

“Queensland Magistrates’ Judicial Development Project”

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1 Introduction

Earlier this year all Queensland Magistrates were circulated with a detailed plan for the *Queensland Magistrates Development Project* (the project). The project is contentious and brings into focus the tension between accountability and judicial independence. The project offers magistrates an opportunity for judicial self-improvement based on their own personal observations, opinions of a trusted mentor, and statistical data from participants in the magistrates court process.

For many magistrates judicial performance evaluation is as fearsome prospect, one hell bent on undermining judicial independence and centuries of legal tradition. Others take a more liberal view and see the potential for performance evaluation as a useful tool for professional self-development. These contrasting views are based on different perceptions of what the concept of judicial performance evaluation may involve.

There is no doubt that a judicial performance evaluation scheme imposed by the executive, reporting to the public, perhaps even offering interstate comparisons and productivity bonuses would be unacceptable to the Australian judiciary. Such an approach would breach the doctrine of separation of powers, begin to undermine judicial independence, and would be vigorously opposed by the judiciary and the legal profession alike – and rightly so. Instances of such an approach have been evident in attempts by remuneration commissions at commonwealth and state levels to introduce performance based salary packaging.

Consider then an alternative approach whereby a voluntary judicial performance evaluation scheme is introduced by magistrates for magistrates. Many of you are perhaps wondering why magistrates should consider participating in such a project? The answer is that magistrates are professionals. They are interested in learning about their strengths and weaknesses as perceived by others. They are interested in continuing judicial education. They are interested in professional self-development.

Another way of looking at the issue is to perceive it as one of maintaining and enhancing competence.

Justice Thomas, now retired, in *Judicial Ethics in Australia*¹ suggests:

Competence is not an ethical issue, but it touches ethics in two ways. First, there is a duty to *attempt* to perform competently, and this probably includes a continuing duty to improve competence in areas **where weakness is detected** [emphasis added]. That may raise some moral obligation to participate in suitable forms of judicial education. Secondly, once a judge realises that he or she is incurably incompetent, there is a duty to resign. The problem is that incompetent judges are nearly always the last to identify their failure.

It is a poor professional who does not investigate their competence, preferring to hide behind unquestioning tradition and conservatism. It is a poor professional who does not seek ways to improve their performance.

¹ Thomas J, *Judicial Ethics in Australia*, 2nd edn LBC Information Services, 1997, 44.

Magistrates cannot undertake performance evaluation in isolation – it is a specialist field, in the sense that appropriate methodologies and statistical designs need to be implemented to have some confidence in the results. It is here that an independent university can assist. Performance evaluation also requires the cooperation of those who would provide the raw data.

The criteria and measures for performance evaluation should be settled between the magistracy and the university. The criteria may include measures relating to the following areas: legal ability, impartiality, independence, integrity, temperament, communication skills, management skills, and settlement skills. The utility of these measures in the Australian context are dealt with in other journal articles by this author.

Information should be compiled from various sources. Not every user of the Magistrates Court has the same perspective. Data sources commonly used overseas include appellate judges, barristers, instructing solicitors, jurors, litigants, court staff, court watchers, and peer review etc – anyone who participates in or observes the process. This is not to say the data sources should be equally weighted or that a magistrate should accept any one perspective as gospel. It is a matter of assessing the compiled information in the context of each individual magistrate. This is best done with the confidential assistance of a trusted mentor.

The question arises as to what use then can be made of the data? There is only one potential use for the results in the Australian context and that is judicial self-improvement. A realistic model would involve a court-annexed programme whereby magistrates voluntarily participate. They would complete a self-evaluation survey dealing with predefined performance criteria, possibly with the assistance of an independent retired magistrate whom they have selected acting as a mentor. An academic would undertake all the surveys and compile a confidential briefing report provided to both the magistrate and their mentor. The briefing report would contain the results of statistical analysis and open-ended comments from survey respondents. The survey respondents will remain anonymous and the academic would ensure this remains the case. Data should be encrypted and the names of magistrates converted on data entry to random three digit codes encrypted and stored separately. Academics are also subject to strict national ethics guidelines when doing such research precluding disclosure of confidential information.

The briefing report should be discussed by the magistrate with their mentor and compared with the magistrate’s self-assessment. An action plan for future development should then be drafted. For example, it may be apparent that a magistrate has a difficulty with communication skills. Litigant reports from various cases may indicate they cannot understand what the magistrate is saying. Barristers may also query the magistrate’s actions. In these circumstances a magistrate would need to consider his or her approach– in particular whether more simplified language may be needed. The mentor magistrate may sit and observe and make helpful comments. There may in fact be a subsequent training course offered by the judicial college or other service provider on this topic.

These are but some of the ways that magistrates can engage in professional development. The remainder of this paper outlines the proposal in more detail.

1.1 Purpose and objectives

The purpose of the project is to investigate the possibility of improving the quality of justice in the Magistrates Court of Queensland by providing individual magistrates with detailed information concerning their performance. The anticipated assessment process, similar to processes in the United States and Canada, will ‘provide a basis for judges to maximize their potential for excellence through self-improvement without jeopardizing judicial integrity and independence.’ (American Bar Association, 1985, 2).

The objectives of the pilot project are to:

- Introduce both the concept and process of judicial self-development whilst preserving judicial independence;
- Investigate the most appropriate process of judicial self-development through performance evaluation in the Queensland context;
- Research alternative models on how performance evaluation might be administered and implemented;
- Examine the relationship between self-development and judicial education;
- Provide the Queensland Magistrates Court with the practical experience to decide whether to adopt an ongoing programme of judicial development; and
- Create a template for other Australian courts to investigate judicial development.

1.2 Project overview

Queensland Magistrates have been invited to participate on a voluntary basis in the pilot project. It is anticipated that at least 20 magistrates will participate in the pilot project, though more are likely to participate.

Information concerning a magistrate’s performance could in theory be gathered from many sources, both objective (quantitative) and subjective (qualitative). There are many people from whom magistrates can gather useful information concerning their performance. It is proposed that the project be limited to the following qualitative information sources:

- (a) Magistrate’s self-assessment statement;
- (b) Lawyers (barristers and solicitors) who have appeared before the participating magistrate in a stated time frame;
- (c) Police and crown prosecutors;
- (d) Witnesses (lay and expert);
- (e) Litigants (including criminal accused)
- (f) Observations by a judicial mentor; and
- (g) Court records.

1.2.1 Criteria and measures

The proposed questionnaires will be based on criteria and measures developed in consultation with the participating magistrates. Core criteria and measures may include the following:

- **Legal ability** (includes legal analysis or reasoning ability; knowledge of the rules of evidence and procedure; ability to explore the strengths and weaknesses of each

party’s case; knowledge of relevant law; factual analysis; and ability to keep up to date);

- **Impartiality** (includes equal treatment of parties; sense of basic fairness and justice; ability to be fair and impartial; ability to make decisions without regard to possible public criticism; freedom from bias (actual or ostensible); and ability to avoid prejudging the case); distinct questions relating to bias associated with gender, age, ethnic background, and social or economic status;
- **Judicial temperament** (includes courtesy; understanding and compassion; patience; ability to control the courtroom; ability to promote public confidence; and dignified demeanour);
- **Diligence** (includes preparation skills; attentiveness to oral argument; prompt disposition of pending interlocutory matters; willingness to work diligently; and reasonable promptness in writing judgments);
- **Communication skills** (includes written clarity, logic, and precision; clarity of oral communications to witnesses; clarity of rulings and other oral communications to counsel);
- **Management skills** (includes whether proceedings are moved in an expeditious and orderly fashion; prompt and decisive rulings; effective application of case management principles; and
- **Settlement skills** (includes ability to facilitate settlement opportunities; encourages settlement negotiations; and promotes negotiation without coercion or threats).

Enclosed with each survey will be a reply-paid envelope addressed to the project advisor together with a reply-paid postcard with the respondent’s name and address pre-printed. A respondent will complete the survey and return it to the project advisor. The respondent will also complete the post-card and return it separately to the project advisor. Respondents who do not return a post-card will be followed up with a reminder letter enclosing a second copy of the survey. The second survey will be encoded to indicate it is a follow up instrument.

The process and administrative arrangements of the pilot programme will guarantee the confidentiality of information concerning individual participating magistrates. The Judicial Development Committee consisting of the Chief Magistrate and two other magistrates will administer the pilot programme. The project advisor will work under the direction of the Judicial Development Committee. The project will have closed office space at the Queensland University of Technology.

1.2.2 Magistrates’ Self-assessment Statement

The purpose of the Magistrates’ Self-assessment Statement is to have the participating magistrates reflect on their strengths and weaknesses. Similar self-assessment questionnaires are used in Alaska, Colorado, Massachusetts, Connecticut, Nova Scotia, and the United Kingdom. The Association of District Judges (UK) Appraisal and Mentor Scheme was modified to include a self-assessment questionnaire after criticism from Sir Leonard Peach who observed:

Most modern schemes put considerable onus on the individual to assess his or her own performance with the manager/tutor helping by confirming or in some cases contradicting the appraisal and agreeing an improvement process or programme, with relevant experience or training.²

Self- assessment is the basis from which the mentoring relationship develops. Magistrates are asked to state what they perceive to be their level of proficiency according to the criteria and measures used by the project. This gives a firm basis for comparison with results derived from the other data sources. The self-assessment statement remains confidential between the mentor and the participating magistrate, except for one question which will be forwarded to the project advisor to be used to calculate an aggregate profile for the court and to evaluate and report back to the assessed magistrate and mentor whether there are any statistically significant differences in the results when compared with all survey results for all participating magistrates on the same criteria and measures.

Aggregate results, not identifying any individual magistrate may be reported in the project report.

The draft Magistrates Self-assessment Statement asks magistrates to consider their abilities according to the criteria and measures stated at 1.2.1. The self-assessment statement also explores other aspects of the participating magistrates’ work including:

- Workload;
- Participation in committees and other court related work;
- Community service work;
- Scholarly works, including books, articles, speeches;
- Health;
- Stress levels;
- Goals for development; and
- Any other factor which impacts on their performance as a magistrate. Examples may include the quality of record keeping, interpersonal conflicts etc

1.2.3 Lawyer questionnaires (including police prosecutors)

There are several strategies, which may be used to select respondents to lawyer questionnaires. What is important is that only lawyers with a direct knowledge of the activities of the participating magistrate respond to the survey instrument. To achieve this it will be necessary to track which barrister, solicitor, or police prosecutor appears before each magistrate through the use of a case summary document compiled from court records.

Having gained an accurate picture of who actually appears before each magistrate, a decision needs to be made as to whether the data will be collected on a hearing specific basis or a reflective basis.

² Peach L, *Independent Scrutiny of the Appointment processes of judges and Queens Counsel*, December 1999 <<http://www.open.gov.uk/led/judicial/peach/indbod.html>> [accessed 3/3/01].

Survey instruments will be sent to the barristers, solicitors, or police prosecutors after the decision of the magistrate is handed down. Data would need to be collected on whether the decision was for or against the party represented to take into account this potential bias. It would not be appropriate to collect the data before the decision is handed down.

A reflective approach involves lawyers being asked to reflect on their experience with the magistrate over a stated time period, usually 12 months. This would require the construction of a master database well beyond the resources of this project.

It is proposed that the case specific approach be adopted.

1.2.4 Witness questionnaires

Witnesses have not been the subject of any significant analysis overseas, though is often mooted as a viable data source. They are a group, which may offer a different perspective on the performance of a magistrate. For recent research touching on some of these issues with respect to expert witnesses, see Freckelton I, Reddy P, Selby H, *Australian Judicial Perspectives on Expert Evidence: An Empirical Study*, Australian Institute of Judicial Administration, Carlton, Victoria, 1999.

1.2.5 Observations by judicial mentors

The Judicial Development Committee will recruit retired magistrates who have appropriate qualities to serve as ‘mentors’ to the participating magistrates. The participating magistrates will be able to select their preferred mentor from the mentor group. Individuals agreeing to join the mentors group will receive training for the task and will meet with the participating magistrates to review the evaluation findings, including the magistrate self-assessment survey, and discuss their implications for judicial self-development. The mentor will be involved with reviewing files and observing the magistrate in action. The magistrate may also be filmed for the purpose of review. Mentors will also provide the project advisor with general recommendations for continuing judicial education. Aggregate not individual recommendations will be passed on to the Chief Magistrate.

1.2.6 Litigants (including criminal accused) questionnaires

Litigants, including self-litigants, can provide data on a case specific basis. Litigants, including self-litigants, will complete a witness questionnaire.

1.3 Project in context

A project of this nature cannot be implemented in isolation from the legitimate interests and concerns of others associated with the justice system in Queensland. The issues and concerns include the larger professional context of this initiative and the related requirements for consultation, the requirements for confidentiality, the voluntary basis of participation, and the issue of maintaining judicial independence.

1.3.1 Judicial independence and separation of powers

This project is designed to:

- Provide experience with the process of performance appraisal to provide systematic feedback to magistrates for judicial self-development; and
- Suggest directions for judicial education.

The project does not interfere with individual decisions taken by magistrates nor have any links to the executive. The project does intend, however, to encourage self-directed improvement in judicial performance, thereby enhancing the quality of justice and improve the administration of the Queensland magistrates.

The project does not provide individual magistrates data to the Chief Magistrate.

1.3.2 Professional development

The success of the project depends on the willingness of Queensland magistrates to accept this strategy for judicial self-development. To date no discussions have been held with any persons or groups who may have an interest in the project and whose cooperation may be required. The only exceptions are the Australian Institute of Judicial Administration and Queensland Magistrates.

Those persons or groups include:

- Police;
- The Attorney-General;
- Director of Public Prosecutions;
- Litigants, defendants, jurors, witnesses, and victims;
- Individual lawyers – barristers and solicitors;
- Queensland Law Society
- Queensland Bar Association;
- Legal Aid; and
- Groups with an interest in the administration of justice, e.g. Victim Support Services.

Each of these persons or groups has an interest in the quality of justice in Queensland and in the potential for this project in judicial development to contribute to the overall performance of the Queensland magistracy.

1.3.3 Consultation

The initial draft proposal has been circulated to Queensland magistrates for the purposes of consultation. The draft proposal was also distributed to the four judges appointed by the Australian Institute of Judicial Administration who have volunteered to assist the project advisor in critiquing the project. The project was discussed at the Queensland Magistrates Conference 2002 by the project advisor and is also raised at this conference for discussion purposes.

The process for determining the final shape of the project may also benefit from wider consultation with other stakeholders. Each of the persons and groups previously identified could contribute to the review. For example, the Judicial Development Committee may conduct an invitation only workshop involving representatives from each stakeholder category. Consultations with participating magistrates, mentors, and the Chief Magistrate will take place before the proposal is finalized.

1.3.4 Confidentiality

The project raises many issues concerning confidentiality. First, participating magistrates must be assured that their individual assessments will not be viewed by

anyone other than the project advisor, and their personal mentor. They will not be identified within any aggregate data, which may be used for the purposes of guiding continuing judicial education. Secondly, the identity of the survey respondents must not be associated with the questionnaire, to remove any fear of reprisal. Thirdly, the data needs to be screened for malicious responses.

Confidentiality for participating Magistrates will be preserved by a research methodology containing the following elements:

- The returned questionnaires will be assigned a confidential code identifying the magistrate before data processing. Both the quantitative and qualitative analysis will be processed using this confidential code known only by the project advisor.
- The entire questionnaire will be shredded after data entry and verification of correct entry.
- Data files will be encrypted and stored on a stand-alone computer not connected to any network, kept in a secure office at the Queensland University of Technology. A further encrypted backup copy will be kept at a separate location.
- The project advisor will prepare the participating magistrates’ briefing document for the magistrate and the magistrate’s mentor. The documents will not be available to the Chief Magistrate or anyone else.
- The hard copy and computer-based copies of the briefing document are not subject to Freedom of Information access.
- All research and briefing documents relevant to individual magistrates will be held within the facilities of the Magistrates Court and the Queensland University of Technology and are not materials under the responsibility or control of any government department or agency.
- Members of the Mentor Group only have access to the briefing documents pertaining to their assigned magistrate and will be asked to sign a confidentiality agreement with respect to that material before undertaking the assignment.

Confidentiality for survey respondents will be preserved by a research methodology, which separates the substantive flow of information from the administrative record of who has received and returned questionnaires. The methodology includes the following elements:

- The survey respondent’s name will not be associated with the returned questionnaire.
- The return of the questionnaire will be noted through a separately mailed ‘return notification’ card received from the survey respondent.
- Limited demographic information will be collected from survey respondents. For example, demographic information for lawyers would include gender, age, type of practice and area of law, experience in years, and the number of appearances before the magistrate. The information will be collected in ranges (e.g. under 30, 31-40, 41-50 etc) to preserve confidentiality. The characteristics used will be screened to eliminate from the analysis any data, which would identify an individual survey respondent. All data will be removed where there are insufficient respondents in a category to preserve confidentiality.
- The project advisor will screen open-ended comments that may identify a particular case and will either eliminate the data or put it in more generic terms. Examples include the length of the case, area or issue of law.

Malicious responses will be dealt with by reviewing both forced choice and open-ended questions. The objective is to identify extreme or idiosyncratic responses. An example would be a respondent who consistently gives a magistrate the lowest possible rating on all criteria and measures. The project advisor will review such responses and either delete the data or amend open-ended comments into a more generic comment or concern.

The project office, being located at the Queensland University of Technology is organizationally separated from the offices of the Queensland Government, Queensland Law Society, and Queensland Bar Association etc to warrant the trust required for the project to succeed.

Survey respondents’ identity and the participating magistrate’s individual data and results will remain anonymous and confidential.

1.3.5 Voluntary participation

Participation in the project will be on a voluntary basis. Magistrates have been invited to express an interest in participating in the project. This proposal is based on the participation of at least 20 magistrates.

Whilst participation is voluntary, the participating magistrates would have to agree to participate in both their individual assessments and contribute to the over-all evaluation of the project. The latter would involve agreeing to complete a programme assessment survey on the over-all effectiveness of or value the magistrate attached to their participation and identification of any flaws in the project. There may also be a debriefing workshop at the conclusion of the project.

Participation of all survey respondents (lawyers, police prosecutors, court staff, and expert witnesses) will also be on a voluntary basis.

2. Strategies for implementation

Implementing the project requires the making of many choices, including:

- Alternative approaches to data gathering;
- Project time frames; and
- Communication strategies.

2.1 Options for evaluation

The central questions concerning evaluation options include:

- Who will do the evaluation?
- What will be the criteria for the evaluation of the judiciary?
- How will the evaluation process establish the presence or absence of the criteria?
- How will the evaluation findings be used?

Evaluations may be done by one’s self, peers, or others. The project adopts all three approaches. Participating magistrates will complete a self-evaluation questionnaire. A mentor (retired peer) will observe the participating magistrate in court and examine

court records. Lawyers (barristers and solicitors), police prosecutors, witnesses and court staff will complete the questionnaires.

The criteria to be used to evaluate participating magistrates are outlined at 1.2.1 and include:

- Legal ability;
- Impartiality;
- Judicial temperament;
- Diligence;
- Communication skills;
- Management skills;
- Settlement skills; and
- Other relevant criteria identified through consultation.

These broad performance criteria and their respective measures were derived from an extensive review of judicial performance evaluation programmes in other jurisdictions conducted by the project advisor for his PhD thesis. This research indicated that the criteria and measures were of a generic nature and equally applicable to Australian jurisdictions as they were to American, Canadian and United Kingdom jurisdictions. Feedback to participating magistrates will be based on assessments from multiple data sources on these criteria and measures.

Judicial performance can be documented through direct observation, process indicators derived from a court judicial information system (e.g. case management data), or volunteered assessment by participants in the judicial process. Direct observation through a court watching is very time consuming and expensive process. This project involves a small amount of direct observation and examination of court files by the mentor. Volunteered assessment by individuals participating in the court process is the main strategy used by this project.

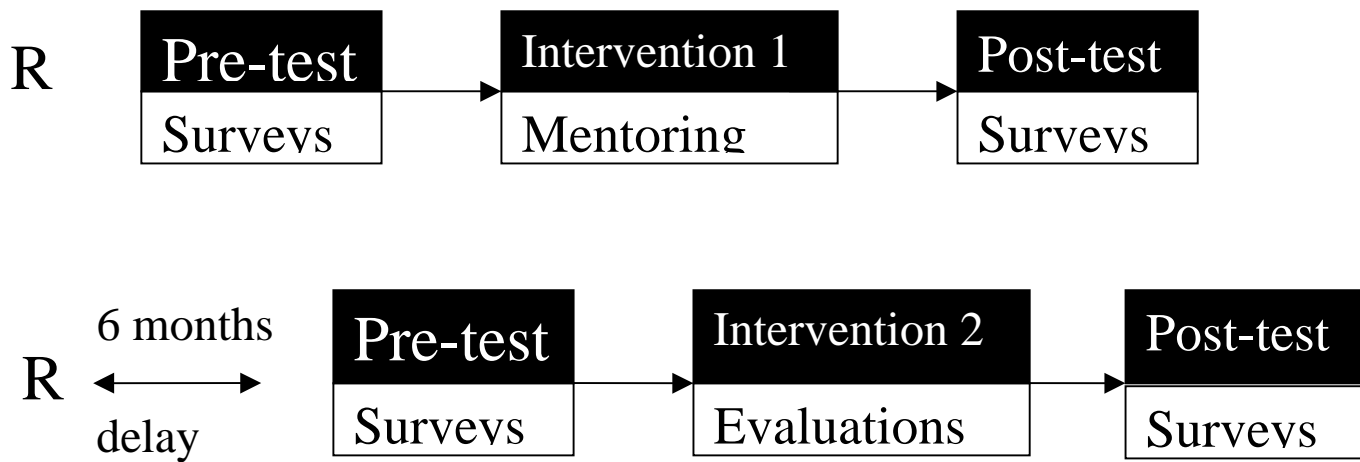
A questionnaire mailed or handed directly to litigants, lawyers, police prosecutors, witnesses has been chosen as the primary means of assessing the criteria and measures. Such an approach complements the magistrate’s self-assessment survey. Alternative methods for gathering volunteered assessments from participants include the use of personal interviews (face-to-face or telephone), focus groups, or an open forum. There are advantages and disadvantages for each approach. A questionnaire is the most economical approach and enables the preservation of confidentiality, which is an essential requirement for this project. Draft survey instruments are available from the author.

Judicial independence has implications for how the findings of this project can be used. On an individual level the findings provide systematic feedback to enable judicial self-improvement strategies to be voluntarily adopted. Information is restricted to the project advisor, judicial mentor, and the participating magistrate. On an aggregate level, information can be used to develop an overall court strategy for the improvement of performance and refinement of judicial education programmes. Aggregate data may be released to all magistrates and in court annual reports. The data is not to be used in any form of disciplinary procedure.

Mentoring and feedback evaluations (in the form of briefing reports of survey results) are two interventions that should affect judicial performance. Both interventions will affect the perceptions that others (survey respondents) have of magistrates because it will affect magistrates’ behaviour.

The experimental design will control for unanticipated external events by engaging in two separate phases of intervention and randomly assigning magistrates to one phase or the other, using those assigned to the second intervention as a waiting list control. Figure 1 depicts the design in visual form. R represents random assignment.

Figure 1 Experimental design



2.2 Time frames

The proposed project time frames are depicted in figure 2.

Figure 2 Time frames

Stage 1 Pre-ARC funding (2002)	Stage 2 (2003-4)	Stage 3 (2005)
<ul style="list-style-type: none"> • Formation of supervising committees • Approval and recruitment of participating magistrates • ARC Linkage grant application 	<ul style="list-style-type: none"> • Start-up • Advertising for APAI PhD student • Ethics approval • Data collection • Analysis and synthesis of findings • Mentor meetings • Utilization of findings 	<ul style="list-style-type: none"> • Assessment of the project • Project report • Submission of the APAI PhD thesis

Stage 1

It is anticipated that 2-4 months will be required to address the pre-ARC funding list of activities, including formation of the development and advisory committees, recruitment and final approval of all participating magistrates.

Stage 2

Start-up will require up to two months. Project activities will include finalising the administrative arrangements necessary to establish the autonomous project office, advertising and appointing the APAI PhD student, and gaining ethics approval for the research. The graphic design of all the survey instruments will be completed. The survey instruments, covering letters, and envelopes will be printed. A meeting with participating magistrates will be arranged to complete the introduction of the project to them and to answer any further questions regarding the project.

Data collection will begin on the commencement of the court year in 2003 and is scheduled for up to a twenty four-month period. Those magistrates randomly selected to receive mentoring and feedback evaluations will commence data collection in early 2003. For those magistrates randomly selected to receive only feedback evaluations, data collection will commence June 2003. The latter group will also receive mentoring at the conclusion of data collection.

Court clerks will need to record the names and addresses of lawyers, police prosecutors, witnesses, and parties who appear before a participating magistrate. This will be known as a case summary document. This information is to be forwarded to the project advisor on a weekly basis. This information will be entered into a database by the project advisor.

The analysis of magistrates will be done on a case specific basis. Presently 15 magistrates have volunteered to participate. It is hoped to increase this number to at least 20 before the project commences. Due to the short nature of many magistrate matters the project advisor suggests collecting data for 50 civil and 50 criminal cases for each magistrate over the intake period. Half will relate to pre-intervention, half to post-intervention phases. The cases should involve substantive contested argument. These can be selected on a random basis and should where possible involve different lawyers. The clerk will record on a case summary document the names of the lawyers etc appearing before the magistrate and fax/email these to the project advisor once a week. The clerk will hand the parties and witnesses from each side a questionnaire, covering letter from the Chief Magistrate explaining the questionnaire, a response card, and a pre-addressed reply paid envelope. There will be one follow up mailing for those who do not respond. Lawyers will be direct mailed by the project advisor. Lawyers who have previously received a case specific survey will not receive more than two case specific surveys for each magistrate during the data intake period. The project advisor will check this before sending a survey instrument. Exceptions may arise for magistrates in districts with few lawyers.

Figure 3 provides an estimate of the possible size of the project in terms of questionnaire distribution. The questionnaires will be divided evenly between pre and post-tests.

Figure 3 Estimated size of the project (24 months data intake)

Magistrates Court Divisions	Total number of magistrates	Lawyers receiving questionnaires (Including barristers, solicitors, police prosecutors) Case specific	Witnesses receiving questionnaires (1 witness each side)	Parties in attendance
Crime	20	20x50x2=2000	20x50x2=2000	20x50x1=1000
Civil	20	20x50x2=2000	20x50x2=2000	20x50x2=2000
Small claims	20			20x50x2=2000
Children	1	50x1x2=100		50x1x2=100
Drug	2	50x2x2=200		50x1x1=50
Family	1	50x1x2=100		50x1x2=100
Coroner	1	50x1x2=100	1x50x2=100	

The project advisor will carry out the **analysis** of the questionnaires. The analysis of the ‘forced choice’ questions on a rating scale will be integrated with additional comments provided by respondents to open-ended questions. The project advisor will produce a briefing document to be used by the judicial mentor and participating magistrate. The project advisor will discuss with the mentor the interpretation of the findings in preparation for the mentor’s meeting with the participating magistrate.

The **utilization of findings** will take two forms. The first use will be in the meeting between the mentor and the participating magistrate. They will consider the findings noted in the briefing report, compare that assessment with the participating magistrate’s self-assessment, and discuss resources and strategies for judicial development that could benefit the magistrate.

Aggregate data from all participating magistrates will be used to assess areas of need in judicial education. Aggregate results of the programme should be forwarded to the proposed judicial college, Australian Institute of Judicial Administration, and the Judicial Conference of Australia to assist these organisations in developing judicial education programmes targeted at identified issues needing action. Individual magistrates will not be identifiable from the aggregate data.

2.3 Project management and accountability

The key individuals and groups participating in the project include:

- The Judicial Development Committee;
- The Judicial Development Project Office administered by the project advisor;
- Judicial mentors;
- Participating Magistrates;
- Participating lawyers who complete questionnaires;
- Participating witnesses who complete questionnaires; and
- The Australian Institute of Judicial Administration.

The Judicial Development Committee is responsible for the overall management of the project. The Committee will recruit the mentors and will invite Magistrates to participate in the project. The Committee will supervise the work of the project advisor. The Committee will never receive individual-level data concerning any magistrate, but will receive aggregate data and a yearly report from the project advisor. The Judicial Development Committee will communicate the nature, purpose and benefits of the project to all stakeholders identified at 1.3.2.

The project advisor will be responsible for setting up and administering the project office. The project advisor is responsible for all data entry, security and confidentiality of data. The project advisor is responsible for administering and implementing the project, including distribution and analysis of questionnaires, preparation of briefing documents to be used by judicial mentors, and training of judicial mentors. The project advisor is accountable to the Judicial Development Committee and may seek advice from the Australian Institute of Judicial Administration advisory panel and other experts.

The project advisor distributes the surveys, collects and analyses the data, except as follows:

- The mentor distributes the judicial self-assessment statement to the participating magistrate. A copy is retained by the mentor and participating magistrate;
- The mentor engages in court watching and analysis of files and procedures;
- A case summary document will be prepared by court staff (Magistrates clerk), and forwarded in batches to the project advisor;
- Parties surveys (and reply paid envelopes addressed to the project advisor) will be handed out by court staff at the conclusion of a case; and
- Witness surveys (and reply paid envelopes addressed to the project advisor) will be handed out by court staff at the conclusion of a witness’s evidence.

The mentor will report to the Judicial Development Committee on the process of their work. The mentor will not discuss nor reveal any information concerning individual magistrates. They will only discuss the substance of their work with the project advisor. Mentors will be responsible for meeting with participating magistrates, discuss the analysis and conclusions of the briefing document prepared by the project advisor, and assist the participating magistrate in preparing a development plan.

The judicial evaluation data and results may not be used for disciplinary procedures.

2.4 International linkages

It is proposed to form linkages with the District Court in the United Kingdom. The purpose is to build upon the designs and methodologies used in that jurisdiction for synergistic advances in related research. The project advisor also has extensive contacts with performance evaluation programme administrators throughout the world.

2.5 Assessment of the project

The project will involve several layers of debriefing. The project advisor will compile the results for each individual magistrate. The mentor will be provided with individual and aggregate results to assist with a confidential debriefing session with the individual magistrate concerned. The Chief Magistrate will be provided with aggregate data.

The mentors will provide a general report on the programme to the Chief Magistrate to pass on to other magistrates and the project advisor. Each participating magistrate will be asked to complete a questionnaire about his or her experience with the project, which will be used as a basis for a workshop at the conclusion of the project. The reflections of these participants, the Judicial Development Committee and project advisor will be published in a final report written by the project advisor to be provided to the Australian Institute of Judicial Administration. The report will not contain references to individual performance data, but will focus instead on the usefulness of the methodology, implementation issues, and a critique of the project.

3. Resources supporting the project

The project will require a project advisor and research assistant. The budget must include replacement salary for the project advisor, salary for the research assistant, and funds to support the materials and supplies necessary for the multiple questionnaires, the purchase of computer software, and costs of the project evaluation.

3.1 Staffing

The project advisor will have to communicate with participating magistrates, lawyers, witnesses, etc who are sent project questionnaires. He or she will need experience in both quantitative and qualitative analysis and a thorough knowledge of survey research. The project advisor will need skills in database management.

Due to the highly sensitive and confidential nature of the project’s information, the project advisor will take personal responsibility for both entering the information into the project’s computer system and the analysis of the data.

3.2 Funding

Revenue:

AIJA Seeding grant (2003)	5000
AIJA Industry partner grant (2003)	5 000
AIJA Industry partner grant (2004)	5 000
AIJA Industry partner grant (2005)	5 000
Queensland Magistrates Court (2003)	2 000
ARC Linkage grant (2003)	balance

4. Conclusion

I hope that magistrates give this proposal some serious thought. For many it will be a challenge to long held ideas and values. The unique insight into how magistrates perform, viewed from the perspective of the many other people involved in the work of the Magistrates Court has a significant benefit for professional development.