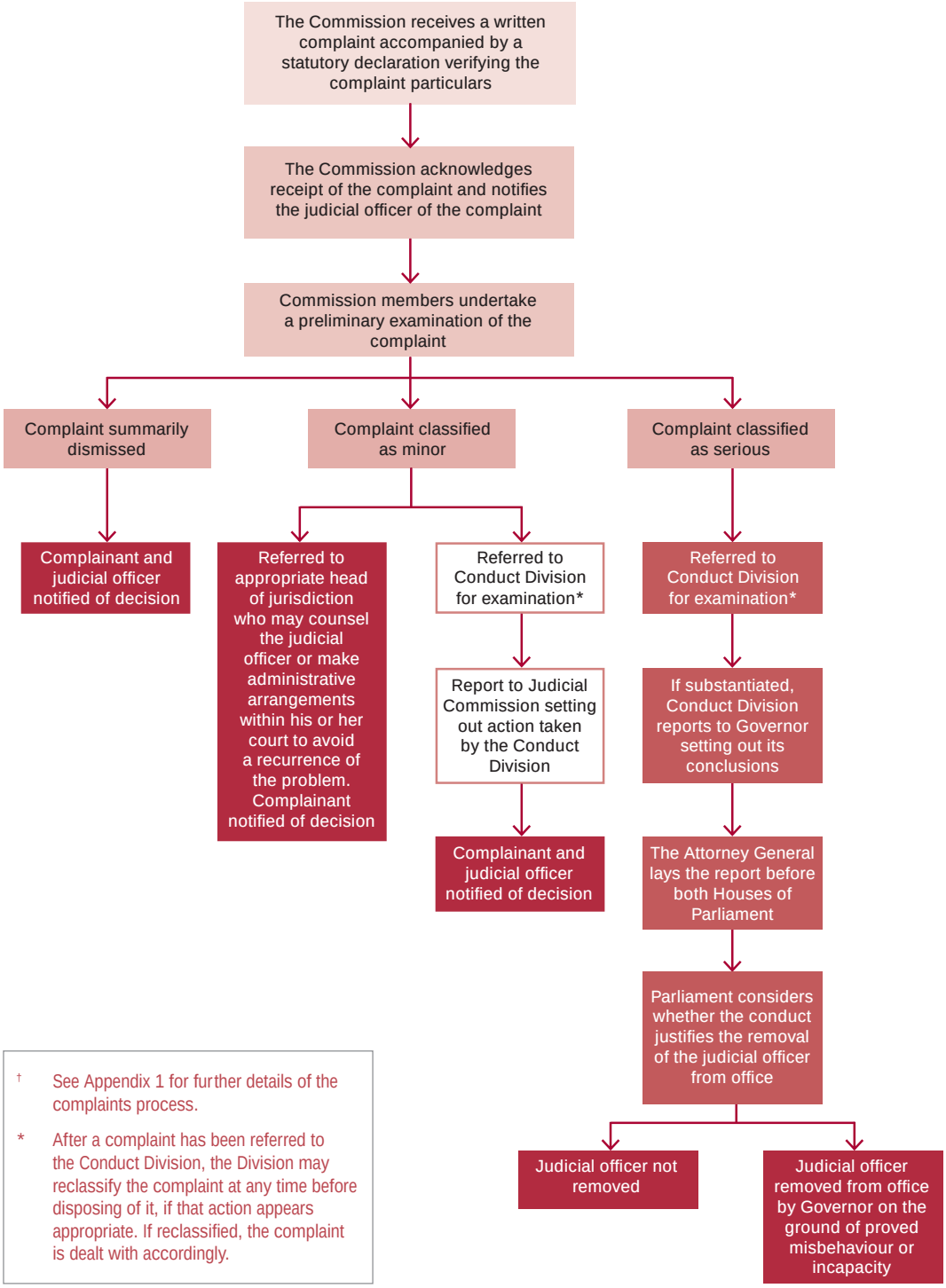
**Figure 11: Relationship between complaints, education and research**




## Overview

The Commission's complaint-handling activities are focused on ensuring complaints about the ability and behaviour of judicial officers are investigated in a timely and effective manner in order to enhance public confidence in the judiciary: see Figure 11 for an overview of the relationship between the complaints function and the Commission's research and education activities.

**Figure 12: The complaints process†**




† See Appendix 1 for further details of the complaints process.

* After a complaint has been referred to the Conduct Division, the Division may reclassify the complaint at any time before disposing of it, if that action appears appropriate. If reclassified, the complaint is dealt with accordingly.

# THE COMPLAINTS FUNCTION

One of the responsibilities of the Commission under its legislative charter is to deal with complaints made against judicial officers. The *Judicial Officers Act* 1986 established a comprehensive system for examining complaints that concern the ability or behaviour of judicial officers. In doing so the legislation strikes a balance between judicial independence and accountability. The complaints process provides a level of judicial accountability in addition to traditional forms, such as proceedings being conducted in public, the requirement to give reasons for judicial decisions and decisions being subject to appellate review: see Figure 12 for an overview and Appendix 1 for a detailed description of the complaints process.

## Advice to the public

The Commission provides advice to the public about the complaints process through:

- our website which provides an easy to understand guide to the Commission's complaints process, detailed information about possible outcomes of complaints, and a complaints form for downloading
- provision of a plain English brochure outlining the complaints process
- assistance to potential complainants with translation and interpreting services
- responding to telephone and face-to-face enquiries
- giving talks on the complaints process to interested groups.

# COMPLAINTS RECEIVED AND FINALISED

In the period 1 July 2004 to 30 June 2005, 108 individual complainants made a total of 118 complaints about 84 judicial officers. One complainant made five complaints; one complainant made three complaints and four others submitted two complaints each. The balance of complaints were submitted individually.

In addition the Commission received three references from the Attorney General under section 16(1) of the *Judicial Officers Act*. These references are treated as complaints under the legislation.

As can be seen from Figure 13, during the period there was a substantial increase over the previous year in the number of complaints both received and finalised.

**Figure 13: Number of complaints received and finalised by the Commission 2000–05**

**Table 3: Complaint particulars**

| | |
|---|---|
| Complaints pending at 30 June 2004 | 27 |
| Complaints made during the year | 121 |
| **Total number of complaints** | **148** |
| Complaints examined and dismissed under sections 18 and 20 of the Act | 95 |
| Minor complaints disposed of during the year | 13 |
| Serious complaints disposed of during the year | 6 |
| Complaints withdrawn | 5 |
| **Total number of matters finalised** | **119** |
| Complaints pending at 30 June 2005 | 29 |

## Complaints examined and dismissed

The Commission dismissed 95 complaints during the year based on criteria outlined in section 20 of the *Judicial Officers Act* 1986. Details are set out in Table 4 below.

**Table 4: Criteria adopted for dismissing complaints**

| Criteria | Section | Number of complaints |
|---|---|---|
| The complaint was frivolous, vexatious and not in good faith | 20(1)(b) | 1 |
| The complaint was frivolous, vexatious and not in good faith and further consideration of the complaint by the Commission was unnecessary or unjustifiable | 20(1)(b) & (h) | 1 |
| The subject matter of the complaint was trivial | 20(1)(c) | 1 |
| The matter complained about occurred at too remote a time to justify further consideration of the complaint and further consideration of the complaint by the Commission was unnecessary or unjustifiable | 20(1)(d) & (h) | 1 |
| The complaint related to the exercise of a judicial or other function that was subject to adequate appeal or review and further consideration of the complaint by the Commission was unnecessary or unjustifiable | 20(1)(f) & (h) | 35 |
| The person complained about was no longer a judicial officer | 20(1)(g) | 3 |
| Further consideration of the complaint by the Commission was unnecessary or unjustifiable | 20(1)(h) | 53 |

### Reference of minor complaints to the head of jurisdiction

Thirteen complaints examined by the Commission were not dismissed following the preliminary examination. These complaints were classified as minor in accordance with section 30(2) of the *Judicial Officers Act* and referred to the relevant head of jurisdiction. This action was taken because in the opinion of the Commission the complaints should not be dismissed but did not warrant further examination by the Conduct Division. While there is no power under the legislation for the head of jurisdiction to impose some form of punishment on a judicial officer, the head of jurisdiction can counsel the judicial officer, or make administrative arrangements within the court designed to avoid a repetition of a problem.

### Conduct Division: work and activity

On 23 May 2005, following preliminary examinations conducted by the Commission under section 18 of the *Judicial Officers Act* 1986, the Commission classified four complaints as serious and referred them to the Conduct Division for examination. Subsequently a further four complaints were classified as serious and referred to the Conduct Division for investigation. The complaints alleged that a Judge of the District Court had fallen asleep while presiding at trials.

The Conduct Division appointed by the Commission to examine these complaints consisted of the following members:

- The Honourable Justice Peter McClellan (Chairperson)
- The Honourable Justice Patricia Staunton AM
- The Honourable Charles Simon Sheller QC.

The Crown Solicitor and Senior and Junior Counsel were instructed to assist the Conduct Division in its Inquiry. Preliminary matters necessary prior to the commencement of the hearing of the complaints were undertaken, including interviewing the complainants and other potential witnesses, taking statements, and obtaining sound recordings and transcripts of the various trials.

Prior to the commencement of formal hearings the Commission was informed by the Attorney General that the Judge had been medically examined and had been found to be permanently unfit to continue in office. In those circumstances he had retired effective from 19 July 2005.

As the Judge was no longer a judicial officer the Conduct Division was required by section 32(1) of the Act to cease dealing with the complaints. The Conduct Division formally advised the Commission that it had ceased its Inquiry in accordance with the legislative requirements. The Judicial Commission then formally dismissed the complaints under section 20(1)(g) of the Act.

### Finalisation of complaints

The Commission aims to finalise 90% of complaints within six months of receipt and 100% of complaints within 12 months of receipt. In 2004–05, the Commission finalised:

- 22% of complaints within one month
- 58% of complaints within two months
- 83% of complaints within three months
- 89% of complaints within four months
- 97% of complaints within six months
- 100% of complaints within eight months.

## PATTERNS IN THE NATURE AND SCOPE OF COMPLAINTS

In any consideration of the statistics of the complaints dealt with by the Commission it must be remembered that there are approximately 300 judicial officers in NSW who in the relevant period dealt with in excess of 400,000 matters.

### Common causes of complaint

There has been little variation in the patterns in the nature and scope of complaints received in recent years. The most common grounds of complaint to the Commission continue to be allegations of failure to give a fair hearing and apprehension of bias. In 2004–05, these two categories accounted for 60% of complaints made to the Commission, compared to 57% in the previous year. Many complaints of this type were made by unsuccessful parties to legal

proceedings and by persons who conducted their own litigation before the courts. Complaints of bias are frequently accompanied by allegations of particular conduct which is said to evidence bias by the judicial officer concerned.

## Allegations of collusion

Seven complaints dealt with during the year involved allegations of collusion between a judicial officer and another person or persons, usually a legal practitioner or court personnel. Following investigation all such complaints were found to be baseless.

## Substitute for appeals

As reported in previous years, many complainants, in essence, allege that a judicial officer made a wrong decision. These complaints are often made in apparent substitution of appeals to a higher court. They are usually made in circumstances where a party to litigation is aggrieved by an unfavourable decision but, for one reason or another, does not wish to appeal. Instead, a personal complaint against the judicial decision-maker is made to the Commission, usually alleging bias or incompetence. The Commission's role, however, is not that of an appellate tribunal with a function of correcting allegedly erroneous decisions and these complaints are dismissed accordingly.

## Complaints arising from AVO proceedings

For a number of years the Commission has noted the high proportion of complaints received which arise from proceedings involving applications for Apprehended Violence Orders (AVOs). This year the trend has continued.

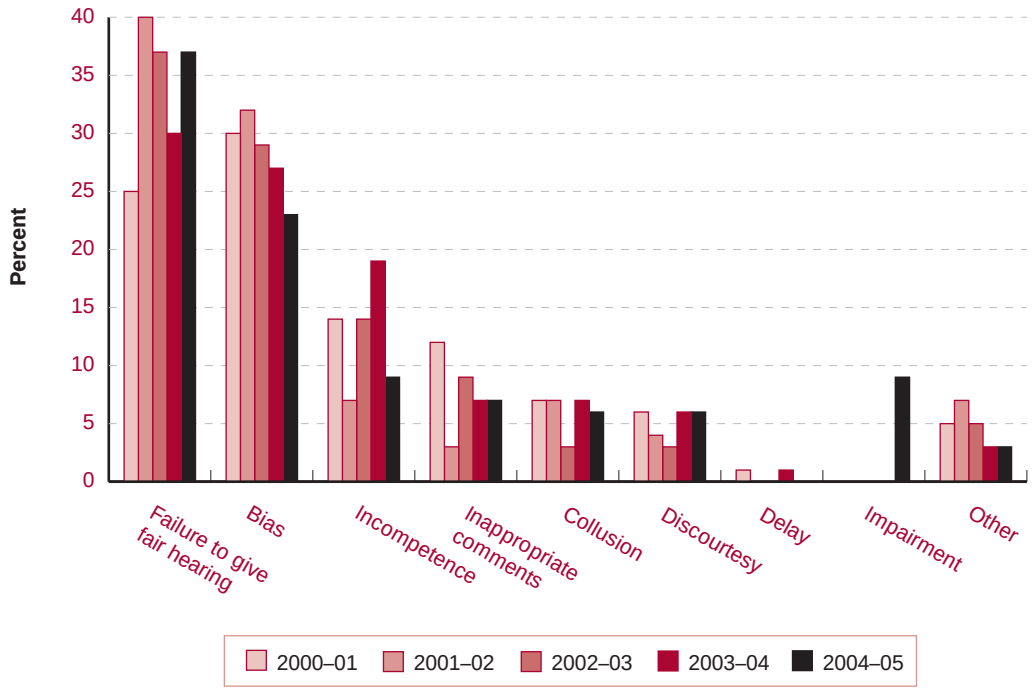
## Discourtesy or inappropriate comments

Fifteen complaints alleged discourtesy or inappropriate comments made by judicial officers. In total these complaints accounted for approximately 13% of all complaints received this year, a similar number to the previous year.

## Other allegations

This year the Commission received no complaints relating to delay in the delivery of a reserved judgment. Eleven complaints were received alleging impairment. These complaints involved allegations that a judicial officer had fallen asleep while presiding at trials.

**Figure 14: Common causes of complaint: Basis of allegations**



# Corporate operations

## OUR STAFF

The Commission provides a safe, harmonious and productive working environment that offers interesting and fulfilling work, motivates staff to excel in the performance of their duties, and allows them to develop both professionally and personally.

In this way, the Commission has developed and retained staff, with 51% of staff having over five years service and 38% of staff having ten years or more service.

### Student placements

The Commission's traineeships offer students the opportunity to gain practical work experience. In 2004–05, the Commission provided placements for four trainees in the research, information technology and education sections.

### Employment conditions

The Commission is an employer under the *Judicial Officers Act* 1986, with conditions of employment being generally equivalent to those of the NSW Public Service. Members of the Public Service who accept a position at the Commission retain various rights and benefits, such as superannuation and extended leave.

### Industrial Relations

The Public Service Association provides industrial coverage for staff members. No time was lost during the year because of industrial action, nor has any time been lost in the past five years.

### Code of Conduct

The Commission's Code of Conduct guides staff in the performance of their duties, especially where ethical considerations may be involved. The Code of Conduct is available on the Commission's intranet. There were no amendments to the Commission's Code of Conduct during the reporting period.

## Staff development and training

The Commission recognises that our staff are our most important asset and we help them to develop their full potential. During 2004–05 staff attended a number of courses that were chosen for the purposes of developing personal attributes, obtaining further professional skills or enhancing existing skills in established areas of expertise. In 2004–05, the Commission also supported four staff members undertaking tertiary study by providing study leave.

## Performance appraisal

The Commission's performance management system concentrates on the establishment of agreed objectives and performance targets. It provides for regular reviews between supervisors and staff as well as formal appraisals on an annual basis.

## Safe working environment — Occupational Health and Safety (OH&S)

The Commission is committed to providing a safe working environment for its employees and visitors. The OH&S Committee met three times during 2004–05 and planned a range of OH&S activities, including evacuation drills and workplace inspections. Three claims for worker's compensation arising from accidents outside the office were reported in 2004–05 compared with none in the previous five years.

The OH&S risk management plan ensures that a risk assessment form is completed for each risk identified during regular inspections conducted by the OH&S Committee or reported by Commission staff. The plan emphasises the prompt treatment of any identified risk and the need to monitor the effectiveness of any remedial action taken.

## Intellectual property (IP)

During the year the Commission developed and published on its intranet an IP policy based on the NSW Intellectual Property Framework. In developing and implementing its IP policy, the Commission has taken into account the following:

- its core functions and service delivery outcomes
- what significant IP is likely to be created, owned, used, or controlled by the Commission, including its publications
- the need to provide staff with appropriate training, such as formal training course for staff directly responsible for IP management, or in-house training on general IP issues for other staff
- allocating appropriate resources.

**Table 5: Five-year comparison of average number of employees by category**

| | 2000–01 | 2001–02 | 2002–03 | 2003–04 | 2004–05 |
|---|---|---|---|---|---|
| Senior executive | 3 | 3 | 3 | 3 | 3 |
| Sentencing/judicial education | 22 | 27 | 26 | 29 | 29 |
| Administration/ management support | 5 | 5 | 5 | 5 | 5 |
| **Total staff** | **30** | **35** | **34** | **37** | **37** |

# ACCESS AND EQUITY

## Action plan for women

The NSW Government's Action Plan for Women aims to recognise and address women's needs in government policies and services. In 2004–05, the Commission was responsible for the following initiatives under the Action Plan in the area of violence and safety:

- including education sessions on sexual assault as part of our education program for judicial officers. This program was designed to raise awareness among and provide information to judicial officers on how to deal with sexual assault issues in court: see page 14 for details
- contributing to improved legislation, policies and procedures through representation on the Apprehended Violence Legal Issues Co-ordinating Committee and the Sexual Assault Review Committee.

## Spokeswomen's Program

The Spokeswoman's Program aims to assist women enhance their knowledge and skills to enable full and equal participation in the workplace. Spokeswomen's activities in 2004–05 were focused on a year long consultation of staff about their career needs, culminating in a draft program of activities for the approval of the Women's Liaison Officer and Chief Executive. There was also a celebration of International Women's Day, at which the spokeswoman discussed the contribution of staff and their managers towards advancing the full and equal participation of women in the workplace. This celebration was followed by what will be an annual meeting of all female staff to discuss the progress and content of the Commission's Spokeswomen Program of Activities.

## Equal employment opportunity

The Commission supports and implements the principles of equal employment opportunity. The Commission performs excellently on the representation of women and people whose first language was not English, exceeding the government's targets in both areas: see Table 6. The Commission is committed to:

- providing a productive work environment that is free from discrimination and harassment
- fostering the professional development of staff in a manner that attracts and retains employees.

An appointed Equal Employment Opportunity Co-ordinator keeps a watching brief on workplace issues to ensure optimum compliance with the spirit and intention of EEO policies.

**Table 6: Five-year trends in the representation of EEO groups[1]**

| | % of total staff[2] | | | | | |
|---|---|---|---|---|---|---|
| **EEO Group** | **Benchmark or target** | **2001** | **2002** | **2003** | **2004** | **2005** |
| Women | 50 | 63 | 54 | 63 | 63 | 62 |
| Aboriginal people and Torres Strait Islanders | 2 | 0 | 3 | 3 | 3 | 0 |
| People whose first language is not English | 20 | 27 | 34 | 26 | 26 | 30 |
| People with a disability | 12 | 7 | 0 | 0 | 3 | 0 |
| People with a disability requiring work-related adjustment | 7 | 0 | 0 | 0 | 3 | 0 |

1. Staff numbers are as at 30 June 2005.

2. Excludes casual staff.

Note: The Distribution Index is not calculated when EEO group or non-EEO group numbers are less than 20. As a result the Commission is unable to publish the details of trends in the distribution of salary levels of EEO group members.

### Ethnic Affairs Priorities Statement

The Commission's Ethnic Affairs Priorities Statement outlines how the Commission incorporates the principles of multiculturalism into its programs. Although the main focus of the Commission is to provide education and sentencing information for judicial officers, we do have a more general service delivery role in our complaints function. As such, in 2004–2005 the Commission incorporated the principles of multiculturalism into its programs through two main strategies:

- We communicated with complainants from a non-English speaking background by accepting written complaints in languages other than English and by using the Translating and Interpreting Service for assistance with interviews, written translations and phone calls whenever necessary.
- Accredited interpreters were provided for all overseas delegations visiting the Commission.

The Commission will focus on three key ethnic affairs strategies in 2005–06:

- revising the ethnic affairs priorities plan in order to ensure that the strategies meet the needs of the Commission and its stakeholders
- developing an *Equal Treatment Bench Book* to provide practical guidance for judicial officers about the particular needs of different groups of people who appear before the court in order to assist in the fair conduct of cases. The bench book will address such issues as cross-cultural communication and ethnic diversity
- providing sessions on cultural diversity in our education program to enable judicial officers to recognise and appreciate the cultural differences that exist in our community.

## ENVIRONMENTAL ISSUES

### Waste reduction and recycling policy

In 2004–05, the Commission continued to observe and practice the principles contained within the Government's Waste Reduction and Purchasing Policy:

- **Reducing waste generation** The Commission reduces its generation of waste paper by using electronic communication methods, including email, publishing Commission research online on JIRS and the Commission's website, placing electronic copies of Commission policies on the Commission's intranet, and encouraging online payments for Judicial Commission publications.
- **Increasing resource recovery** The Commission returns all used toner cartridges for recycling and paper waste is collected by the building managers for recycling. We also recycle computer equipment, including processing units, monitors and file servers. In 2004–05, the Commission recycled 26 toner cartridges and 5 tonnes of waste paper.
- **Increasing usage of recycled material** The Commission purchases bulk paper containing a 35% recycled component, and requires stationery supplies and printer consumables to contain a recycled component where available.

### Energy management

The Commission's policy of effective energy management is implemented through three main strategies:

- purchasing energy efficient computer and office equipment
- minimising energy consumption after hours
- raising staff awareness of the need to conserve energy.

As a result, the Commission met its target of reducing energy consumption in 2004–05 by 25% against the 1995–96 base year level (493 GJ reduced from 671 GJ).

# INFORMATION TECHNOLOGY

## Major activities

In 2004–05, the Commission's information technology activities focused on:

- enhancing the JIRS operating system: see page 29
- implementing an xml-based single source publishing system: see page 21
- redeveloping the Lawcodes software: see page 31
- maintaining and improving the case management systems for both the Adult Drug Court and the Youth Drug Court
- maintaining and improving the sentencing statistics collection system for the Downing Centre District Court criminal jurisdiction: see page 28
- negotiating with Commonwealth agencies to develop and build a sentencing database
- developing the standard of legislation on JIRS to a high level.

## Electronic service delivery

In line with the NSW Government's commitment to electronic service delivery via the internet, the Commission has been working to make more of its services available online. The main enhancements in this regard in 2004–05 related to making JIRS available over the internet for judicial officers, continuing to provide publications online and continuing to handle online orders for Commission publications on Bookshop NSW, the NSW Government's online bookshop.

## Disaster recovery

As the Commission relies extensively on information technology to carry out its functions, it has implemented effective and reliable disaster recovery plans. File and print servers are backed up to tape daily, and application servers are backed up weekly. A monthly back up of all servers is held in an off-site vault for a period of two years. In the event of a disaster, the purchase of off-the-shelf replacement PC file servers, together with the stored back up tapes, will ensure complete recovery of data and restoration of applications in a short period of time. Important paper records, such as complaint files, are stored in secure, fireproof cabinets to ensure their safety. Work has commenced on updating the Commission's disaster recovery and business continuity plans, and we are continuing to work towards achieving AS1779 Security Certification.

# LIBRARY OPERATIONS

The Commission's library is used both by our staff and by judicial officers. It is a specialist library holding valuable collections in the areas of criminology, sentencing and judicial education. The library holds corporate membership of the Australian Library and Information Association, and is a member of the Australian Law Librarians' Group.

The major concern facing the part-time librarian staffing the library is how to satisfy enquiries and supply the requisite information in a timely manner. In 2004–05:

- all enquiries and interlibrary loan requests were satisfactorily resolved within the targeted time frame — it is intended that bibliographical requests be dealt with promptly, and documents available locally be provided within two to five working days. Reciprocal arrangements with other libraries, particularly the Joint Law Courts Library, greatly assisted this process. Some materials sought by researchers in 2005 were not available within Australia: one document for example was purchased as an e-book from the USA and joins a small collection of e-books held by the library
- a further 232 items were added to the library's online catalogue

- research enquiries decreased by 7% and inter-library loans by 60.5%. This primarily reflects the fluctuating work flow from the research section according to whether research projects are literature based or empirical studies
- the librarian has been involved in discussions with court librarians and selected government agencies on the feasibility of establishing a consortia to increase bargaining power with law publishers and thus reduce the high cost of online access to legal subscription services.

# OPERATING ENVIRONMENT

## Changes to legislation

The Commission operates under the *Judicial Officers Act* 1986 and the *Judicial Officers Regulation* 2000. In 2004–05, the Act was amended as follows:

- the *Teaching Services Amendment Act* 2004 made minor amendments to Schedule 5, Provisions relating to the rights of certain staff of the Commission
- the *Courts Legislation Amendment Act* 2005 amended the definition of judicial officer to reflect the change in title of masters of the Supreme Court to associate judges.

In April 2005 the Attorney General announced that a review of the *Judicial Officers Act* would be undertaken by the heads of jurisdiction and the Director General of the Attorney General's Department. Submissions to the review closed on 17 June 2005.

## Privacy management plan

The NSW Privacy Commission has provided feedback and advice about the second draft of the Commission's Privacy Code of Practice and Privacy Management Plan. As a result, the Commission is preparing instructions for Parliamentary Counsel about redrafting the Code. The Commission did not conduct any reviews under the *Privacy and Personal Information Protection Act* 1998.

## Risk management and insurance

An appropriate form and level of insurance exists in relation to all identifiable risk exposures. The Commission is a member of the Treasury Managed Fund, which provides comprehensive cover for physical assets, such as plant and equipment, motor vehicles and miscellaneous matters. The managed fund provides coverage for staff through workers' compensation and for the public through public liability cover. The fund is a form of self-insurance. A review of the level and method of insurance has been conducted and the appropriate risk level established. The Commission, because of its size, has little influence on the performance of the overall fund and the level of insurance adopted for 2004–05 was principally determined on the basis of all members of the fund during the previous financial year.

*Jenny Zhang provides administrative support to the Commission's staff.*

# FINANCIAL PERFORMANCE

## Payment of accounts

The Commission aims to pay all accounts within the agreed terms or within 30 days of receipt of invoice if terms are not specified. Suppliers are notified of this policy in writing when orders for goods and services are placed. As shown in Table 7, during the reporting period the Commission paid all accounts on time and was not required to pay penalty interest on any account.

## Consultants

The Commission did not employ any consultants this year.

## Credit card certification

The Chief Executive certifies that credit card usage in the Commission has met best practice guidelines in accordance with Premier's Memoranda and Treasury Directions.

**Table 7: Aged analysis at the end of each quarter**

| Quarter | Current (within due date) | Less than 30 days overdue | Between 30 & 60 days overdue | Between 60 & 90 days overdue | More than 90 days overdue |
|---|---|---|---|---|---|
| | $ | $ | $ | $ | $ |
| September 2004 | 71,330.77 | – | – | – | – |
| December 2004 | 85,533.79 | – | – | – | – |
| March 2005 | 69,032.61 | – | – | – | – |
| June 2005 | 93,503.63 | – | – | – | – |

**Table 8: Accounts paid on time within each quarter**

| Quarter | Total accounts paid on time | | | Total amount paid |
|---|---|---|---|---|
| | Target % | Actual % | $ | $ |
| September 2004 | 100 | 100 | 71,330.77 | 71,330.77 |
| December 2004 | 100 | 100 | 85,533.79 | 85,533.79 |
| March 2005 | 100 | 100 | 69,032.61 | 69,032.61 |
| June 2005 | 100 | 100 | 93,503.63 | 93,503.63 |

# FINANCIAL SUMMARY

## Revenue

The principal source of revenue for the Commission is from the Consolidated Fund of Treasury ($4.172 million). A further $156,000 in revenue was received, of which $145,000 was generated by the Commission through consultancy projects for other Government agencies and through the sale of publications and subscriptions for the JIRS database.

## Expenditure

Expenses totalled $4,240 million, an increase of $116,000 over the previous year. Employee related expenses accounted for $3.001 million (70.8%), an increase of 0.9% on the previous year. Expenditure this year on the examination of a complaint by the Conduct Division was $7,000.

## Assets

Cash balances increased by $109,000 over the previous year while non-current assets decreased by 22%.

## Liabilities

The $6,000 decrease in liabilities over the previous year is due to increases in provisions for employee-related benefits and related on-costs, and offset by user charges received in advance.

**Figure 15: Expenditure**

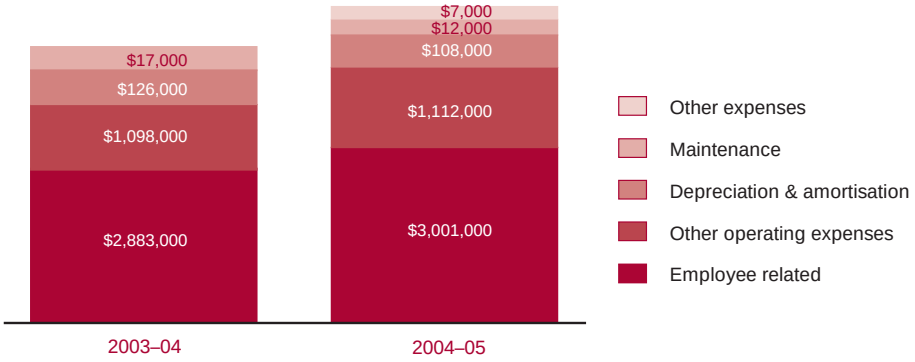
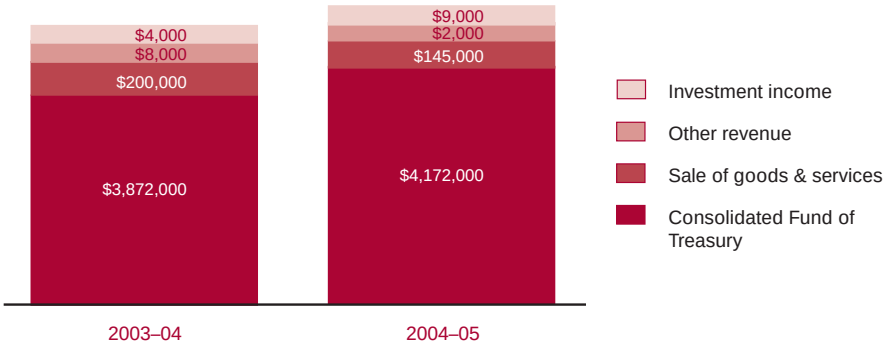



**Figure 16: Income**



# Financial Statements 2004–05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GPO BOX 12
Sydney NSW 2001

## INDEPENDENT AUDIT REPORT

## JUDICIAL COMMISSION OF NEW SOUTH WALES

To Members of the New South Wales Parliament

### Audit Opinion

In my opinion, the financial report of the Judicial Commission of New South Wales:

(a) presents fairly the Commission's financial position as at 30 June 2005 and its financial performance and cash flows for the year ended on that date, in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia, and

(b) complies with section 45E of the *Public Finance and Audit Act 1983* (the Act).

My opinion should be read in conjunction with the rest of this report.

### The Chief Executive's Role

The financial report is the responsibility of the Chief Executive of the Judicial Commission. It consists of the statement of financial position, the statement of financial performance, the statement of cash flows and the accompanying notes.

### The Auditor's Role and the Audit Scope

As required by the Act, I carried out an independent audit to enable me to express an opinion on the financial report. My audit provides *reasonable assurance* to Members of the New South Wales Parliament that the financial report is free of *material* misstatement.

My audit accorded with Australian Auditing and Assurance Standards and statutory requirements, and I:

- evaluated the accounting policies and significant accounting estimates used by the Chief Executive in preparing the financial report, and
- examined a sample of the evidence that supports the amounts and other disclosures in the financial report.

An audit does *not* guarantee that every amount and disclosure in the financial report is error free. The terms 'reasonable assurance' and 'material' recognise that an audit does not examine all evidence and transactions. However, the audit procedures used should identify errors or omissions significant enough to adversely affect decisions made by users of the financial report or indicate that the Chief Executive had not fulfilled his reporting obligations.

My opinion does *not* provide assurance:

- about the future viability of the Judicial Commission of New South Wales,
- that the Judicial Commission of New South Wales has carried out its activities effectively, efficiently and economically,
- about the effectiveness of its internal controls, or
- on the assumptions used in formulating the budget figures disclosed in the financial report.

### Audit Independence

The Audit Office complies with all applicable independence requirements of Australian professional ethical pronouncements. The Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General, and
- mandating the Auditor-General as auditor of public sector agencies but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office are not compromised in their role by the possibility of losing clients or income.

A Oyetunji CPA
Director, Financial Audit Services

SYDNEY
18 October 2005

# Certification of Financial Statements

Pursuant to section 45F of the *Public Finance and Audit Act* 1983, I state that:

(a) the Judicial Commission's Financial Statements are a general purpose financial report which has been prepared in accordance with applicable Australian Accounting Standards and other mandatory professional reporting requirements, the requirements of the *Public Finance and Audit Act* 1983, the requirements of the finance reporting directives published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies, the *Public Finance and Audit Regulation* 2000 and the Treasurer's Directions;

(b) the financial statements exhibit a true and fair view of the financial position and transactions of the Judicial Commission of New South Wales for the year ended 30 June 2005; and

(c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

E J SCHMATT

Chief Executive

18 October 2005

## JUDICIAL COMMISSION OF NEW SOUTH WALES
### Statement of Financial Performance for the year ended 30 June 2005

| | Notes | Actual 2005 $'000 | Budget 2005 $'000 | Actual 2004 $'000 |
|---|---|---|---|---|
| **Expenses** | | | | |
| Operating expenses | | | | |
| Employee related | 2(a) | 3,001 | 2,992 | 2,883 |
| Other operating expenses | 2(b) | 1,112 | 1,153 | 1,098 |
| Maintenance | | 12 | 10 | 17 |
| Depreciation | 2(c) | 108 | 110 | 126 |
| Other expenses | 2(d) | 7 | – | – |
| **Total Expenses** | | 4,240 | 4,265 | 4,124 |
| Less: | | | | |
| **Retained Revenue** | | | | |
| Sale of goods and services | 3(a) | 145 | 80 | 200 |
| Investment income | 3(b) | 9 | 2 | 4 |
| Other revenue | 3(c) | 2 | 5 | 8 |
| **Total Retained Revenue** | | 156 | 87 | 212 |
| **Net Cost of Services** | 18 & 19 | 4,084 | 4,178 | 3,912 |
| **Government Contributions** | | | | |
| Recurrent appropriation | 4 | 3,788 | 3,751 | 3,506 |
| Capital appropriation | 4 | 48 | 48 | 48 |
| Acceptance by the Crown Entity of employee benefits and other liabilities | 1(d)(ii) & 5 | 336 | 305 | 318 |
| **Total Government Contributions** | | 4,172 | 4,104 | 3,872 |
| **SURPLUS/(DEFICIT) FOR THE YEAR FROM ORDINARY ACTIVITIES** | | 88 | (74) | (40) |
| **SURPLUS/(DEFICIT) FOR THE YEAR** | | 88 | (74) | (40) |
| **TOTAL REVENUES, EXPENSES AND VALUATION ADJUSTMENTS RECOGNISED DIRECTLY IN EQUITY** | | – | – | – |
| **TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH OWNERS AS OWNERS** | 15 | 88 | (74) | (40) |

The accompanying notes form part of these financial statements

## JUDICIAL COMMISSION OF NEW SOUTH WALES
### Statement of Financial Position as at 30 June 2005

| | Notes | Actual 2005 $'000 | Budget 2005 $'000 | Actual 2004 $'000 |
|---|---|---|---|---|
| **ASSETS** | | | | |
| **Current Assets** | | | | |
| Cash | 7 | 202 | 72 | 93 |
| Receivables | 8 | 37 | 53 | 53 |
| Other | 9 | 72 | (2) | 23 |
| **Total Current Assets** | | 311 | 123 | 169 |
| **Non-Current Assets** | | | | |
| Plant and equipment | 10 | 208 | 206 | 268 |
| **Total Non-Current Assets** | | 208 | 206 | 268 |
| **Total Assets** | | 519 | 329 | 437 |
| **LIABILITIES** | | | | |
| **Current Liabilities** | | | | |
| Payables | 11 | 112 | 23 | 102 |
| Provisions | 12 | 196 | 214 | 186 |
| Other | 14 | 7 | 54 | 34 |
| **Total Current Liabilities** | | 315 | 291 | 322 |
| **Non-Current Liabilities** | | | | |
| Provisions | 13 | 124 | 120 | 123 |
| **Total Non-Current Liabilities** | | 124 | 120 | 123 |
| **Total Liabilities** | | 439 | 411 | 445 |
| **Net Assets** | | 80 | (82) | (8) |
| **EQUITY** | | | | |
| Accumulated funds | | 80 | (82) | (8) |
| **Total Equity** | 15 | 80 | (82) | (8) |

The accompanying notes form part of these financial statements

## JUDICIAL COMMISSION OF NEW SOUTH WALES
### Statement of Cash Flows for the year ended 30 June 2005

| | Notes | Actual 2005 $'000 | Budget 2005 $'000 | Actual 2004 $'000 |
|---|---|---|---|---|
| **CASH FLOWS FROM OPERATING ACTIVITIES** | | | | |
| **Payments** | | | | |
| Employee related | | (2,776) | (2,865) | (2,703) |
| Other | | (1,307) | (1,316) | (1,204) |
| **Total Payments** | | (4,083) | (4,181) | (3,907) |
| **Receipts** | | | | |
| Sale of goods and services | | 146 | 100 | 153 |
| Interest received | | 6 | 2 | 5 |
| Other | | 126 | 184 | 155 |
| **Total Receipts** | | 278 | 286 | 313 |
| **Cash Flows from Government** | | | | |
| Recurrent appropriation | | 3,788 | 3,751 | 3,506 |
| Capital appropriation | | 48 | 48 | 48 |
| Cash reimbursements from the Crown Entity | | 126 | 123 | 124 |
| **Net Cash Flows from Government** | | 3,962 | 3,922 | 3,678 |
| **NET CASH FLOWS FROM OPERATING ACTIVITIES** | 19 | 157 | 27 | 84 |
| **CASH FLOWS FROM INVESTING ACTIVITIES** | | | | |
| Purchases of plant and equipment | | (48) | (48) | (48) |
| **NET CASH FLOWS FROM INVESTING ACTIVITIES** | | (48) | (48) | (48) |
| **NET INCREASE/(DECREASE) IN CASH** | | 109 | (21) | 36 |
| Opening cash and cash equivalents | | 93 | 93 | 57 |
| **CLOSING CASH AND CASH EQUIVALENTS** | 7 & 20 | 202 | 72 | 93 |

The accompanying notes form part of these financial statements

## JUDICIAL COMMISSION OF NEW SOUTH WALES

### Summary of Compliance with Financial Directives for the year ended 30 June 2005

### Supplementary financial statement

| | 2005 | | | | 2004 | | | |
|---|---|---|---|---|---|---|---|---|
| | Recurrent Appropriation | Expenditure/ Net Claim on Consolidated Fund | Capital Appropriation | Expenditure/ Net Claim on Consolidated Fund | Recurrent Appropriation | Expenditure | Capital Appropriation | Expenditure |
| | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 | $'000 |
| **ORIGINAL BUDGET/ APPROPRIATION EXPENDITURE** | | | | | | | | |
| Appropriation Act | 3,751 | 3,751 | 48 | 48 | 3,456 | 3,456 | 48 | 48 |
| Additional Appropriations | | | | | | | | |
| | 3,751 | 3,751 | 48 | 48 | 3,456 | 3,456 | 48 | 48 |
| **OTHER APPROPRIATIONS/ EXPENDITURE** | | | | | | | | |
| Treasurer's Advance | 250 | 7 | – | – | 50 | 50 | – | – |
| Transfers to another Agency (Section 27 of the Appropriation Act) | 30 | 30 | – | – | – | – | – | – |
| | 280 | 37 | – | – | 50 | 50 | – | – |
| **Total Appropriations/ Expenditure/ Net Claim on Consolidated Fund (includes transfer payments)** | 4,031 | 3,788 | 48 | 48 | 3,506 | 3,506 | 48 | 48 |
| **Amount drawn down against Appropriation** | | 3,788 | | 48 | | 3,506 | | 48 |
| **Liability to Consolidated Fund** | | – | | – | | – | | – |

The Summary of Compliance is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed).

Liability to the Consolidated Fund represents the difference between the "Amount drawn down against Appropriation" and the "Total Expenditure/Net claim on Consolidated Fund".

## JUDICIAL COMMISSION OF NEW SOUTH WALES

**Notes to and forming part of the Financial Statements for the year ended 30 June 2005**

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### (a) Reporting Entity

The Judicial Commission, as a reporting entity, comprises all of the operating activities under its control.

The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

#### (b) Basis of Accounting

The Commission's financial statements are a general purpose financial report which has been prepared on an accruals basis and in accordance with applicable Australian Accounting Standards; other authoritative pronouncements of the Australian Accounting Standards Board (AASB); Urgent Issues Group (UIG) Consensus Views; the requirements of the *Public Finance and Audit Act* and Regulations; and the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer under section 9(2)(n) of the Act.

Where there are inconsistencies between the above requirements, the legislative provisions have prevailed.

In the absence of a specific Accounting Standard, or other authoritative pronouncements of the AASB or UIG Consensus View, the hierarchy of other pronouncements as outlined in AAS 6 "Accounting Policies" is considered.

The financial statements are prepared in accordance with the historical cost convention. All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency. The accounting policies adopted are consistent with those of the previous year.

#### (c) Revenue Recognition

Revenue is recognised when the Commission has control of the good or right to receive, it is probable that the economic benefits will flow to the Commission and the amount of revenue can be measured reliably. Additional comments regarding the accounting policies for the recognition of revenue are discussed below.

(i) Parliamentary Appropriations and Contributions from Other Bodies

Parliamentary appropriations and contributions from other bodies are generally recognised as revenues when the Commission obtains control over the assets comprising the appropriations/ contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

An exception to the above is when appropriations are unspent at year end. In this case, the authority to spend the money lapses and generally the unspent amount must be repaid to the Consolidated Fund in the following financial year. As a result, unspent appropriations are accounted for as liabilities rather than revenue.

(ii) Sale of Goods and Services

Revenue from the sale of goods and services comprises revenue from the provision of products or services, that is, user charges. User charges are recognised as revenue when the Commission obtains control of the assets that result from them.

(iii) Investment Income

Interest revenue is recognised as it accrues.

#### (d) Employee Benefits

(i) Salaries and Wages, Annual Leave, Sick Leave and On-Costs

Liabilities for salaries and wages and annual leave are recognised and measured in respect of employees' services up to the reporting date as the amount unpaid at the reporting date at current pay rates in respect of employees' services up to that date.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

The outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

(ii) Long Service Leave and Superannuation

The Commission's liabilities for long service leave and superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Entity of Employee Benefits and other Liabilities".

Long service leave is measured using the present value method and is based on the remuneration rates at year end for all employees with five or more years of service.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (namely Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (namely State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

## (e) Insurance

The Commission's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for Government agencies. The expense (premium) is determined by the Fund Manager based on past experience.

## (f) Accounting for the Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except where:

- the amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or as part of an item of expense
- receivables and payables are stated with the amount of GST included.

## (g) Acquisitions of Assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Commission. Cost is determined as the fair value of the assets given as consideration plus the costs incidental to the acquisition.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition.

Fair value means the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an at arm's length transaction.

## (h) Plant and Equipment

Physical assets, including computers and ancillary equipment, which form part of an overall system, network or office module are capitalised at cost.

## (i) Depreciation of Non-Current Physical Assets

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the entity. The Commission has three classes of depreciable assets; Computer Equipment, Office Furniture, and Office Equipment. The depreciable rates applicable to these depreciable assets are 33.3%, 7.5% and 10% respectively. Plant and equipment with a value of $1,000 and above is capitalised except where items form part of an overall unit and are valued at below threshold level.

## (j) Financial Instruments

Financial instruments give rise to both a financial asset of one entity and a financial liability or equity instrument of another entity. For the Commission, financial instruments range from cash at bank, accounts receivable, and accounts payable.

In accordance with AAS33 "Presentation and Disclosure of Financial Instruments", information

## JUDICIAL COMMISSION OF NEW SOUTH WALES

**Notes to and forming part of the Financial Statements for the year ended 30 June 2005**

is disclosed in Note 20 in respect of the credit risk and interest rate risk of financial instruments. All such amounts are carried in the accounts at net fair value unless otherwise stated.

### (k) Maintenance and Repairs

The costs of maintenance are charged as expenses as incurred, except where they relate to the replacement of a component of an asset, in which case the costs are capitalised and depreciated.

### (l) Leased Assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risk and benefits.

Operating lease payments are charged to the Statement of Financial Performance in the periods in which they are incurred.

### (m) Receivables

Receivables are recognised and carried at cost, based on the original invoice amount less a provision for any uncollectable debts. An estimate for doubtful debts is made when collection of the full amount is no longer probable. Bad debts are written off as incurred.

### (n) Payables

These amounts represent liabilities for goods and services provided to the Commission and other amounts, including interest. Interest is accrued over the period it becomes due.

### (o) Budgeted Amounts

The budgeted amounts are drawn from the budgets as formulated at the beginning of the financial year and with any adjustments for the effects of additional appropriations, s 21A, s 24 and/or s 26 of the *Public Finance and Audit Act 1983*.

The budgeted amounts in the Statement of Financial Performance and the Statement of Cash Flows are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the Statement of Financial Position, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on carried forward actual amounts, that is, per the audited financial statements (rather than carried forward estimates).

### (p) Transition to Australian Equivalents to International Financial Reporting Standards (AEIFRS)

The Judicial Commission will apply the Australian Equivalents to International Financial Reporting Standards (AEIFRS) from 2005–2006.

The Judicial Commission has determined the key areas where changes in accounting policies are likely to impact the financial report. Some of these impacts arise because AEIFRS requirements are different from existing AASB requirements (AGAAP). Other impacts are likely to arise from options in AEIFRS. To ensure consistency at the whole of government level, NSW Treasury has advised agencies of options it is likely to mandate for the NSW Public Sector. The Judicial Commission does not anticipate any material impact on its cash flows. However, the impact is uncertain, because it depends on when this standard is finalised and whether it can be adopted in 2005–2006.

Based on current information, the following key differences in accounting policies are expected to arise from adopting AEIFRS.

AASB 119 Employee Benefits requires present value measurement for all long-term employee benefits. Current AGAAP provides that wages, salaries, annual leave and sick leave are measured at nominal value in all circumstances. The effect on 2004–2005 balances, if applied, would have been to vary the opening and closing balances by $1,427 and $1,274 respectively which are immaterial.

AASB 138 Intangible Assets reclassifies all computer software not integral to related hardware as intangible assets rather than property, plant and equipment as previously. The effect on 2004–2005 balances would have been to vary the property, plant and equipment and accumulated deprecation on property, plant and equipment balances by $85,360 and $78,145 respectively.

## JUDICIAL COMMISSION OF NEW SOUTH WALES

**Notes to and forming part of the Financial Statements for the year ended 30 June 2005**

| | | 2005 $'000 | 2004 $'000 |
|---|---|---|---|
| **2.** | **EXPENSES** | | |
| (a) | Employee related expenses comprise the following specific items: | | |
| | Salaries and wages (including recreation leave) | 2,483 | 2,390 |
| | Superannuation | 202 | 195 |
| | Long service leave | 122 | 111 |
| | Workers' compensation insurance | 15 | 14 |
| | Payroll tax and fringe benefit tax | 179 | 173 |
| | | 3,001 | 2,883 |
| (b) | Other operating expenses | | |
| | Operating lease rental expense — minimum lease payments | 394 | 394 |
| | Fees for services | 324 | 308 |
| | Printing | 69 | 72 |
| | Stores and equipment | 35 | 35 |
| | Member fees | 102 | 102 |
| | Books and periodicals | 46 | 43 |
| | Postal and telephone | 39 | 42 |
| | Training | 18 | 13 |
| | Travel expenses | 20 | 11 |
| | Data communications | 10 | 17 |
| | Electricity | 11 | 11 |
| | Insurance | 10 | 11 |
| | Auditor's remuneration — audit of the financial report | 16 | 16 |
| | Recruitment | 3 | 2 |
| | Other | 15 | 21 |
| | | 1,112 | 1,098 |
| (c) | Depreciation | | |
| | Computer equipment | 84 | 102 |
| | Office furniture | 12 | 12 |
| | Office equipment | 12 | 12 |
| | | 108 | 126 |
| (d) | Other expenses | | |
| | Conduct Division | 7 | – |
| | | 7 | – |

## JUDICIAL COMMISSION OF NEW SOUTH WALES

**Notes to and forming part of the Financial Statements for the year ended 30 June 2005**

| | | 2005 $'000 | 2004 $'000 |
|---|---|---|---|
| **3.** | **REVENUES** | | |
| (a) | Sale of goods and services | | |
| | Sale of goods | 18 | 30 |
| | Rendering of services | 127 | 170 |
| | | 145 | 200 |
| (b) | Investment income | | |
| | Interest | 9 | 4 |
| | | 9 | 4 |
| (c) | Other revenue | 2 | 8 |
| **4.** | **APPROPRIATIONS** | | |
| | **Recurrent appropriations** | | |
| | Total recurrent drawdowns from Treasury (per Summary of Compliance and Statement of Financial Performance) | 3,788 | 3,506 |
| | **Capital appropriations** | | |
| | Total capital drawdowns from Treasury (per Summary of Compliance and Statement of Financial Performance) | 48 | 48 |
| **5.** | **ACCEPTANCE BY THE CROWN ENTITY OF EMPLOYEE BENEFITS AND OTHER LIABILITIES** | | |
| | The following liabilities and/or expenses have been assumed by the Crown Entity or other government agencies: | | |
| | Superannuation | 202 | 195 |
| | Long service leave | 122 | 111 |
| | Payroll tax | 12 | 12 |
| | | 336 | 318 |

**6. PROGRAMS/ACTIVITIES OF THE JUDICIAL COMMISSION**

The Judicial Commission of New South Wales comprises only one program which is Program Number 20 Judicial Commission of New South Wales

Objectives: To monitor sentencing consistency, provide judicial education and training, and examine complaints against judicial officers.

## JUDICIAL COMMISSION OF NEW SOUTH WALES

**Notes to and forming part of the Financial Statements for the year ended 30 June 2005**

| | | 2005 $'000 | 2004 $'000 |
|---|---|---|---|
| **7.** | **CURRENT ASSETS — CASH** | | |
| | Cash at bank and on hand | 202 | 93 |
| | | 202 | 93 |

For the purpose of the Statement of Cash Flows, cash includes cash on hand and cash at bank. Cash assets recognised in the Statement of Financial Position are reconciled to cash at the end of the financial year as shown in the Statement of Cash Flows as follows:

| | | |
|---|---|---|
| Cash (per Statement of Financial Position) | 202 | 93 |
| **Closing Cash and Cash Equivalents (per Statement of Cash Flows)** | 202 | 93 |

| | | | |
|---|---|---|---|
| **8.** | **CURRENT ASSETS — RECEIVABLES** | | |
| | Sale of goods and services | 2 | 30 |
| | Other receivables including GST | 31 | 22 |
| | Interest receivable | 4 | 1 |
| | | 37 | 53 |

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts which are known to be uncollectable are written off. A provision for doubtful debts is raised when some doubt as to collection exists. The credit risk is the carrying amount (net of any provision for doubtful debts). No interest is earned on trade debtors. The carrying amount approximates fair value.

| | | | |
|---|---|---|---|
| **9.** | **CURRENT ASSETS — OTHER** | | |
| | Prepayments | | |
| | Rent | 35 | – |
| | SWRE Licence Renewal | 10 | 7 |
| | Books & subscriptions | 11 | – |
| | Miscellaneous | 16 | 16 |
| | | 72 | 23 |

## JUDICIAL COMMISSION OF NEW SOUTH WALES

**Notes to and forming part of the Financial Statements for the year ended 30 June 2005**

| | | 2005 $'000 | 2004 $'000 |
|---|---|---|---|
| **10.** | **NON-CURRENT ASSETS — PLANT AND EQUIPMENT** | | |
| | At fair value | 1,331 | 1,347 |
| | | 1,331 | 1,347 |
| | Accumulated depreciation | 1,123 | 1,079 |
| | | 1,123 | 1,079 |
| | Written down value as at 30 June | 208 | 268 |

Management considers the written down value to approximate market value as at 30 June 2005. The Commission continues to derive service potential and economic benefits from the following fully depreciated assets: Computer Equipment — 108 items, Office Equipment — 30 items and Office Furniture — 39 items.

**Reconciliation**

Reconciliation of the carrying amounts of plant and equipment at the beginning and end of the current and previous financial year are set out below.

| | | |
|---|---|---|
| Carrying amount at start of year | 268 | 346 |
| Additions | 48 | 48 |
| Disposals | – | – |
| Depreciation | 108 | 126 |
| Carrying amount at end of year | 208 | 268 |

| | | | |
|---|---|---|---|
| **11.** | **CURRENT LIABILITIES — PAYABLES** | | |
| | Sundry creditors | 21 | 15 |
| | Accrued salaries, wages and on-costs | 91 | 87 |
| | | 112 | 102 |
| **12.** | **CURRENT LIABILITIES — PROVISIONS** | | |
| | **Employee benefits and related on-costs** | | |
| | Recreation leave | 176 | 167 |
| | Related on-costs | 20 | 19 |
| | | 196 | 186 |

## JUDICIAL COMMISSION OF NEW SOUTH WALES

**Notes to and forming part of the Financial Statements for the year ended 30 June 2005**

| | | 2005 $'000 | 2004 $'000 |
|---|---|---|---|
| **13.** | **NON-CURRENT LIABILITIES — PROVISIONS** | | |
| | **Employee benefits and related on-costs** | | |
| | Recreation leave | 47 | 52 |
| | Related on-costs | 77 | 71 |
| | | 124 | 123 |
| | **Aggregate employee benefits and related on-costs** | | |
| | Provisions — current | 196 | 186 |
| | Provisions — non-current | 124 | 123 |
| | Accrued salaries, wages and on-costs (Note 11) | 91 | 87 |
| | | 411 | 396 |
| **14.** | **CURRENT LIABILITIES — OTHER** | | |
| | User charges received in advance | 7 | 34 |
| | | 7 | 34 |
| **15.** | **CHANGES IN EQUITY** | | |
| | **Accumulated Funds** | | |
| | Balance at the beginning of the financial year | (8) | 32 |
| | Surplus (Deficit) for the year | 88 | (40) |
| | Balance at the end of the financial year | 80 | (8) |
| **16.** | **COMMITMENTS FOR EXPENDITURE** | | |
| | Commitments in relation to non-cancellable operating leases are payable as follows: | | |
| | Not later than one year | 441 | 428 |
| | Later than one year and not later than five years | 1,688 | 1,678 |
| | Later than five years | 139 | 559 |
| | Total (including GST) | 2,268 | 2,665 |

These operating lease commitments are not recognised in the financial statements as liabilities. Operating lease commitments relate to rent of the Commission's office and motor vehicles. $206,000 is contained within the aggregate lease commitments being the recoverable GST on these leases.

## JUDICIAL COMMISSION OF NEW SOUTH WALES

**Notes to and forming part of the Financial Statements for the year ended 30 June 2005**

### 17. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The Commission has no contingent liabilities or contingent assets as at 30 June 2005.

### 18. BUDGET REVIEW

**Net Cost of Services**

Actual net cost of services was below budget by $94,000. Total expenses were below budget by $25,000 while total retained revenues exceeded budget by $69,000. Savings of $41,000 were realised in other operating expenses. Treasury provided supplementation of $37,000 to cover the cost of an award increase of $30,000 and $7,000 for an inquiry by a Conduct Division which began in the latter part of the financial year.

**Assets and Liabilities**

The net increase in assets was mainly the result of an increase in cash held at bank together with an increase in prepayments.

**Cash Flows**

Net cash flows from operating activities increased against budget forecast. The increase arose due to a reduction in employee related outlays and a minor increase in recurrent allocation by NSW Treasury.

### 19. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET COST OF SERVICES

| | 2005 $'000 | 2004 $'000 |
|---|---|---|
| Net cash used from operating activities | 157 | 84 |
| Cash flows from Government | (3,962) | (3,678) |
| Acceptance by the Crown Entity of employee benefits and other liabilities | (210) | (194) |
| Depreciation | (108) | (126) |
| Decrease/(increase) in provisions | (11) | (10) |
| Increase/(decrease) in prepayments and other assets | 33 | (39) |
| Decrease/(increase) in creditors | 17 | 51 |
| **Net cost of services** | (4,084) | (3,912) |

## 20. FINANCIAL INSTRUMENTS

### (i) Interest Rate Risk

Interest rate risk is the risk that the value of the financial instrument will fluctuate due to changes in market interest rates. The Commission's exposure to interest rate risks and the effective interest rates of financial assets and liabilities at 30 June 2005 are as follows:

| | 2005 | | | | 2004 | | | |
|---|---|---|---|---|---|---|---|---|
| | **Floating interest rate** | **Non-interest bearing** | **Total carrying amount as per Statement of Financial Position** | **Weighted average effective interest rate** | **Floating interest rate** | **Non-interest bearing** | **Total carrying amount as per Statement of Financial Position** | **Weighted average effective interest rate** |
| | $'000 | $'000 | $'000 | %* | $'000 | $'000 | $'000 | %* |
| **(i) Financial Assets** | | | | | | | | |
| Cash | 202 | – | 202 | 4.33 | 93 | – | 93 | 4.25 |
| Receivables | 4 | 105 | 109 | – | 1 | 75 | 76 | – |
| **Total financial assets** | 206 | 105 | 311 | 4.33 | 94 | 75 | 169 | 4.25 |
| **(ii) Financial Liabilities** | | | | | | | | |
| Accounts payable | – | 119 | 119 | – | – | 136 | 136 | – |
| **Total financial liabilities** | – | 119 | 119 | – | – | 136 | 136 | – |

* The weighted average effective interest rate was calculated by averaging the monthly interest rates utilised by Treasury to calculate the interest payable on the positive balance of the Commission's operating account at the Westpac Bank.

### (ii) Credit Risk

Credit risk is the risk of financial loss arising from another party to a contract/or financial position failing to discharge a financial obligation thereunder. The entity's maximum exposure to credit risk is represented by the carrying amounts of the financial assets. The Commission does not have any significant exposure to any individual debtor.

## JUDICIAL COMMISSION OF NEW SOUTH WALES

**Notes to and forming part of the Financial Statements for the year ended 30 June 2005**

### 21. JOINT PROGRAMS WITH AIJA

During the reporting period, the Commission in conjunction with the Australian Institute of Judicial Administration continued to operate joint bank accounts within the government's financial framework. Treasury authorised this arrangement and a summary of the financial activities of this joint account is detailed below.

| | 2005 $'000 | 2004 $'000 |
|---|---|---|
| **Account 1** | | |
| **Opening Balance 1 July** | **58** | **97** |
| **Income** | | |
| Seminar fees | – | 78 |
| Interest received | 2 | 4 |
| **Total Income** | 2 | 82 |
| **Expenses** | | |
| Salaries and overtime | – | 3 |
| Fees for services | 43 | 1 |
| Accommodation expenses | – | 116 |
| Miscellaneous expenses | – | 1 |
| **Total Expenses** | 43 | 121 |
| **Closing Balance 30 June** | **17** | **58** |
| **Account 2** | | |
| **Opening Balance 1 July** | **33** | **56** |
| **Income** | | |
| Miscellaneous revenue | – | – |
| Interest received | – | 2 |
| **Total Income** | – | 2 |
| **Expenses** | | |
| Employee related | 14 | 13 |
| Travel | – | 2 |
| Fees — conference | 3 | 9 |
| Fees for services | 1 | 1 |
| **Total Expenses** | 18 | 25 |
| **Closing Balance 30 June** | **15** | **33** |

The balance of funds in these accounts will be applied principally to the production of an educational DVD for newly appointed judicial officers and an Aboriginal Cultural Awareness Program.

End of Audited Financial Statements

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# Appendix 1 — Complaints Handling Process

## Definition of judicial officer

A "judicial officer" under the *Judicial Officers Act* 1986 means a:

- judge or associate judge of the Supreme Court
- member (including a judicial member) of the Industrial Relations Commission
- judge of the Land and Environment Court
- judge of the District Court
- magistrate, or
- the president of the Administrative Decisions Tribunal.

The definition of "judicial officer" does not include arbitrators, registrars, chamber magistrates or legal representatives.

The Commission has no power to examine complaints against federal judicial officers or a person who is no longer a judicial officer.

## Making a complaint

A complaint may be made to the Commission by any person or may be referred to the Commission by the Attorney General. The *Judicial Officers Act* 1986 requires that a complaint is in writing and that it identifies the complainant and the judicial officer concerned. The *Judicial Officers Regulation* 2000 requires that the particulars of a complaint are verified by statutory declaration and that the complaint is lodged with the Chief Executive of the Commission.

If a person cannot write, he or she may visit the Commission and help will be provided to put the complaint in writing. If translation assistance from another language to English is required, the Commission will make arrangements for translation through the Translating and Interpreting Service.

The Commission publishes an information guide to assist members of the public to understand the Commission's complaints function. The Commission also has a standard form for lodging complaints which is available in hard copy or to download from our website.

## Investigating a complaint

On receiving a complaint, the Commission conducts a preliminary investigation into the matter. In every case, the judicial officer is advised of the fact that a complaint has been made and provided with a copy of the documentation.

The preliminary examination of all complaints must be undertaken by Commission Members at a properly constituted meeting of the Commission. The quorum for a meeting is seven Members, of whom at least one must be an Appointed Member. The Commission cannot delegate the preliminary examination of a complaint except to a committee, which must consist entirely of Members and include at least one Appointed Member.

The Commission conducts a thorough investigation of every complaint received, which often involves an examination of transcripts, sound recordings, judgments and other relevant material. If necessary, a response to the complaint is sought from the judicial officer.

Following its preliminary examination, the Commission must:

- summarily dismiss the complaint
- classify the complaint as minor, or
- classify the complaint as serious.

## Summary dismissal

When a complaint is summarily dismissed, it must be on one or more of a number of grounds under the Act. These grounds include where the Commission is of the opinion that there was a satisfactory means of redress available for dealing with the complaint, for example, where there is a right of appeal. The Commission is also required to summarily dismiss a complaint if the person complained about is no longer a judicial officer or where the matter is trivial, frivolous, vexatious or not in good faith. There are also other grounds for summary dismissal of complaints.

## Classification: minor or serious

If a complaint is not dismissed by the Commission following the preliminary examination, it must be classified as either minor or serious.

The criterion for classifying a complaint as serious is that the grounds of complaint, if substantiated, could justify parliamentary consideration of the removal of the judicial officer complained about from office. Any other undismissed complaint is defined by the Act as minor.

In this way, the *Judicial Officers Act* draws a fundamental distinction between complaints about matters which could justify parliamentary consideration of the removal from office of a judicial officer, and other

complaints. This statutory classification can sometimes give rise to misunderstandings, because complainants often regard matters as serious even if the complaint could not, viewed objectively, be considered as justifying parliamentary consideration of the removal of a judicial officer.

Where the complaint is classified as minor it may be referred either to the appropriate head of jurisdiction or to the Conduct Division. If the complaint is classified as serious it must be referred to the Conduct Division.

## Outcome of a complaint

If a complaint is summarily dismissed by the Commission following its preliminary examination, both the complainant and judicial officer are advised in writing of this decision.

If the complaint is classified and referred to a Conduct Division for investigation, the Conduct Division is statutorily obliged to prepare a report of its findings. In relation to minor complaints, a Conduct Division reports on the matter to the Judicial Commission. Where the complaint is classified as serious, the report, setting out the Division's conclusions, is made to the Governor. In instances where a serious complaint has been wholly or partly substantiated and a Conduct Division is of the view that the matter may justify parliamentary consideration of the removal of the judge or magistrate from office, the Attorney General is required to lay the report before both Houses of Parliament.

The end result of a successful serious complaint against a judicial officer would be removal from office by the Governor on an address of both Houses of Parliament on the ground of proved misbehaviour or incapacity.

## The Commission's role

The Commission's function, including the function of the Conduct Division, is to investigate a complaint, not to discipline a judicial officer. There is no power in the Commission or the Conduct Division, or the head of jurisdiction, to impose any form of punishment on a judicial officer. The Commission is not a disciplinary body and has not been invested with such powers. It cannot punish a judicial officer by imposing fines, demotions or similar penalties.

## The Conduct Division's role

The function of a Conduct Division of the Commission is to examine and deal with a particular complaint that has been referred to it by the Commission. The Conduct Division, when established, comprises a panel of three judicial officers, or two judicial officers and a retired judicial officer, who have the authority to undertake an investigation into a complaint against a judicial officer and who may convene a hearing in connection with such an investigation. The hearing of minor complaints is conducted privately whilst those relating to serious complaints are convened in public, although there is a discretionary power to conduct proceedings or part of a hearing in relation to a serious complaint in private.

The ultimate power of a Conduct Division in relation to a serious complaint is to make a report to the Governor, setting out its findings as to whether the complaint that has been investigated is wholly or partly substantiated, and whether it could justify parliamentary consideration of the removal of the judicial officer from office.

# Appendix 2 — Continuing Judicial Education Policy

## Guiding principles

Pursuant to s 9(1) of the *Judicial Officers Act* 1986 the Judicial Commission may organise and supervise an appropriate scheme for the induction, orientation and continuing education and training of judicial officers. The purpose of this scheme is to assist judicial officers in the performance of their duties by:

- enhancing their professional expertise
- facilitating development of their judicial knowledge and skills
- promoting the pursuit of juristic excellence.

## Services

The Commission is sensitive to the need to provide a range of education services to meet the differing needs of each court and individual judicial officers.

The scheme of continuing judicial education should be structured to be of benefit to all judicial officers in each jurisdiction and to address the differing needs of judicial officers throughout the duration of their careers.

Specifically, the education program should apply the Commission's resources in the most effective delivery of services defined by content (law, procedure, management and administration, and judicial skills) and level of application (induction, update, experience exchange, specialisation and refresher).

These services may include:

1. inducting new appointees with comprehensive training and orientation
2. updating all judicial officers on important recent changes in law, procedure and practice
3. producing bench books for each court, with a process for regular updating
4. publishing the *Judicial Officers' Bulletin* on a regular basis to inform judicial officers of current law and to promote the consideration of important judicial issues
5. promoting the development of an improved scheme for indexing and accessing important judgments
6. facilitating continuing judicial education through the exchange of experience and discussion of topical issues, assisting meetings and discussion groups, and publishing articles and other papers
7. providing refresher services to meet the needs of judicial officers
8. providing special education services to meet the needs of isolated judicial officers both in the suburbs and country, and on circuit/rotation; specifically relating to improved access to legal information
9. promoting the supply of computer support facilities and supplying appropriate training
10. providing an extended range of education services for the assistance of judicial officers, including interdisciplinary and extra-legal courses, where appropriate. The delivery of this scheme should integrate conference, publication and computer support services, in order to facilitate the access to and the use of education services in an effective and convenient manner for judicial officers
11. promoting and conducting the research and development of educational practices to enhance the effectiveness of continuing judicial education.

## Roles and responsibilities

The Judicial Commission has ultimate responsibility to define its policy and strategies in relation to the provision of the above-mentioned services and to determine the direction and the priority of all activity undertaken in the name of the Commission.

The Standing Advisory Committee on Judicial Education (which comprises the chairpersons of the Education Committees of each of the State's courts, or their representatives) has responsibility to advise the Commission on matters of continuing judicial education, to implement Commission policy and strategy and, where appropriate and as requested, to co-ordinate the activities of the respective Education Committees of each court.

The Education Committees of each court, subject to the head of jurisdiction, shall have responsibility to develop and manage the program of educational activities conducted by each court.

The staff of the Commission have the responsibility to advise and assist each of the above bodies, and to act on their instruction to administer and implement the continuing judicial education program.

## Evaluation

The Commission will evaluate the effectiveness of its program of continuing judicial education activities in order to:

- ensure that it provides useful assistance and benefits to judicial officers in the performance of judicial duties
- provide feedback to presenters to ensure their sessions meet the needs of judicial officers.

# Appendix 3 — Committees

## Education Committees

Education Committees have been established in each court and meet on a regular basis to discuss:

- content and design of judicial education programs
- evaluation results of judicial education programs
- recommendations for change.

The Standing Advisory Committee on Judicial Education consists of representatives from each of the courts' Education Committees. It advises the Commission on matters of continuing judicial education, implements Commission policy and strategy, and, where appropriate, co-ordinates the activities of the Education Committees.

The Education Director, Ms Ruth Windeler, convenes Education Committee meetings and provides professional input to the committees.

### Standing Advisory Committee on Judicial Education

- The Honourable Justice Ipp (Chair)
- The Honourable Justice Schmidt
- The Honourable Mr Justice Lloyd
- His Honour Judge Phegan
- Her Honour Deputy Chief Magistrate Syme
- Ms R Windeler

### Supreme Court Education Committee

- The Honourable Justice Giles
- The Honourable Justice Santow OAM
- The Honourable Justice Ipp (Chair)
- The Honourable Mr Justice Studdert
- The Honourable Justice Kirby
- The Honourable Justice Bell
- The Honourable Justice Gzell
- Master McLaughlin
- Ms M Greenwood, Chief Executive Officer, Supreme Court
- Ms R Windeler

### Industrial Relations Commission Education Committee

- The Honourable Justice Wright
- The Honourable Justice Walton
- The Honourable Justice Schmidt (Chair)
- Commissioner P J Connor
- Commissioner J McLeay
- Mr M Grimson, Industrial Registrar
- Ms R Windeler

### Land and Environment Court Education Committee

- The Honourable Mr Justice Lloyd (Chair)
- Commissioner T Bly
- Ms S Dixon, Registrar, Land and Environment Court
- Ms R Windeler

### District Court Education Committee

- His Honour Judge Knight (Chair)
- Her Honour Judge Karpin (until February 2005)
- His Honour Judge Geraghty
- Her Honour Judge Murrell SC
- His Honour Judge Phegan
- His Honour Judge Puckeridge QC (from March 2005)
- His Honour Judge Goldring
- His Honour Judge Delaney (until February 2005)
- His Honour Judge Williams (from March 2005)
- His Honour Judge Norrish QC
- Her Honour Judge Gibson
- His Honour Judge Nicholson SC
- Mr C Smith, Principal Courts Registrar
- Ms R Windeler

### Local Courts Education Committee

- Her Honour Deputy Chief Magistrate Syme (Chair)
- His Honour Acting Senior Children's Magistrate Mitchell
- His Honour Magistrate MacPherson
- His Honour Magistrate Heilpern
- His Honour Magistrate Prowse
- His Honour Magistrate Zdenkowski
- His Honour Magistrate Hunt (until June 2005)
- Ms R Windeler

### Joint Steering Committee with the AIJA — Aboriginal Cultural Awareness Program

- The Honourable Justice Bell (Chair)
- His Honour Judge Norrish QC
- His Honour Judge Dive
- Federal Magistrate S Scarlett RFD
- His Honour Magistrate Dick
- Mr E Schmatt PSM
- Ms R Windeler
- Ms J Selfe
- Mr S Jarrett
- Mr B Thomas (until September 2004)

## Bench Book Committees

The day-to-day work of revising the content of bench books is delegated to individual Bench Book Committees, acting on behalf of the Commission.

### Criminal Trial Courts Bench Book Committee

- The Honourable Mr Justice Sully (Chairman) (until June 2005)
- The Honourable Justice Howie (Chair) (from June 2005)
- The Honourable Justice Johnson (from June 2005)
- The Honourable Acting Justice Smart
- The Honourable Acting Justice Davidson (until February 2005)
- His Honour Judge Berman SC (from May 2005)
- The Honourable Kenneth Carruthers QC
- The Honourable Greg James QC

### Local Courts Bench Book Committee

- Her Honour Deputy Chief Magistrate Syme
- His Honour Magistrate Barnett

# Appendix 4 — Working with Other Organisations

Commission staff participate in a number of committees and steering groups in connection with the Commission's role. Details of their involvements are:

**Mr Ernest Schmatt PSM, Chief Executive**

- Advisory Committee to the Commonwealth Judicial Education Institute, Halifax, Canada
- Asia Pacific Judicial Educators Forum (Executive Member), Manila, Philippines
- Honorary Associate in the Graduate School of Government, University of Sydney
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia
- Sexual Assault Review Committee, Office of the Director of Public Prosecutions
- Standing Committee of Criminal Justice System Chief Executive Officers
- Steering Committee of the Sentencing Project, The Judicial Conference of Australia

**Ms Ruth Windeler, Education Director**

- Quarter Way to Equal Review Taskforce
- Domestic Violence Perpetrator Pilot Advisory Committee
- National Judicial Orientation Program Steering Committee, National Judicial College of Australia
- Child Sexual Assault Jurisdiction Pilot Interagency Project Team
- Continuing Legal Education Association of Australasia (President, until September 2004)

**Mr Ivan Potas, Director, Research and Sentencing**

- Criminal Justice Research Network Committee
- Magistrates Early Referral into Treatment Program (MERIT) Statewide Steering Group Committee
- Senior Officers Committee to the Standing Committee of Criminal Justice System Chief Executive Officers
- Sexual Assault Review Committee, Office of the Director of Public Prosecutions
- Sexuality Related Hate-Crime Monitoring Committee

**Mr Murali Sagi, Director, Information Systems and Strategic Planning**

- Justice Sector Chief Information Officers' Committee
- NSW Government Open Source Forum
- Justice Sector Information Exchange Co-ordinating Committee

**Mr Hugh Donnelly, Manager, Research and Sentencing**

- Criminal Justice Sexual Offences Taskforce, Criminal Law Review Division, Attorney General's Department

**Ms Georgia Brignell, Senior Research Officer/Ms Rowena Johns, Principal Research Officer (Legal)**

- Apprehended Violence Legal Issues Co-ordinating Committee, Criminal Law Review Division, Attorney General's Department

# Appendix 5 — Annual Conference Education Topics

### Children's issues

- Attachment, bonding and contact … What does it all mean?
- Kariong Juvenile Correctional Centre
- Shaken baby syndrome: Diagnosis and controversies
- The contents of background reports
- The Youth Drug and Alcohol Court — Criteria for referral
- "Traps for young players in the care jurisdiction"

### Civil law

- Equity issues: Civil penalty proceedings
- Equity issues: Dishonesty and unconscionable conduct in commercial life — some reflections on accessory liability and knowing receipt
- Justice Michael Kirby's Echo Chamber
- Recurring themes
- Uniform Civil Rules
- Universal terms in contract

### Criminal law

- Criminal law update
- Recent developments in criminal trials
- Traffic offenders and the Local Courts

### Custodial options

- Alternatives to full-time custodial sentences
- How the pieces fit together: The NSW custodial correctional system for women
- Parole — A guide for learners
- Pre-trial diversion of offenders programme

### Environmental issues

- Climate change: Risks, responsibilities and legislation

### Evidence

- Expert evidence (including court experts and concurrent evidence)
- Forensic document examination
- Problems in evidence
- The *Evidence Act*, s 138
- The role of the *Evidence Act* in limiting harassing, intimidating or offensive questions during cross-examination.

### Family law

- Family law and care (including exercises)
- Family law update for magistrates

### Indigenous issues

- Aboriginal English
- Aboriginal traditional fishing
- Issues involved in the sentencing of Aboriginal offenders
- Life experience of local Aboriginal elders and representatives
- Perspectives of the Shoalhaven Community Justice Centre's programs
- Sydney Harbour cruise on the Deerubbun
- Treatment needs of Aborigines/Indigenous people
- Visit to Bomaderry Homes

### Industrial relations

- Forms of employment
- How does the insolvency of an employer affect a claim for unfair dismissal?
- Industry Panel group meetings
- Parental leave research
- Regional Panel group meetings
- The new workers compensation regime

### Judicial skills

- Alternative dispute resolution
- Assessing the credibility of witnesses
- Bias, pre-judgment and disqualification in the Local Court
- Complaints against judicial officers
- Costs
- Court craft
- Dealing with difficult litigants
- Dealing with unrepresented litigants
- Development of principles and guideline judgments
- Judgment writing
- Judicial conduct in and out of court
- Judicial stress
- Litigants in person
- Managing the hearing: On site and in the courtroom
- Pre-hearing processes: Filing to commencement of hearing

- Should judges mediate?
- Understanding and managing the difficult litigant
- Using computers as a research and management tool

### Life skills

- Lifestyle issues — exercise and yoga
- Lifestyle issues — psychological and physical health, and time management
- Maintaining health and balance in judicial working life
- Presentation skills

### Local Court

- NSW Police in car video project demonstration
- The licensing jurisdiction

### Other

- Open Forum with the Attorney General
- Constitutional change in the UK Justice System

### Sentencing

- A follow-up to the PCA guideline judgment
- Bail
- Between bail and sentence
- Criminal practice and procedure: sentencing developments in 2004
- Sentencing
- Sentencing in the Children's Court
- S 12 *Crimes (Sentencing Procedure) Act* — Bonds — Recent developments
- Sentencing mentally ill offenders
- Therapeutic jurisprudence

### Social issues

- Current issues in drugs
- Interpreters and ethnicity
- Perspectives from Australia's first medically supervised injecting centre
- Substance abuse: Alcohol
- Substance abuse: Drugs

### Sexual assault

- The psychology of and how to deal with sex offenders
- Concerns regarding the types of questions being asked of vulnerable witnesses, including child witnesses and complainants in sexual offence proceedings.

## Appendix 6 — Articles Published by the Commission

- The Honourable Alan Abadee RFD QC, "Abolishing prison sentences of six months or less" (2005) 17(2) JOB 9
- Mark Allerton, "Young people in NSW juvenile justice custody" (2004) 16(7) JOB 49
- Lloyd Babb, "Sexual assault retrials — New legislative procedures" (2005) 17(5) JOB 35
- Magistrate Joan Baptie, "The effect of the provision of victim impact statements on sentencing in the Local Courts of New South Wales" (2004) 7(1) TJR 73
- Justice Virginia Bell, "Judicial officers' visit to Walgett" (2004) 16(9) JOB 65
- Justice RO Blanch AM, "Judicial visit to China" (2005) 17(3) JOB 20
- Professor Peter Cane, "On the division of law-making labour" (2005) 7(2) TJR 211
- Nicholas Cowdery AM QC, "Wrongful conviction and double jeopardy" (2005) 17(4) JOB 27
- The Honourable Bob Debus MP, "Response to Sentencing Council's report" (2005) 17(2) JOB 12
- Magistrate Doug Dick, "Circle sentencing of Aboriginal offenders: Victims have a say" (2004) 7(1) TJR 57
- Professor Mick Dodson AM, "Indigenous family violence clearing house" (2004) 16(9) JOB 72
- Hugh Donnelly and Ivan Potas, "*Way's* case confirms individualised justice" (2004) 16(6) JOB 41
- Superintendent Clarrie Dries, "Yetta Dhinnakkal complex at Brewarrina" (2004) 16(9) JOB 70
- Martin Flynn, "*Fernando* and the sentencing of indigenous offenders" (2004) 16(9) JOB 67
- Chief Justice Murray Gleeson AC, "The High Court of Australia: Challenges for its new century" (2004) 7(1) TJR 1
- Andrew Haesler SC, "Sexual assault update — How the prudent judge can avoid error" (2005) 17(5) JOB 37
- Justice Rod Howie, "Criminal law update 2004" (2004) 7(1) TJR 89
- Justice Rod Howie, "Relevance of voluntary intoxication to criminal liability" (2004) 16(8) JOB 57

- Justice Michael Kirby AC CMG, "The Supreme Court of NSW: Tradition and diversity" (2004) 7(1) TJR 31
- Justice Michael Kirby AC CMG, "Book review: Litigation — Past and present" (2005) 7(2) TJR 233
- Dr Grant Lester, "Vexatious litigants" (2005) 17(3) JOB 17
- Sir Anthony Mason AC KBE, "The Role of the Judge (review of monograph)" (2004) 16(10) JOB 77
- Justice Keith Mason AC, "What is wrong with top-down legal reasoning?" (2004) 7(1) TJR 9
- Justice Keith Mason AC, "Impartial, informed and independent" (2005) 7(2) TJR 121
- Master John McLaughlin, "A brief history of legal aid in NSW' (2004) 16(7) JOB 52
- Judge Neil Milson, "Therapeutic jurisprudence in the Drug Court" (2004) 16(11) JOB 85
- Dr Sandra Nehlep, "A glance at the far side: A comparative analysis of the role and powers of judges in German and English criminal trials" (2005) 7(2) TJR 181
- Judge John Nicholson SC, "Cruising on the tribal warrior" (2004) 16(11) JOB 88
- Professor James C Raymond, "The architecture of argument" (2004) 7(1) TJR 39
- Judge Margaret Sidis, "Civil law update" (2005) 7(2) TJR 151
- Chief Justice Spigelman AC, "A new way to sentence for serious crime" (2005) 17(1) JOB 1
- Lord Walker of Gestingthorpe, "Sentence first, verdict afterwards: Constitutional change in the United Kingdom justice system" (2005) 7(2) TJR 133

TJR — *The Judicial Review*

JOB — *Judicial Officers Bulletin*

## Appendix 7 — Publication List

### Research monographs

1 The use of custodial sentences and alternatives to custody by New South Wales magistrates, 1990 (available only as a photocopy)

2 Community service orders: Views of organisers in New South Wales, 1991

3 Community service orders and periodic detention as sentencing options: A survey of judicial officers in New South Wales, 1991

4 Sentencing juvenile offenders and the *Sentencing Act* 1989 (NSW): The impact of legislative and administrative changes in the Children's Court 1982–1990, 1991

5 A critical review of periodic detention in New South Wales, 1992

6 Sentencing drug offenders: Analysis of sentences imposed in the higher courts of New South Wales, 25 September 1989–31 December 1991, 1992

7 "Special Circumstances" under the *Sentencing Act* 1989 (NSW), 1993

8 Alcohol as a sentencing factor: A survey of attitudes of judicial officers, 1994

9 Sentence Indication Hearings Pilot Scheme, 1994

10 Sentenced homicides in New South Wales 1990–1993, 1995

11 The evidence of children, 1995

12 Judicial views about pre-sentence reports, 1995

13 The *Sentencing Act* 1989 and its effect on the size of the prison population, 1996

14 Magistrates' attitudes to drink-driving, drug-driving and speeding, 1997

15 Child sexual assault, 1997

16 Sentencing disparity and the gender of juvenile offenders, 1997

17 Sentencing disparity and the ethnicity of juvenile offenders, 1998

18 Periodic detention revisited, 1998

19 Sentencing drug offenders: Analysis of sentences imposed in the higher courts of New South Wales, 1 January 1992–31 December 1997, 1999

20 Apprehended Violence Orders: A survey of magistrates, 1999

21 Sentencing dangerous drivers in New South Wales: Impact of the Jurisic guidelines on sentencing practice, 2002

22 Circle sentencing in New South Wales: A review and evaluation, 2003

23 Sentenced homicides in New South Wales 1994–2001, 2004

24 MERIT — A survey of magistrates, 2004

25 Sentencing offenders convicted of child sexual assault, 2004

26 The nexus between sentencing and rehabilitation in the Children's Court of NSW, 2005

27 Crown appeals against sentence, 2005

### Sentencing Trends and Issues

1 The Children's Court, March 1991
2 The impact of truth in sentencing: Part 1, The higher courts, March 1992
3 The impact of truth in sentencing: Part 2, The Local Courts, June 1992
4 Sentencing in the Court of Criminal Appeal, February 1993
5 Common offences in the Local Courts, March 1994
6 Common offences in the higher courts, July 1994
7 Sentencing homicide: The effect of legislative changes on the penalty for murder, June 1994
8 From murder to manslaughter: Partial defences in New South Wales, 1900 to 1993
9 Common offences in the Children's Court, May 1995
10 Sentencing drink driver offenders, June 1995
11 "Sentenced to the rising of the court", January 1996
12 The use of recognizances, May 1996
13 Sentencing deception offenders Part 1, The Local Courts, June 1996
14 Sentencing deception offenders Part 2, The higher courts, October 1996
15 Driving causing death: Section 52A of the *Crimes Act* 1900, May 1997
16 An overview of sentence and conviction appeals in the New South Wales Court of Criminal Appeal, March 1998
17 Kidnapping — Section 90A *Crimes Act* 1900 (NSW), July 1998
18 Common offences in the higher courts 1990–1997, August 1998
19 Sentencing offenders in the Local Courts — Effects of the *Criminal Procedure (Indictable Offenders) Act* 1995, February 2000
20 Sentencing female offenders in NSW, May 2000
21 Protective custody and hardship in prison, February 2001
22 Conviction and sentencing appeals in the NSW Court of Criminal Appeal 1996–2000, February 2002
23 Sentencing mentally disordered offenders: The causal link, September 2002
24 Bail: An examination of contemporary issues, November 2002
25 Sentencing methodology: Two-tiered or instinctive synthesis?, December 2002
26 Sentencing trends for armed robbery and robbery in company: The impact of the guideline in *R v Henry*, February 2003
27 Sentencing drink-driving offenders in the NSW Local Court, March 2003
28 Common offences in the Local Courts 2002, September 2003
29 Suspended sentences in New South Wales, November 2003
30 Common offences and the use of imprisonment in the District and Supreme Courts in 2002, March 2004
31 The use and limitations of sentencing statistics, December 2004
32 Pre-sentence custody and other constraints on liberty, May 2005
33 Successful completion rates for supervised sentencing options, June 2005
34 Trends in the use of s 12 suspended sentences, June 2005

### Education Titles

- Fragile Bastion: Judicial independence in the nineties and beyond, Education Monograph 1, 1997
- A Matter of Judgment: Judicial decision-making and judgment writing, Education Monograph 2, 2003
- The Role of the Judge, Education Monograph 3, 2004
- Disabilities Information, 2004
- Judicial Officers' Bulletin (Vols 1–16)
- The Judicial Review (Vols 1–6)

### Bench Books

- Civil Trials — Judicial essays and working papers
- Compensation Court Bench Book
- Criminal Trial Courts Bench Book
- District Court Judges' Civil Guidelines
- Industrial Relations Commission Bench Book
- Land and Environment Court Bench Book
- Local Courts Bench Book

### Brochures

- Complaints against judicial officers
- Format for remarks on sentencing
- Judicial Commission of New South Wales
- Judicial Information Research System
- Judicial Information Research System: An invitation to subscribe
- Presentation Pointers: Getting started and getting through your presentation
- Pro Bono Schemes in NSW
- The Judicial Review

### DVDs

- The Role of the Judge

# Appendix 8 — Visitors to the Commission

In 2004–05 the Commission received a number of visits from judicial officers and other distinguished visitors from both interstate and overseas seeking to benefit from our experience. The visitors and delegations received demonstrations of JIRS, tours of the Commission's facilities and an explanation of the Commission's functions and activities. Many of the visitors to the Commission were particularly interested in discussing our education programs, JIRS and the complaints function. Full details of visitors and delegations to the Commission in 2004–05 are set out below.

## Visitors

- The Honourable Rick Barker, Minister for Courts and Associate Minister for Justice, New Zealand (9 July 2004)
- Mr Prum Sokha, Secretary of State, Ministry of the Interior, Kingdom of Cambodia (9 August 2004)
- Mr Roland Rich, Director, Centre for Democratic Institutions, Canberra, ACT (24 September 2004)
- Mr David Wong, Solicitor, Malaysia (4 November 2004)
- Mr Chris Sidoti, Director, International Service For Human Rights, Geneva (19 November 2004)
- His Honour Judge Takasugi Masaki, Assistant Judge of the Chiba District and Family Court of Japan (22 November 2004)
- Mr Peter Webb, Secretary-General, Law Council of Australia, Canberra (13 December 2004)
- Mr Stephen Southwood, QC, President, Law Council of Australia, Canberra (13 December 2004)
- Dr Helen Jarvis, Advisor, Secretariat of the Task Force on the Khmer Rouge Trials, Office of the Council of Ministers, Royal Government of Cambodia (17 December 2004)
- Mr John North, President, Law Council of Australia (11 March 2005)
- The Honourable Justice R M Webster, Chief Justice of the Kingdom of Tonga and Mrs Temaleti Pahulu, the Chief Registrar (14 April 2005)
- Ms Susan Walker, MLA, Shadow Attorney General, Parliament of Western Australia (15 April 2005)

## Delegations

- 5 member delegation of officials from the National Judges College of the Supreme People's Court of China (10 & 11 August 2004)
- A delegation from the Supreme People's Court of Vietnam headed by the Chief Justice of Vietnam, His Excellency Dr Nguyen Van Hien (3 September 2004)
- 24 member delegation of judges from the Shandong Provincial High Court, Shandong Municipal Court and the Shandong Judge Training College, China (6 September 2004)
- 10 member delegation of judges and officials organised by the Supreme People's Court, Beijing. The delegation was led by Mr Wang Yunsheng, Chief Editor, *People's Court Daily* of the Supreme People's Court. The judges were from the High People's Court and the Intermediate People's Court (7 September 2004)
- A delegation from the Supreme People's Procuracy of Vietnam led by Dr Khuat Van Nga, Deputy Procurator General of the Supreme People's Procuracy (24 September 2004)
- 3 member delegation from the Republic of Korea led by His Honour Judge Seung-Han Lee of the Supreme Court of Korea and Deputy Director General for Litigation Affairs (22 October 2004)
- 19 member delegation of lawyers from Indonesia. The visit was arranged by the Castan Centre for Human Rights Law, Monash University (19 November 2004)
- 13 member delegation of prosecutors from Tianjin Province, People's Republic of China (7 December 2004)
- 9 member delegation of judges from the High People's Court of Guangdong Province, People's Republic of China (16 December 2004)
- 10 member delegation of senior officials led by the Ministry of Justice, People's Republic of China (7 March 2005)
- Members of the Legal, Constitutional and Administrative Review Committee of the Queensland Parliament (29 April 2005)

## Appendix 9 — Overseas Visits

- In July 2004, the Commission's Chief Executive, Ernest Schmatt, visited Phnom Penh as a member of a needs assessment mission to the Royal School for Judges and Prosecutors. The purpose of the mission was to consider ways of building the capacity of the staff and trainers of the School to undertake their roles more effectively and to examine the options to provide training assistance to the School. The visit was organised by Australian Legal Resources International and funded by AusAID.
- In July 2004, Mr Murali Sagi undertook a consultancy mission to Cambodia at the request of United Nations Development Program Cambodia. The aim of this assignment was to comprehensively review the production of the Official Gazette and judicial decisions, and recommend ways in which information and communication technologies can be applied to ensure their publication, availability and wider dissemination in paper and electronic formats. All costs were met by UNDP.
- In March 2005, the Commission's Chief Executive, Ernest Schmatt, attended the Third Biennial Meeting of Commonwealth Judicial Educators conducted by the Commonwealth Judicial Education Institute in Delhi and Bhopal, India. Mr Schmatt attended the meeting in his capacity as a member of the Advisory Board of the Commonwealth Judicial Education Institute. The meeting provided an opportunity to exchange information about developments across the various jurisdictions and to create linkages with other Commonwealth judicial educators.

## Appendix 10 — Exchange of Information

The Commission actively seeks to exchange information with other government agencies, academic institutions and individuals. Since its establishment, the Commission has built strong links with similar organisations in other countries in order to share knowledge and experience, particularly in the areas of judicial education and criminological research. This has proved to be a most valuable network and, as a result, the Commission now holds a wealth of information concerning these subjects.

In 2004–05, the Commission had discussions and exchanged information with the following organisations:

### Australian

- Aboriginal Justice Advisory Council
- Administrative Decisions Tribunal
- Attorney General's Department (Cth)
- Attorney General's Department (NSW)
- Australian Agency for International Development
- Australian Bureau of Statistics
- Australian Institute of Criminology
- Australian Institute of Judicial Administration
- Australian Law Reform Commission
- Australian Legal Resources International
- Australian National University
- Bar Association of New South Wales
- Bureau of Crime Statistics and Research
- Centre for Democratic Institutions (ACT)
- College of Law
- Commonwealth Director of Public Prosecutions
- Community Relations Commission
- Continuing Legal Education Association of Australasia
- Council of Australasian Tribunals
- Criminal Law Review Division, Attorney General's Department
- Department of Aboriginal Affairs
- Department of Corrective Services
- Department of Commerce, Office of the Government Chief Information Officer
- Department of Justice and Attorney General (Queensland)
- Department of Juvenile Justice
- Domestic Violence Advocacy Service
- Federal Court of Australia
- High Court of Australia
- International Development Law Organisation
- Independent Commission Against Corruption
- Institute of Criminology, University of Sydney
- Judicial College of Victoria
- Judicial Conference of Australia
- Law and Justice Foundation of New South Wales
- Law Institute of Victoria
- Law Society of New South Wales
- Legal Aid Commission
- Leo Cussen Institute (Vic)
- Monash University Law School (Vic)
- Motor Accidents Authority
- National Judicial College of Australia
- New South Wales Law Reform Commission
- New South Wales Police Service
- New South Wales Sentencing Council

- Office of the Director of Public Prosecutions (NSW)
- Ombudsman's Office of New South Wales
- Parliamentary Counsel's Office
- Premier's Department (NSW)
- Public Defenders Office (NSW)
- Roads and Traffic Authority
- University of Melbourne Law School (Vic)
- University of New South Wales Faculty of Law
- University of Newcastle Faculty of Law
- University of Sydney Faculty of Law
- University of Technology, Sydney
- University of Wollongong Faculty of Law
- Victoria University of Technology
- Workers Compensation Commission

### International

- American Judicature Society
- Asia Pacific Judicial Educators Forum, Manila
- Canadian Association of Provincial Court Judges
- Commonwealth Judicial Education Institute, Halifax, Canada
- Commonwealth Magistrates' and Judges' Association, United Kingdom
- Court of Appeal, Malaysia
- Court of Appeal for Ontario, Canada
- High Court of Delhi, New Delhi, India
- High Court of Zambia
- Institute of Judicial Studies, New Zealand
- International Association of Women Judges
- Judicial Education Reference, Information and Technical Transfer (JERITT) Project, Michigan, USA
- Judicial Studies Board, London
- Justice College, Republic of South Africa
- Michigan Judicial Institute, United States of America
- National Center for State Courts, Virginia, United States of America
- National Association of State Judicial Educators, Michigan, United States of America
- National Judicial Academy, Bhopal, India
- National Judicial Institute, Canada
- National and Supreme Courts of Papua New Guinea
- Philippines Judicial Academy, Manila
- Research and Development Center, Supreme Court of Indonesia
- New Zealand Law Society
- Supreme Court of Canada
- Supreme Court of Indonesia
- Supreme Court, Republic of Ghana
- Supreme People's Court, Beijing, China
- University of Windsor, Canada

## Appendix 11 — Papers on the Commission

Staff are invited to present papers on the Commission's work at a number of conferences and meetings. Details of these presentations are set out below:

- "The Judicial Commission of New South Wales." Paper given by Mr E Schmatt at the Master Builders Association Arbitrators Annual Conference, Brighton-le-Sands, 18 August 2004.
- "The Commission's Use of Open Source Technology." Presentation by Mr M Sagi at the Australian Information Industry Association — NSW Government Solutions Symposium, Sydney, 2 September 2004.
- "Using Computers as a Research and Management Tool." Presentation by Mr E Schmatt and Ms J Blunt at the National Judicial Orientation Program, Sydney, 19 October 2004.
- "The Role of the Judicial Commission of New South Wales and its Work in Promoting Consistency of Approach to Sentencing." Presentation by Mr I Potas for law students from Sydney University, Sydney, 20 October 2004.
- "The Role and Function of the Judicial Commission of New South Wales." Paper given by Mr E Schmatt at the Aboriginal Inter-Agency Meeting, Sydney, 7 December 2004.
- "The Judicial Commission of New South Wales and its Role in Relation to Sentencing." Paper given by Mr E Schmatt at the China–Australia Human Rights Technical Co-operation Program, Sydney, 7 March 2005.
- "Sentencing Options in New South Wales Courts." Paper given by Mr I Potas at the China–Australia Human Rights Technical Co-operation Program, Sydney, 7 March 2005.
- "Continuing Judicial Education in New South Wales." Paper presented by Mr E Schmatt at the Third Biennial Meeting of Commonwealth Judicial Educators, National Judicial Academy of India, Bhopal, India, 17 March 2005.
- "Complaints Against Judicial Officers." Paper delivered by Mr E Schmatt at the Industrial Relations Commission of New South Wales Annual Conference, Sutton Forest, 28 April 2005.
- "Presentation Skills." Presentation by Ms R Windeler with His Honour Judge Dive at the Industrial Relations Commission Annual Conference, Sutton Forest, 29 April 2005.

# Appendix 12 — Freedom of Information

As an "agency" under the *Freedom of Information Act* 1989, the Commission is required to publish particular information and to determine requests for access to, or amendment of, information that it holds.

The Commission published its Summary of Affairs and Statement of Affairs on 31 December 2004 and 24 June 2005.

## Categories of documents held by the Commission

Official documents of the Commission are stored in files that are held on the Commission's premises. These files fall into the following principal categories:

- *Administration* — These files cover aspects of the Commission's internal administration, including budget and finance matters, correspondence and accommodation. Education, research and computer related files are also held within the administration group.
- *Staff matters* — These files relate to recruitment, staff training, staff personnel files and salaries.
- *Contracts and tendering* — The Judicial Information Research System has given rise to a number of documents, many of which still contain commercially sensitive material.
- *Commission matters* — Minutes, agendas and business papers relating to meetings convened by and held at the Commission.
- *Complaints* — Files and documents relating to complaints against judicial officers.

The Commission's files are generally not available for inspection and documents in relation to complaints are subject to secrecy provisions and are thereby classed as exempt documents.

## Access to documents published by the Commission

The following documents are available for inspection and purchase from the Commission's Freedom of Information Co-ordinator:

- the Commission's Summary of Affairs
- the Commission's Statement of Affairs
- the Commission's Annual Report.

## Access to documents for the purpose of alteration

The Commission holds no personal records of any member of the public. No arrangements exist for the public to change any documents held by the Commission. Staff (including former staff) do not need to use Freedom of Information to access their personnel files.

## Freedom of Information Report

Name of Agency
Judicial Commission of New South Wales

Period from
1 July 2004–30 June 2005

Agency reference number
1640

Contact person
Mr Mario Devjak, Administrative Officer

## Applications and other details

In 2004–05 the Commission received no applications under the FOI Act for access to documents compared with one application in 2003–04 and nil applications in 2002–03, 2001–02 and 2000–01.

During the reporting period:

- no Ministerial Certificates were issued
- no requests required formal consultations
- no requests were received for the amendment or notation of personal records
- there were no reviews or appeals
- the administration of FOI activities did not have any significant impact on the Commission's activities.

## Glossary

**Appointed Member** — A non-judicial member of the Judicial Commission. See also Official Member.

**AIJA** — Australian Institute of Judicial Administration.

**Bench Books** — Reference books for judicial officers.

**Complaint** — A complaint against a judicial officer about ability or behaviour, either made by a member of the public or referred to the Commission by the Attorney General.

**Conduct Division** — A special panel that examines a particular complaint referred to it by the Commission.

**Education Day** — Calculated on the basis of 5 to 6 instructional hours attended by a judicial officer.

**Help Desk** — A telephone service for judicial officers that provides assistance with all aspects of computer usage.

**JIRS** — see Judicial Information Research System.

**Judicial Commission** —
1. An independent statutory organisation established by the *Judicial Officers Act* 1986.
2. The Appointed Members and Official Members, collectively.

**Judicial Information Research System (JIRS)** — An online legal reference tool for judicial officers, relevant government organisations and members of the legal profession.

**Judicial Officer** — As defined in the *Judicial Officers Act* 1986:

- a judge or associate judge of the Supreme Court of NSW
- a member of the Industrial Relations Commission of NSW
- a judge of the Land and Environment Court of NSW
- a judge of the District Court of NSW
- the president of the Administrative Decisions Tribunal
- a magistrate.

The definition of judicial officer does not include retired judicial officers, federal judicial officers, registrars, chamber magistrates, arbitrators or legal practitioners.

**Official Member** — A judicial member of the Judicial Commission.

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