



AIJA NEWS

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The Australian Institute of

Judicial Administration Incorporated

Newsletter of the Australian Institute of Judicial Administration Inc

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SA DIVERSION COURTS MANAGER WINS FIRST AIJA AWARD FOR EXCELLENCE IN JUDICIAL ADMINISTRATION

Ms Susan Dismohamed, Program Manager of South Australia's diversion courts program, has won the inaugural AIJA Award for Excellence in Judicial Administration. The biennial award was established last year to mark the 25th anniversary of the Institute and is designed to recognize outstanding achievement in the administration of justice within Australia.

Ms Dismohamed won the award for her leadership and achievements in setting up and running a specialist court and program for offenders with mental health issues. The program ensures that a range of health and other services are made available to individuals who otherwise would be left to continue through the criminal justice system with unsolved individual mental health or impairment problems.

Executive Director of the AIJA, Professor Greg Reinhardt, said the AIJA was extremely pleased with the number of quality nominations it had received in this, the first year, of the awards.



Ms Susan Dismohamed

To recognise that, the AIJA also decided to award two equal commendations. One was awarded to the Family Court of Australia's Aboriginal and Torres Strait Islander Family Consultant Program. The service aims to improve access to justice for indigenous Australians by providing cultural appropriate assistance in resolving family law matters and expert assistance in understanding the needs of indigenous clients.

The other commendation was awarded to the NSW Land and Environment Court On-line service, for innovative use of contemporary technology in the administration of justice. Special mention was made of the court's Registrar, Ms Megan Greenwood and Ms Margot Stowe, Assistant Director, Information Technology Services (Planning) NSW Attorney-General's Department.

The awards were presented at a dinner held to coincide with the last AIJA Council meeting and attended by the recipients. The award to the Family Court was accepted on behalf of the court, by two of the indigenous consultants, Ms Patricia Raymond and Mr Michael Petterson.

WE ARE MOVING!

The AIJA is pleased to announce that from 1 February 2003 it will be moving to premises in central Melbourne, under a new affiliation arrangement with Monash University.

The new arrangement with Monash follows advice given to Council by the University of Melbourne in June this year that it was unable to make any office space available to the AIJA after the expiry of the current affiliation period on 31 January 2003.

The AIJA will occupy part of an area in the former Equity Trustees Building at 472 Bourke St, which is being leased by Monash to provide a new post-graduate teaching centre for the Law Faculty. The Dean of the Law Faculty, Professor Stephen Parker, extended the invitation to the Institute on the basis that it would provide mutual benefits in terms of research opportunities, project activity, development of courses, learning programs and collaboration in teaching activities. AIJA Council has welcomed the move, in particular, the opportunity it provides for the Institute to establish itself in the Melbourne legal precinct.

Council has also placed on record its appreciation for the support provided by the Law Faculty at the University of Melbourne, in particular, the Dean, Professor Michael Crommelin, during the period of the Institute's affiliation with that institution. The AIJA looks forward to continuing co-operation with University of Melbourne in the future.

AIJA CONFERENCE, COURSE AND SEMINAR PROGRAMME 2002-2003

SCHEDULED:

- Representing Justice Conference (with The National Court of the Future Project, University of Canberra), 12-14 December 2002 (Canberra)
- 6th AIJA Tribunals Conference, 5-6 June 2003, Sydney
- 21st AIJA Annual Conference, 19-21 September 2003, Fremantle
- 3rd AIJA Magistrates' Conference, 22-23 September, Fremantle

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

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ANNUAL GENERAL MEETING



Justice Peter Underwood AO

NEW AIJA PRESIDENT AND DEPUTY PRESIDENTS

The AIJA is pleased to announce the election of Justice Peter Underwood as its new President. Justice Underwood, of the Supreme Court of Tasmania, has been a member of Council since November 1998.

Since his appointment to the bench in 1984, Justice Underwood has shown a special interest in the reform of civil procedure and the use of technology as an aid to judicial work. In 1989, he introduced case management to the Supreme Court of Tasmania. He was instrumental in the introduction and development of computer technology in the Court and has chaired the steering committee for the past two AIJA 'Technology for Justice' Conferences.

He is involved in advocacy training, both in Australia and overseas and has chaired and also served on the Boards of a number of arts and community organisations. In 2001 the University of Tasmania awarded him an honorary Doctor of Laws degree in recognition of his services

to legal education, the arts and the administration of justice and in June 2002 he was appointed an officer of the Order of Australia.

AIJA Council has also elected two Deputy Presidents, each to serve for a period of twelve months. They are Mr Laurie Glanfield, Director-General of the New South Wales Attorney-General's Department and Justice John Byrne of the Supreme Court of Queensland.



Mr Laurie Glanfield AM

Mr Glanfield has been a member of Council since October 1995 and a member of the Board of Management since October 1997. He is also Secretary to the Standing Committee of Attorney-General and a Council member of the National Judicial College of Australia.

Justice Byrne convenes the Education Committee, and will be the AIJA's representative on the Consultative Council of the National Judicial College of Australia. He has been a member of Council since February 1998 and a member of the Board of Management since March 2002.



Justice John Byrne

ACCESS TO JUSTICE - THE WAY FORWARD 20th AIJA ANNUAL CONFERENCE

Brisbane, 12-14 July 2002

The 20th AIJA Annual Conference provided a timely opportunity to re-examine the nature of access to justice in Australia. It was set against a backdrop of concerns about rising numbers of unrepresented litigants, legal aid funding, increasing insurance premiums and the roles of the courts and the legal profession. It was attended by over 160 delegates, from Australia, Papua New Guinea, New Zealand, Singapore and Germany.

The keynote address, by Justice Ronald Sackville, noted that in the years since the 1994 report, *Access to Justice: An Action Plan*, courts had embraced the notion of "managing justice" (to use the Australian Law Reform Commission's term), in the sense of accepting responsibility not merely for actively managing the conduct of litigation but for a wider range of activities designed to enhance the responsiveness and accountability of the legal system to the community. He argued that courts should continue to discharge that responsibility and contribute actively to the ongoing debate concerning the role and functions of courts in the Australian system of government.

Other speakers at the Conference included Richard Naidu, representing the Fiji Law Society, who gave an account of that country's recent constitutional crisis and the role of the judiciary in relation to that. The AIJA would like to express its appreciation to the Queensland Law Society for funding his attendance.

Other sessions include discussions on improving access to justice for the disadvantaged, public and private funding issues in meeting the cost of litigation, and an examination of the extent to which Australia's civil justice system is moving closer to the European model. Individual perspectives on access to justice were also provided from the point of view of the legal profession, the medical profession and the banking industry ombudsman.

The conference concluded with a discussion of the way forward, which included information about a new research project in the area of access to justice being undertaken by the Law and Justice Foundation of New South Wales.

Papers from the 2002 AIJA Annual Conference are available on the AIJA website. The 2003 AIJA Annual Conference will be held in Fremantle, WA on 19-21 September 2003.

NEW AIJA COUNCIL MEMBERS



ANNE COGLAN

Anne Coghlan, Deputy President of the Victorian Civil and Administrative Tribunal, has replaced outgoing AIJA President, Murray Kellam as the Tribunals representative on Council.

Anne is in charge of the VCAT's Anti-Discrimination List, having previously headed its Credit List.

She has had extensive involvement with Tribunals both at a State and Federal level. A member of VCAT since 1994, prior to that she was National Convener of the Social Security Appeals Tribunal, the largest specialist Tribunal in the Commonwealth. Anne will also convene the AIJA's Tribunals Committee.

MEGAN GREENWOOD

Megan Greenwood, Registrar of the NSW Land and Environment Court, joins Council as an Appointed Member.

Before taking up her current position, Megan was Criminal Listing Director and Registry Manager at the District Court of NSW. Prior to that she worked in various management, policy and strategic roles at the NSW and Victorian Attorney General's Departments since 1982.

Megan has an interest in the application of technology to achieve improvement, and has been actively involved in several successful projects in this area, both at the District Court and in her current position.



STEPHEN PARKER

Professor Stephen Parker, Dean of Law at Monash University, joins Council as an Academic Member.

Prior to his appointment at Monash, Stephen was Dean of Law at Griffith University and has also held a number of other senior academic appointments. His research interests include courts, the judiciary, legal ethics and family law. He has published widely in these areas.

Stephen has a particular interest in judicial administration and authored the (1999) AIJA research report on *Courts and the Public*. He was Secretary and Treasurer for the Judicial Conference of Australia from 1996-2000.

TONY RANDERSON

AIJA Council includes two overseas members, one each from Papua New Guinea and New Zealand. Justice Tony Randerson joins Council this year, as the New Zealand representative.

A graduate of Auckland University, he practised as a litigation partner in the firm now known as Kensington Swan until 1989 in a wide range of civil and commercial litigation, as well as planning and resource management. He joined the Bar in 1989 and was appointed Queen's Counsel in 1996.

Tony Randerson was appointed a Judge of the High Court of New Zealand in 1997, sitting in Auckland.



THANKS TO RETIRING COUNCIL MEMBERS

The AIJA Annual General Meeting was held in Brisbane on Saturday 14 September 2002.

It was marked by the retirement of two members of Council – Professor Michael Crommelin, Ms Bronwyn Jerrard.

Outgoing AIJA President, Justice Murray Kellam expressed appreciation on behalf of Council to each of them for their contributions to the work of the Institute.

Council also endorsed a vote of thanks to Justice Kellam for his leadership during his term as President.

Also leaving Council was the New Zealand representative, Justice Lowell Goddard. Her place will be taken by Justice Tony Randerson of the High Court of New Zealand.

AIJA NEWS

ELECTRONIC NEWSLETTER SURVEY

With the June newsletter, we included a survey to find out the level of interest in receiving our newsletter, AIJA News, in electronic form. Thanks to all members who took the time to fill in and complete the survey form.

Half of those who replied indicated a preference for an electronic newsletter. The other 50% of members indicated that they would like to continue receiving News in hard copy format.

To take into account the wishes of all members, AIJA will continue to keep producing the newsletter in hard copy for those members who prefer it. For those who would rather receive an electronic copy, we will take steps to introduce an electronic format next year.

5th AIJA Tribunals' Conference, Melbourne, 6-7 June 2002

The highlight of this year's AIJA Tribunals Conference was the launch of a new body, the Council of Australian Tribunals (COAT). The Council is an initiative intended to facilitate liaison and discussion between heads of tribunals and to develop best practice models of procedural rules, standards of behaviour and conduct for tribunals, as well as training and support for members.

The Commonwealth Attorney-General, in a speech delivered on his behalf to the conference dinner, noted that COAT had the capacity to make a valuable contribution to the quality of administrative justice in Australia and would provide a much needed support network for tribunal members, particularly those from smaller tribunals.

In line with this focus, the theme of the Conference was "Developing a Best Practice". The program featured presentations and discussions on a variety of topics including:

- The Review of Decisions of Tribunals Before the Courts - Current Status of Judicial Review
- The Experience of Professional Registration Boards
- Mediation in Tribunals
- Current Issues of Natural Justice and Tribunals
- Therapeutic Jurisprudence and Tribunal Processes; and
- Apprehended Bias by Reason of Pre-Judgment and Other Conduct - Pitfalls for Tribunals and Tribunal Members

It was attended by over 160 delegates in a new, extended 1 ½ day format.

Copies of the papers from the conference are available on the AIJA website at: <http://www.aija.org.au/Tribs02/Trib02prog.htm>

The 6th AIJA Tribunals Conference will be held in Sydney on 5-6 June 2003. Further details will be advised to members as they become available – or check our website at: <http://www.aija.org.au/programmes.htm>

AIJA BENCHBOOK TO PROMOTE ABORIGINAL CULTURAL AWARENESS



At the launch; from left Dennis Egginton, Director of Aboriginal Legal Service, WA, Judge Mary Ann Yeats, convenor of the AIJA's Indigenous Cultural Awareness Committee and Mr Richard Wilkes, a Nyungar Elder.

The AIJA's Aboriginal Benchbook for Western Australian courts was launched in Perth on 30 May 2002 by Chief Justice David Malcom in Courtroom No 1 at the Supreme Court in Perth. In launching the Benchbook, the Chief Justice noted that the need to understand issues in cross cultural communication was of critical importance in improving access to justice by Aboriginal peoples and described the benchbook as an invaluable tool.

The benchbook, a project of the AIJA's Indigenous Cultural Awareness Committee, was researched and written by Ms Stephanie Fryer-Smith, in close co-operation with Aboriginal community representative and academics and the Western Australian judiciary. The project was greatly assisted by a grant of \$7000 from the Western Australian Ministry of Justice.

The benchbook seeks to assist judicial officers in criminal proceedings involving Aboriginal persons by providing information on traditional and contemporary Aboriginal society, Aboriginal people in Western Australia, language

and communication, issues which might affect Aboriginal persons at the pre-trial stage, the conduct of criminal proceedings involving Aboriginal accused and Aboriginal witnesses, and principles and issues relevant to sentencing of Aboriginal offenders. It is also hoped it will serve as a model or template for adaptation and application in other Australian criminal jurisdictions.

*The benchbook is available to download from the AIJA website at www.aija.org.au/onlinepub.htm
Hard copies are also available for purchase.*

FUTURE DIRECTIONS: COURTS AND INDIGENOUS CULTURAL AWARENESS CONFERENCE 2002

The AIJA has sponsored indigenous cultural awareness training programs in all Australian jurisdictions since 1994, designed to implement Recommendation 96 of the Final Report of the Royal Commission into Aboriginal Deaths in Custody.

To mark the 10th Anniversary of the work of the AIJA's Indigenous Cultural Awareness Committee, it was decided that this was an appropriate point at which to assess its work and to try and set some direction for its future activities.

To undertake this task, a Conference was held in Alice Springs on 12-14 June 2002. It was attended by representatives from all Australian courts, and by indigenous representatives from a wide range of organisations involved with the justice system.

The keynote address was given by Mr Patrick Dodson, Chairperson, Lingiari Foundation. In an address entitled 'Getting Through the GAP', he voiced his discouragement that, 10 years after the Royal Commission, imprisonment rates for Aboriginal people in Australia have worsened, rather than improved. In calling for substantive, rather than practical, reconciliation, he said this should involve recognition of Aboriginal culture and law which would empower Aboriginal people to find their own solutions to community problems.

The Conference also heard from Mr Tauto Sansbury, Chair of the National Aboriginal Justice Advisory Committee, who spoke of the need to address the underlying issues concerning aboriginal deaths in custody.

During the course of the conference, each jurisdiction was invited to provide an overview of their programs and initiatives in relation to Recommendation 96. The conference also heard a number of presentations on indigenous courts, both from Australia and overseas.

Delegates discussed factors that contribute to successful cultural awareness programs for the judiciary and identified issues arising in setting directions for further programs. Key points were the need to:

1. Involve the judiciary in training and other initiatives;
2. Build networks/gateways/relationships/trust between the judiciary and indigenous communities;
3. Recognise, respect, encourage and support traditional law and custom; and
4. Build indigenous participation in the justice system – in the judiciary, lawyers, court staff and officers, liaison officers etc.

Copies of presentations and papers from the conference can be found on the AIJA website. A more detailed report on the conference will also be published on the site, once it is finalized.

Plain Language Law

<http://www.lawfoundation.net.au/information/pll/index.html>

Plain Language Law is a free online newsletter published by the Law and Justice Foundation of NSW for anyone interested in keeping abreast of plain language legal information and education initiatives. It will include new and forthcoming plain language resources in all formats, community legal education programs, and research and conferences in these areas.

Contributions are welcome and can be sent to owner-pll@lawfoundation.net.au.

To subscribe please fill out the form at <http://www.lawfoundation.net.au/information/pll/subscribe.html> and select **Subscribe**

'Justice, not 'McJustice'



Mr Ian Gray

A call for magistrates' courts to retain a strong and clear sense of their role as courts of justice was made by the Chief Magistrate of Victoria, Mr Ian Gray in delivering the 12th AIJA Oration in Brisbane on 13 September. The Oration, held to coincide with the second AIJA Magistrates' Conference was entitled "The People's Court - Into the Future" and focussed on the future role of the magistracy.

Mr Gray said that it was essential to retain the confidence of the public, that magistrates' courts do not sacrifice that fundamental role in the interests of the speedy disposition of cases.

Noting the wide-ranging role of magistrates' courts and their fundamental importance for the administration of justice, he discussed the dramatic changes that had taken place in their jurisdiction, workload, and working environment over the past twenty years. In pointing to the future, the Oration highlighted the increasing use of sentencing alternatives, diversionary schemes and specialist courts.

In predicting that magistrates' courts will continue to be the volume workhorse of the justice system, he noted that there was a need for courts to take an active role in setting strategic directions, including measures to predict both the level and extent of future workload. He also noted the importance of initiatives such as the establishment of drug courts and indigenous courts. These innovations, he said, point the way to the future and magistrates' courts are likely to remain at the forefront of these initiatives.

The Oration is available on the AIJA website and will also be published in hard copy format.

2nd AIJA Magistrates' Conference

The 2nd AIJA Magistrates' Conference was organised in conjunction with the Council of Chief Magistrates of Australia and held in Brisbane on 13-14 September 2002.

The programme focused on current topics of relevance to the work of the magistracy.

Topics included:

- Diversionary courts and specialist courts
- Aboriginal Courts
- Magistrates Courts and mental health issues
- Judgment writing
- The Changing Role of the Magistrates' Court
- Family Court matters
- Aspects of civil jurisdictions - enforcement and ADR
- Current issues in Coroners' Courts
- Queensland Magistrates' Judicial Development Project

The Conference concluded, on the first day, with the delivery of the AIJA Oration "**The People's Court - Into the Future**" by Mr Ian Gray, Chief Magistrate of Victoria, in the Banco Court at the Supreme Court of Queensland.

The Conference dinner was also the occasion of a stimulating address by Dr Roderick Munday, Lecturer in Law, University of Cambridge. Dr Munday also spoke at last year's AIJA Annual Conference in Hobart and the conference was fortunate to have him on a return visit.

The AIJA is grateful for the assistance of Chief Magistrates in organising the Conference, in particular, our thanks to the Chief Magistrate of Queensland and her staff.

The 3rd AIJA Magistrates' Conference will be held in Fremantle, WA on 22-23 September, 2003.

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) 9347 6600 Fax: (03) 9347 2980).

NEW MEMBERS

Allens Arthur Robinson, Victoria
Ms Catherine Asbridge, Court Administrator, Family Court of Australia, New South Wales
The Hon Justice WD Baragwanath, High Court of New Zealand
Ms Doris Bozin, Court Administrator, ACT Magistrates Court
The Hon Justice Robert Brooking, Sir Zelman Cowen Centre for Continuing Legal Education, Victoria
Ms Isabel Calvert, Victoria
Ms April Chrzanowski, Senior Research Assistant, Griffith University, Queensland
Ms Ann Collins, Magistrate, Victoria
Mr Michael D'Argaville, Legal Practitioner Victoria
Mr Alan Dawson, Senior Deputy Registrar, Federal Court of Australia
Mr Neville GH Debney, Legal Practitioner, Victoria
Mr Douglas Dick, Magistrate, New South Wales
Doll Martin Associates, Sydney, New South Wales
Mr Michael Frame, Court Administrator, Family Court of Australia, Queensland
Mr Len Foster, Court Administrator, Family Court of New South Wales
The Hon Justice Rhys Harrison, High Court of New Zealand
The Hon Justice Paul Heath, High Court of New Zealand
The Hon Justice Peter Jacobson, Federal Court of Australia, New South Wales
Mr Joseph Kwok, AustLII, New South Wales
Master Graham Lang, High Court, New Zealand
Law & Justice Foundation of New South Wales
Ms Rea Hearn Mackinnon, Blake Dawson Waldron, Victoria
The Hon Justice Peter McClellan, Supreme Court, New South Wales
Mrs Carmel McDonald, Land Court, Queensland
Mr Anthony McIntyre, New South Wales
Migration Review Tribunal, Canberra
Mr Daniel O'Gorman, Practitioner, Queensland
Mrs Lesley O'Loughlin, Librarian, Law Courts Library, Sydney
The Hon Justice Robert Osborn, Supreme Court, Victoria
Mr Tony Plant, Solicitor Australian Government Solicitor, New South Wales
Mr Erskine H Rodan, Solicitor, Victoria
Mr Christopher Sargent, Legal Practitioner, Adelaide
Master Hannah Sargisson, High Court of New Zealand
Ms Ann Smith, Court Administrator, Family Court of Australia, Victoria
Mrs Samantha Traves, Academic, Queensland
Victorian Institute of Teaching, Victoria
Mr Stephen Warne, Legal Practitioner, Victoria
Mr Errol Wessling, Magistrate, Queensland

MEMBERSHIP INVOICES

AIJA membership is based on the financial year. Members received invoices for 2002-2003 membership in July 2002. Prompt payment will ensure that you continue to receive copies of all out mail-outs. If you have any queries about your membership fees please contact the AIJA Secretariat on (03) 9347 6600

Global Alliance for Justice Education Conference

9-11 December 2002, Sydney

The first Global Alliance for Justice Education (GAJE) Regional Conference is being held at the University of Sydney on 9-11 December 2002. The theme of the conference is *Social Justice in the Asia-Pacific* and the three conference streams will focus on refugees, HIV/AIDS and access to justice in developing countries, and indigenous justice. Interested AIJA members are invited to participate in the conference as delegates.

GAJE brings together legal academics, law students, legal practitioners, community groups and advocates from the Asia-Pacific region to share their ideas, policies and experiences and establish a basis for future collaboration and co-operation.

Conference speakers include:

- Professor Larissa Behrendt, Director, Jumbunna Indigenous House of Learning, Deputy Vice-Chancellor (Academic), University of Technology, Sydney
- Julian Burnside QC, Barrister, Senior Instructor, Australian Advocacy Institute
- Dr Mary Crock, Senior Lecturer, Faculty of Law, University of Sydney
- Bomal Gonapa, Policy and Legal Advisor, National Aids Council Secretariat, Papua New Guinea
- Aniceto Guterres, Chairman, Commission for Reception, Truth and Reconciliation, East Timor
- Patrick Harricknen, Human Rights Advocate and Constitutional Lawyer, Papua New Guinea
- Chaitanya Lakshman, Manager, Complaints Division, Fiji Human Rights Commission
- Associate Professor Les McCrimmon, Director of Clinical Programs, Faculty of Law, The University of Sydney
- Eileen Pittaway, Director, Centre for Refugee Research, University of New South Wales
- Federal Magistrate Kenneth Raphael, Federal Magistrates Service, Australia
- Drew Roberts, Aboriginal Justice Advisory Council
- John Rock, International Convenor, National Association of People Living with HIV/AIDS
- Professor Abbe Smith, Associate Director, Criminal Justice Clinic, Georgetown University, USA
- Professor Karen Tokarz, Director of Clinical Education, Washington University School of Law, Chair GAJE Working Party on HIV/AIDS

Members of GAJE Australasia are organising this regional conference in partnership with Kingsford Legal Centre, staff and students at the Law Faculties of the University of Sydney and University of New South Wales, and the Jumbunna Indigenous House of Learning, University of Technology, Sydney.

More information on the conference program and registration forms can be found at <http://www.gaje.net.au> or by emailing the Conference Administrator Edwina Kobus (Faculty of Law, University of Sydney) at gaje@law.usyd.edu.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.aija.org.au/OSHYPE.htm> or contact the AIJA Secretariat on Tel: (03) 9347 6600 or Fax (03) 9347 2980.