



The Australian Institute of

Judicial Administration Incorporated

# AIJA NEWS

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Newsletter of the Australian Institute of Judicial Administration Inc

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## New AIJA contact details

The AIJA is now located in its new premises, part of Monash Law Chambers, in the former Equity Trustees Building in Bourke Street, Melbourne (next door to the Law Institute).

Our new contact details are:

**AIJA**

**1st Floor, 472 Bourke St  
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### PATRON

The Hon Justice A M Gleeson AC, Chief Justice of Australia

### COUNCIL

#### *President*

The Hon Justice Peter Underwood AO, Supreme Court of Tasmania

#### *Deputy Presidents*

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Mr Laurie Glanfield AM, Director-General, NSW Attorney-General's Department

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The Hon Justice Virginia Bell, Supreme Court of New South Wales

Dr Andrew Cannon, Deputy Chief Magistrate, South Australia

Her Honour Judge Jennifer Coate, President, Melbourne Children's Court

Mr Richard Coates, Chief Executive Officer, Department of Justice, Northern Territory

Ms Anne Coghlan, Deputy President, Anti Discrimination List, Victorian Civil and Administrative Tribunal

Mr Robert Cornall, Secretary, Commonwealth Attorney-General's Department

Mr Bill Cossey, State Courts Administrator, South Australia

The Hon Justice Linda Dessau, Family Court of Australia

Ms Megan Greenwood, Acting Chief Executive Officer, Supreme Court of New South Wales

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Professor Marcia Neave AO, Chairperson, Victorian Law Reform Commission

The Hon Justice Robert Nicholson AO, Federal Court of Australia

The Hon Justice Stephen O'Ryan, Family Court of Australia

Professor Stephen Parker, Dean of Law, Monash University

Mr Andrew Phelan, General Manager, Corporate Services, Family Court of Australia

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Mr Richard Refshauge SC, Director of Public Prosecutions, ACT

Mr Stephen Skehill, Special Counsel, Mallesons Stephen Jaques

Mr Maurie Stack OAM, Partner, Stacks, Taree

The Hon Justice Christopher Steytler, Supreme Court of Western Australia

The Hon Justice Sally Thomas AM, Supreme Court of the Northern Territory

Ms Amada Watt, Partner, Minter Ellison, Victoria

His Honour Judge Terry Worthington, Chief Judge, District Court of South Australia

Her Honour Judge Mary Ann Yeats, District Court of Western Australia



*Equity Trustees Building, 472 Bourke Street, Melbourne (photograph courtesy J.T. Collins Collection, La Trobe Picture Collection, State Library of Victoria).*

## AIJA CONFERENCE, COURSE AND SEMINAR PROGRAMME 2003

### SCHEDULED:

- 6th AIJA Tribunals Conference, 5-6 June 2003, Sydney
- 21st AIJA Annual Conference, 19-21 September 2003, Fremantle
- 3rd AIJA Magistrates' Conference, 21-22 September 2003, Fremantle
- 3rd Sheriffs' Seminar, 18-19 September 2003, Perth
- Masters' Conference, 19 September 2003, Perth

*If you are a member of the AIJA and your membership is financial, you will automatically receive information about AIJA conferences and seminars as it becomes available. Up-to-date information is also available on the AIJA web site at [www.aija.org.au](http://www.aija.org.au)*

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## Globalization and the Judicial Task - Address launches AIJA/Monash association



The impact of globalization on the work of the judiciary was the theme of a lecture on Friday 21 February 2003 given for the AIJA by The Hon Claire L'Heureux-Dubé, former justice of the Supreme Court of Canada. The lecture was held to mark the Institute's new association with Monash University and took place in the Monash University Law Chambers, Ground Floor, 472 Bourke Street, Melbourne. The AIJA's new premises are situated on the first floor.

Madame L'Heureux Dubé spoke about the increasing interaction and dialogue between the judiciary in different countries. Courts increasingly refer to each other's decisions, pay greater regard to international law and to the social context in which their decisions will apply. She noted that this was apparent not only in the Canadian courts, but also, although perhaps to a lesser extent, in judicial decision-making in Australia.

Developments in electronic communications, particularly the Internet, had greatly facilitated this development. Publication of court judgments on the Internet provided instant access to other courts' jurisprudence. Internet chat networks for the judiciary had been another very effective method of enabling judges to discuss experiences and current issues in the law.

She also noted an increasing trend towards courts having regard to international law, particularly where embodied in international treaties and other instruments, in interpreting domestic law. She expressed strong support for this view and suggested that judges should take steps to make themselves aware of the content of relevant international laws to a greater extent than is currently the case.

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## AIJA Technology for Justice Conference 2002



*Professor Fred Lederer, Courtroom 21 project, addresses the conference*

The 2002 Technology for Justice Conference, held in Sydney on 20-22 October, attracted a record attendance of 394 delegates including judges, magistrates, court administrators, tribunal representatives, representatives from prosecution and investigation agencies, government and policy advisers, academics, law reform organisations and the private legal profession. All Australian jurisdictions were represented.

The conference program included international speakers from Canada, the Netherlands, New Zealand, Norway, Singapore and United States of America. In addition, there were 54 delegates from overseas countries, including Canada, China, Israel, New Zealand, Papua New Guinea, Philippines, Thailand, South Korea and USA.

The conference was the third in a biennial series conducted by the AIJA designed to examine the use of information technology in the Australian justice system and encourage its most efficient and effective use. Its theme was 'Technology: What Can It Do for You?'

Topics included:

- Electronic courts and 'cyber trials'
- Working with the courts online - e-filing, e-callovers
- Standards and XML
- Online resources and uses of the Internet
- Working technology - mature systems
- Information policy and planning
- Case management systems - new developments and projects underway
- Integrated justice systems - lessons learned
- Case studies from particular courts, jurisdictions and countries
- Using technology to assist unrepresented litigants and legal aid

The AIJA would like to thank speakers and participants from all jurisdictions who contributed their time and energy to making this a valuable and interesting conference. AIJA Council will be reviewing the Institute's work in this area as part of a strategic planning exercise this year, and further details will be advised to members.

A record of proceedings of the conference, in the form of a CD-ROM of conference presentations has been supplied to delegates and is available for purchase from the AIJA Secretariat. Conference presentations can also be accessed on the AIJA Website at <http://www.aija.org.au/tech3> - in a variety of formats.

## FOCUS ON CHINA

### Judicial Forum, Beijing

Much of the AIJA's work in recent years has involved increasing contact with courts in the Asia-Pacific region. A particular focus in the last twelve months has been on exchange visits and training opportunities involving the People's Republic of China.



*Chief Magistrate Ron Cahill, responding to the Official Welcome, on behalf of Australian delegates to the Forum*

In July-August 2002, the AIJA participated in a Judicial Forum in Beijing, attended by a delegation of judicial officers from Australia. The invitation from the Chinese authorities followed a number of visits to Australia by delegations of Chinese judges in recent years, including two from the Beijing People's High Court. ACT Chief Magistrate, Ron Cahill, who has been involved in a number of these exchanges, was invited by that court to convene this delegation.

The purpose of the visit was two-fold. Firstly, it was intended to provide an opportunity for a practical comparison of hearing procedures between Chinese and Australian courts. This was focussed around a virtual hearing scenario or mock trial, focussed on a civil case relating to negligence and damages.

discuss that with the Chinese judges, was quite instructive and raised several areas for further discussion.

There was also considerable interest by the Chinese judges in the more adversarial style of Australian procedure, particularly cross-examination and the use of expert witnesses.

The forum was also organised to provide an opportunity to discuss areas of comparative law, including civil procedure. The second day was spent exploring a range of topics, including:

- The promotion of settlement through alternative dispute resolution;
- Improving judicial administration; and
- Dealing with international trade disputes and e-commerce;

The visit was well-received by the Beijing Courts and provided a valuable opportunity for Australian participants to gain an increased understanding of the workings of the Chinese court system.



*Australian and Chinese delegates in discussion on Day 2 of the Forum*

### Training for Chinese procurators

AIJA has also been actively involved in training opportunities for Chinese procurators (a role which encompasses that of prosecutors) over the last year.

AIJA Deputy Executive Director, Anne Wallace, provided two days of training for a group of Chinese procurators attending a course in Sydney last December. The Chinese delegates were visiting Australia to learn the Australian judicial system, the role of prosecutors and criminal law procedure. The group of 12 also had the opportunity to visit courts in Sydney and observe the conduct of a criminal case.

In January this year, Professor Greg Reinhardt met with a delegation from the Zhejiang Procuratorial Association, to discuss court administration and case management. The group, from Hangzhou in Zhejiang Province, were visiting Australia to gain a better understanding of the Australian judicial system, with a particular emphasis on these topics.



*Participants in the 2002 Judicial Orientation Program, with staff and faculty members*

## **2002 Judicial Orientation Program 21-25 October 2002 Sydney**

The annual judicial orientation course is a program for newly-appointed judges that is designed to introduce participants to a number of aspects of the task of judging. It has been conducted as a joint venture between the AIJA and the Judicial Commission of New South Wales and is open to judges from both Australia and neighbouring countries.

An important part of the programme is the opportunity to hear from senior judicial officers in relation to facets of the judicial role.

Last year's course was designed and developed by a Steering Committee convened by Justice David Lloyd of the Land and Environment Court of New South Wales. It was attended by 24 judicial officers including representatives from 11 Australian jurisdictions, Fiji and Kiribati.

Topics covered in the four-day residential program included:

- |   |  |
|---|--|
| <input type="checkbox"/> <i>Courtroom Issues – Judicial Conduct</i>               | <input type="checkbox"/> <i>Time Management</i>                        |
| <input type="checkbox"/> <i>Psychological and Physical Health</i>                 | <input type="checkbox"/> <i>Sentencing</i>                             |
| <input type="checkbox"/> <i>Judgment Writing</i>                                  | <input type="checkbox"/> <i>Assessing the Credibility of Witnesses</i> |
| <input type="checkbox"/> <i>Problems in Evidence</i>                              | <input type="checkbox"/> <i>Court craft</i>                            |
| <input type="checkbox"/> <i>Social Awareness Issues</i>                           | <input type="checkbox"/> <i>Alternative Dispute Resolution</i>         |
| <input type="checkbox"/> <i>Using Computers as a Research and Management Tool</i> |  |

Planning for the 2003 Orientation Course has now commenced. The course will be run jointly by the recently established Judicial College of Australia, the Judicial Commission and the AIJA. The committee will include the Executive Director of the Judicial College, Professor Marlene le Brun.

The course will be held in Sydney on 13-17 October 2003. Inquiries from interested courts can be directed to Ruth Windeler, the Education Director of the Judicial Commission.

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### **JOURNAL OF JUDICIAL ADMINISTRATION**

The Journal of Judicial Administration aims to be the major source in Australia for the publication of high quality material on judicial administration. Published four times a year in association with the Australian Institute of Judicial Administration, the Journal identifies problems and offers solutions in many areas relating to the judicial system.

Recent articles in the February 2003 edition of the Journal (Volume 11 No 3) included:

- Dispute Resolution in India: Judicial Performance and the Rise of Alternatives to Courts, by Andrew Phelan of the Family Court of Australia. The author discusses the failure of Indian courts to meet community expectations or the needs of litigants and outlines some alternatives to courts that have been developed, based on cultural values in Indian society.
- The Reality of Civil Justice Reform: Why We Must Abandon the Essential Elements of Our System, by Justice G L Davies of the Supreme Court of Queensland. This article seeks to explain why a basic tenet of our civil justice system – that the best and fairest way of resolving a dispute is by a contest between competing adversaries – should be abandoned and argues for a radical reassessment of the system in light of its failure to reduce cost and delay.

Edited by Professor Greg Reinhardt, Executive Director of the Australian Institute of Judicial Administration, this Journal answers the need for one source to help keep you current on topical issues in judicial administration.

*For more information or to order your subscription to this essential source of up-to-date information on judicial administration, contact Customer Service at Lawbook Co. on 1800 650 522.*

## What's New in the Library . . .

- The Allen Consulting Group. Business Working Group on the Australian Legal System.** Trends in the Australian Legal System: avoiding a more litigious society
- American Judicature Society.** Annual Report 2001. Chicago
- Association of Australian Magistrates Conference:** The Changing Role of Magistrates Courts. Material from conference held in Adelaide 8-10 June 2002.
- Barnes, Lynne A.; Poletti, Patrizia; Potas, Ivan.** Sentencing Dangerous Drivers in New South Wales : Impact of the Jurisic guidelines on sentencing practice. Sydney: Judicial Commission of NSW. July 2002
- Canadian Judicial Council.** Annual Report 2000-2001
- Cannon, Andrew.** Courts Using Their Own Experts. 2002.
- Conference on Sentencing Options: Alternatives to Imprisonment.** Papers from conference held at the Granville Motel, Port Moresby 1-2 March 2002.
- Conner, Maureen E.** Conducting Impact Evaluation for Judicial Branch Education East Lansing MI: Jeritt. 2002.
- Corns, Chris (Editor)** Reshaping the Judiciary, Annandale, NSW: Federation Press. 2001.
- DIY Law** Crash 'N' Bash: Local courts, Sydney: ABC. 2001 Screened on ABC March 2002. (Video)
- DIY Law** Bad Blood : Residential Tribunal, Sydney: ABC. 2001 Screened on ABC March 2002. (Video)
- DIY Law** Secrets or Lies : Migration Review Tribunal, Sydney: ABC. 2001 Screened on ABC March 2002. (Video)
- DIY Law** Private Lives: Family Court, Sydney: ABC. 2001 Screened on ABC March 2002. (Video)
- Family Court of Australia; Davies, Michael.** A Report on Community Consultations about Self-representing litigants.
- Ferdous, Hasan Shaheed.** Planning for Effective Judicial and Legal Education in Bangladesh: A guide to curriculum development. April 2000.
- Forbes, J.R.S.** Justice in Tribunals. Leichardt, NSW: Federation Press. 2002
- Graycar, Regina; Morgan, Jenny.** The Hidden Gender of Law, Leichardt NSW: Federation Press. 2002.
- Hudzik, John K.** et al; Judicial Branch Education Directory: 2002, East Lansing MI: JERITT.
- Hunter, Rosemary; Genovese, Ann; Chrzanowski, April; Morris, Carolyn.** The Changing Face of Litigation: unrepresented litigants in the Family Court of Australia Sydney: Law and Justice Foundation of New South Wales. August 2002
- Kay, Sally.** Security and Authentication Requirements in the Court Process (Part 1): Issues paper. Sydney: Law Society of NSW 2001.
- Kressel, Neil J.; Kressel, Dorit F.** Stack and Sway: The new science of jury consulting Boulder CO: Westview. 2002.
- Law Reform Commission of Western Australia.** Discussion Paper on Contempt by Publication: Project no.93. Perth: LRCWA. March 2002.
- Law Reform Commission of Western Australia.** Discussion Paper on Judicial Review of Administrative Decisions: options for reform. 2002.
- Law Society of New South Wales.** Self Represented Litigants : Position paper May 2002.
- McKechnie, Dougal; New Zealand. Department for Courts.** The Use of the Internet by Courts and the Judiciary: Findings from a study trip and supplementary research Law Foundation NZ. 2001
- Malcolm, Chief Justice David K.** Launch of the Aboriginal Benchbook for Western Australian Courts. 7p. 30 May 2002.
- New South Wales Law Reform Commission.** Sentencing : Corporate offenders Sydney: NSWLRC. November 2001 Issues paper 20.
- New South Wales Law Reform Commission.** Questioning of Complainants by Unrepresented Accused in Sexual Assault Trials: Issues paper 22, Sydney: NSWLRC. August 2002.
- New South Wales. Parliament. Public Accounts Committee;** Tripodi, Joseph (Chair) Inquiry into Court Waiting Times, June 2002 Report no. 133.
- New Zealand Law Commission.** Protecting Personal Information from Disclosure : A discussion paper. 2002 Preliminary paper
- New Zealand Law Commission.** General Discovery: Report 78 February 2002
- New Zealand Law Commission.** Striking the Balance : Your opportunity to have your say on the New Zealand court system. Wellington: Law Commission. April 2002. Preliminary paper NZLC PP51.
- New Zealand Law Commission.** Protections Some Disadvantaged People May Need. Wellington: NZLRC. April 2002
- New Zealand Law Commission.** Treaty of Waitangi Claims: Addressing the post-settlement phase. Wellington: NZLC. August 2002.
- Queensland. Department of Aboriginal and Torres Strait Islander Policy.** Report on Aboriginal and Torres Strait Islander Justice Workshop for District Court Judges. Brisbane: DATSIP. January 2002
- Roper, Christopher.** An Evaluation of Support Towards the Pacific Regional Judicial Training Programme. January 2002.
- Sallmann, Peter.** The Judicial Conduct and Complaints System in Victoria: a discussion paper. Melbourne: Crown Counsel Victoria. 1 July 2002.
- Schetter, Louis; Mullins, Joanna; Buonamano, Roberto.** Access to Justice and Legal Needs: A project to identify legal needs, pathways and barriers for disadvantaged people in New South Wales. Law and Justice Foundation of NSW. August 2002 Background paper.
- Smith, Anna. New Zealand. Department for Courts. Collections Unit.** Anchoring Change. Wellington: Victoria Link. 2000.
- Society of Ontario Adjudicators and Regulators.** Principles of Administrative Justice: A proposal. Courtice, ONT: SOAR. 25 June 2002.
- Society of Ontario Adjudicators and Regulators; Swaigen, John.** A Manual for Ontario Adjudicators. Courtice Ontario: SOAR. June 2000
- Susskind, Richard.** Transforming the Law : Essays on technology, justice and the legal marketplace. Oxford: OUP. 2000.
- Tillett, Gregory J.** Resolving Conflict : A practical approach South Melbourne, Vic: OUP. 2nd ed. 1999.
- Victorian Law Reform Commission.** Defences to Homicide: issues paper Melbourne: VLRC. March 2002
- Victorian Law Reform Commission.** People with Intellectual Disabilities at Risk: a legal framework for compulsory care. Discussion paper. Melbourne: VLRC. May 2002.
- Yeats, Mary Ann.** Launch of Aboriginal Benchbook for Western Australian Courts. 30 May 2002.

## AIJA MEMBERSHIP

AIJA Membership is open to judges, magistrates, members of tribunals, practitioners, graduates in law or jurisprudence, researchers in law reform and related agencies, court administrators, law librarians, and others with an interest in judicial administration.

In each edition of *AIJA News* we publish a list of our most recent members. This appears below. Members receive free copies of the AIJA **research publications**, *AIJA News*, our *Annual Report* and **advance notice** of AIJA courses, conferences and seminars and **discount registration rates**.

If you are interested in becoming a member of the Institute, or would like further information, please contact the AIJA Secretariat (Tel: (03) 9600 1311 Fax: (03) 9606 0366).

### NEW MEMBERS

*Her Hon Judge Susan Cohen*, County Court of Victoria  
*Mr Chris Hodgekiss*, Barrister, New South Wales  
*Dr Michael King*, Magistrate, Western Australia  
*Ms Jane Moularadellis*, Tribunal member, South Australia  
*The Hon Justice Geoff Nettle*, Supreme Court of Victoria  
*His Hon Judge Colin O'Connor QC*, District Court of New South Wales  
*Ms Deborah Porter*, Court Administrator, Victoria  
*The Hon Justice Trevor Riley*, Supreme Court of the Northern Territory  
*Ms Pamela Schulz*, Senior Public Affairs Manager, South Australia  
*The Hon Justice Bradley Selway*, Federal Court of Australia  
*The Hon Justice Jeffrey Shaw*, Supreme Court of New South Wales  
*Ms Lyn Slade*, Chief Executive, Judicial College of Victoria

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### AIJA Members recognised in Australia Day Honours List

The AIJA congratulates two AIJA members, and former Council members, on their awards in the recent Honours List.

The Hon Trevor Olsson, formerly of the South Australian Supreme Court, was awarded the Officer of the Order of Australia (AO) for service to the judiciary and to the law, particularly through the implementation of administrative advancements within the South Australian court system, to industrial relations, and to the community. Trevor Olsson is a former President of the AIJA.

Former AIJA Council Member, Justice Geoff Davies of the Queensland Court of Appeal was also awarded the Officer of the Order of Australia (AO). Justice Davies' award was in recognition of his service to the judiciary and to the legal profession, particularly in the areas of reform of court procedure and the history of criminal trial procedure.

Former long-standing AIJA member, the Hon Bill Pidgeon, retired from the West Australian Supreme Court bench, also received an AO for service to the judiciary in that State, particularly through the development of guidelines relating to vulnerable witnesses and victim support, and to the community as a contributor to the administration of the Anglican Church in Western Australia.

## 13th Commonwealth Law Conference 2003

Melbourne  
13-17 April 2003

The AIJA is pleased to be associated with this conference which is to take place for the first time for many years in Australia.

It is being held in conjunction with the Law Council of Australia's biennial Australian Legal Convention. Meetings or gatherings of several other groups will also be held in conjunction with the Conference and it is anticipated that this event will attract over 2000 delegates from around the world.

The Committee has arranged a significant number of eminent speakers from around the Commonwealth to present papers to, and participate in, sessions - each of them is a recognised expert in his or her field. They will be joined by a host of senior judges, attorneys-general and academics as well as senior practitioners.

*For further details and registration, visit the Conference website at <http://clc.efirst.com.au/>*

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### Conference: Evaluation in Crime & Justice: Trends and Methods

*ABS House, Canberra 24-25 March 2003*

This conference is being hosted by the Australian Institute of Criminology in conjunction with the Australian Bureau of Statistics.

Its aim is to provide a forum for practitioners, researchers and policymakers to discuss current issues and challenges involved with criminal justice research and evaluation. The conference will include discussion on different research and evaluation methodologies and interpretation of crime and justice statistics, including use of data in the policy environment and the competing demands placed on research in this context.

*For registration and inquiries, contact:*

*Conference Co-ordinators  
PO Box 139  
CALWELL ACT 2905  
Facsimile (02) 6292 9002  
E-mail [confco@austarmetro.com.au](mailto:confco@austarmetro.com.au)*

### Overseas Conferences

A list of overseas conferences likely to be of interest to AIJA members is now published on the AIJA Website at <http://www.ija.org.au/OSHYPE.htm> or contact the AIJA Secretariat on Tel: (03) 9600 1311 or Fax (03) 9606 0366.