



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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ORIENTATION PROGRAMS FOR MAGISTRATES/AIJA MAGISTRATES' CONFERENCE

Information for Magistrates

At the request of Chief Magistrates, the AIJA has cancelled the Magistrates' Conference that was proposed to be held in Fremantle, Western Australia on 21-22 September, 2002.

The conference was originally scheduled following discussions with Chief Magistrates, last year. However, during further discussions this year, in relation to the assistance that might be provided to magistrates by the National Judicial College, it was resolved that there should be an orientation and refresher program for magistrates held in Canberra in early August 2003.

It was felt that to hold two events for magistrates, within such a short space of time, would not be feasible and that, in the circumstances, resources should be concentrated on the magistrates program to be run by the NJCA in August.

AIJA Council has endorsed full support by the AIJA for the NJCA course and our Executive Director, Greg Reinhardt, is involved in planning and development for that event.

Details about the NJCA orientation program can be obtained from the College's Director,

Mr John McGinness:

email: mcginnessj@njca.anu.edu.au or

Telephone (61 2) 6125 6656.

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'New Challenges, Fresh Solutions' 21st AIJA Annual Conference

19-21 September 2003

University of Notre Dame, Fremantle, WA



This year's AIJA Annual Conference will begin with a focus on mental health issues in the administration of justice, an area in which is often argued that the law has failed to keep pace with scientific and medical knowledge.

A keynote address by consultant psychiatrist, Professor G Allen German, on the topic of 'Justice in the Twenty First Century - The Mind and the Law' will set the stage for workshop sessions in mental health issues in both criminal and civil matters.

The conference, to be held at the Notre Dame University, Fremantle, Western Australia, from 19-21 September, will also include sessions on:

- The Courts & Corporate Conduct - how effective are we?
- Therapeutic Justice
- The Docket System - the way to go?
- Reducing Re-offending - new initiatives in Europe
- Litigants in person
- Aboriginal Customary Law
- Court Governance: can justice be measured?
- Courts & the Profession - are we in charge?

Other confirmed speakers include Berna Collier, ASIC Commissioner, Susan Dusmohamed, South Australian Diversion Court Program Manager, Justice Arthur Emmett, Federal Court of Australia, Richard Foster, Chief Executive Officer, Family Court of Australia, Barbara Gordon, University of Western Australia, David Grace, QC, Magistrate Hilary Hannam, Justice Geoff Davies, Queensland Court of Appeal, Justice Robert French, Federal Court of Australia, Oldie Kelly, Aboriginal Customary Law Project, WA, Dr Michael King, Geraldton magistrate, Court, Justice Kevin Lindgren, Federal Court of Australia, Justice Ruth McColl, NSW Court of Appeal, The Hon Jim McGinty, Attorney-General for Western Australia, Dr Neil Morgan, Crime Research Centre, University of WA, Justice Neville Owen, Royal Commissioner for the HIH Inquiry, Patricia Torres, Centre for Aboriginal Studies, Curtin University, Bret Walker SC, President of the NSW Bar Association, Justice Christine Wheeler, Supreme Court of WA, Dr Philip Williams, Chairman, Frontier Economics Victoria, Justice Margaret Wilson, Supreme Court of Queensland, Cheri Yaru-Kama-Harathunian, WA Law Reform Commission.

Further details of the program and registration information can be found on the AIJA website at www.aija.org.au/programmes.htm

For registration and inquiries:

Rommie Masarei, Conference Co-ordinator,

Email: masarei@arach.net.au

Fax: (08) 9384 9663 Phone: 0417 979 867.

Victoria launches new Judicial College

The new Judicial College of Victoria was formally launched by the Attorney-General of Victoria, the Hon Rob Hulls, on 13 May. The college is an independent statutory authority established to assist the professional development of Victorian judicial officers. Its principal functions include developing and conducting judicial education programs for Victorian judicial officers and producing relevant publications.

The College was established following the report of a Working Party chaired by the Chief Justice of Victoria, the Hon Justice John Phillips AC. It will be governed by a Board of Directors that includes the heads of each of the courts and the Victorian Civil and Administrative Tribunal.

The Victorian college is the second state-based judicial education body to be established in Australia, the first being the Judicial Commission of New South Wales. Unlike the Judicial Commission, the JCV will not have a complaints-handling function.

The establishment of the Victorian college follows close upon the establishment of the new national body for judicial training, the Judicial College of Australia, last year.

The Chief Executive Officer of the Judicial College is lawyer and legal educator, Lyn Slade, previously Director of Legal Professional Development at the Leo Cussen Institute in Melbourne.

Further details about the JCV can be obtained from:

*Judicial College of Victoria
Level 1, 436 Lonsdale Street
MELBOURNE VIC 3000
Tel: 61 3 9603 9200
Facsimile: 61 3 9603 9470*

See also the College's soon-to-be established website at www.judicialcollege.vic.edu.au

Restorative justice: theory meets reality and the way forward



Professor Kathleen Daly

The topical area of restorative justice was the theme for a recent seminar organised by the AIJA's South Australian chapter. The seminar, held on 8 May, included a keynote presentation by distinguished criminologist, Associate Professor Kathleen Daly, of the School of Criminology and Criminal Justice at Griffith University

Professor Daly directed a major ARC-funded project on restorative justice in South Australia during 1998-99.

She provided an overview of the concept of restorative justice, its identifying features, varieties and how it differs from established criminal justice.

Her presentation challenged a number of 'myths' commonly associated with restorative justice. These include assertions that restorative justice is the opposite of retributive justice, that it was the dominant form of pre-modern justice, and that indigenous justice practices are forms of restorative justice.

According to Professor Daly, restorative justice is a nominal concept; it is not just about 'restoring'.

What it does, is to:

- Engage lay actors actively in the legal process;
- Provide a forum for discussing fears and insecurities about crime;
- Open up communication and linkages between people who would otherwise be distant and angry (for example, cross-alliances between an offender's supporters and victims);
- Provide an opportunity for an offender to admit responsibility and acknowledge a victim, and for a victim to meet an offender and understand the reasons for the behaviour; and
- Links the undertaking (or penalty) to the offending behaviour and how it may be repaired.

It may also act as a forum for moral education.

She also discussed findings from recent research studies, and other research on procedural justice. These included the effects of conferences on victims and offenders, the levels of procedural justice in conferences and the variation in restorativeness.

Further details of Professor Daly's work in this area can be found on the following web address - www.griffith.edu.au/school/ccj/kdaly.html

NEW AIJA RESEARCH PROJECT ON JURY CHARGES



The Hon Justice Geoff Eames

AIJA Council has recently accepted a recommendation that the Institute conduct research on the subject of jury charges in criminal cases. The project, suggested by Justice Geoff Eames of the Victorian Supreme Court, arose out of discussions at the 2002 Supreme and Federal Court Judges' conference about concerns as to apparent differences in approach both as to content and length of jury charges in States and Territories, for similar offences. In Victoria, for example, judges routinely provide juries with a comprehensive summary of the evidence. Consequently jury charges in Victoria take much longer than in a number of other jurisdictions.

The AIJA project reflects national interest from judges in considering ways in which charges might more usefully be delivered to juries. The AIJA is keen to consider the ways in which trial judges could be assisted, as well as exploring the potential for increasing juror understanding of the content of judge's charges.

The Project Advisory Committee, convened by Justice Eames, includes a panel of experienced trial court judges in both Supreme Court and District/ County Courts, who will supervise the research.

The AIJA is also collaborating with the Victorian Law Reform Commission which is also conducting some research on jury charges which is at present focussing mainly on judges' charges in rape cases. Apart from examining current judicial practices with respect to specific provisions (such as consent and the use of *Longman* warnings), the Commission will be examining the comprehensibility of charges as well as the time taken by judges to complete their charges. Commissioner, Professor Marcia Neave, is also a member of the Project Advisory Committee.

An initial step in these projects has been to examine 'standard charges' bench books from each State and Territory jurisdiction, and to match these against trial examples of charges in murder cases and adult rape. The Committee proposes to also examine research on juror comprehension of directions and the need for further research.

The Project Advisory Committee will be meeting shortly to report on the comparative work that has been done to date and to set future directions for the project.

Options may include further in-depth examination and comparison of sample charges, benchbooks and actual jury charges in differing jurisdictions and the development of recommendations as to approaches which might be adopted to achieve best practice in jury charges.

The Committee is working towards a conference of judges and relevant parties to be held early next year.

A full copy of Justice Eames' paper to the Judges conference is now available on the Victorian Supreme Court website at www.supremecourt.vic.gov.au

AIJA CONFERENCE, COURSE AND SEMINAR PROGRAMME 2003

SCHEDULED:

- 6th AIJA Tribunals Conference, 'Ensuring Effective Justice Before Tribunals' 5-6 June 2003, Sydney
- 3rd Sheriffs' Seminar, 18-19 September 2003, Perth
- 6th AIJA Masters' Conference, 19 September, 2003, Perth
- 21st AIJA Annual Conference, 'New Challenges, Fresh Solutions' 19-21 September 2003, Fremantle, WA

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 website at www.aija.org.au

Overseas Conferences

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

This list contains details of conferences for judicial officers, principally in the United States and Canada.

For more detailed information on judicial education programs and the work of other bodies, see the AIJA's judicial education links page on our website at www.aija.org.au/links/juded.htm

Sentencing Statistics – Australian Bureau of Statistics project extended to Magistrates' Courts

The Australian Bureau of Statistics published its most recent figures on sentencing outcomes in Australia's criminal courts on 9 April this year. For the first time, the publication includes statistics on defendants finalised in the magistrates' courts. Although the magistrates' courts data is labelled as 'experimental' for the 2001-02 issue due to coverage and data quality issues, this marks an important progression for the ABS national collection of court statistics.

The statistics on outcomes of criminal cases in the Supreme and Intermediate courts, show that more than one in two (54%) defendants proven guilty in Australia's Higher Criminal Courts in 2001-02 received a custodial order to be served in a correctional facility or in the community. 17% received a custodial order involving a fully suspended sentence as their principal sentence type.

Of the defendants who received a non-custodial order as their principal sentence type, the most common for both males and females was a community supervision or community work order (70% and 73% respectively).

Of the 17,997 finalised Higher Criminal Court defendants in 2001-02, approximately 85% (15,229) were finalised by adjudication (proven guilty or acquitted).

The publication provides a picture of the characteristics of defendants dealt with by the Higher Criminal Courts, including information on the principal offence and principal sentence type associated with those defendants.

*For further details, see the publication *Criminal Courts, 2001-02* (cat. no. 4513.0) – access details on the ABS website at www.abs.gov.au*

For information about the Australian Bureau of Statistics' National Centre for Crime and Justice Statistics contact Chris Libreri on (03) 9615 7374.

Looking for an AIJA publication? . . .

Check our on-line publications page - www.aija.org.au/onlinepub.htm - for

- copies of conference papers
- summaries of AIJA research publications
- an electronic version of *AIJA News*
- our full publications list
- on-line order form for publications.

Recent additions include:

- Papers from the 2002 AIJA Magistrates Conference.
- 12th AIJA Oration, 'The People's Court - Into the Future', Mr Ian Gray, Chief Magistrate of Victoria, 13 September 2002 (Brisbane)
- Conference materials - Jury Research Seminar, 16 August 2002 (Melbourne)
- Conference materials - Future Directions: Courts and Indigenous Cultural Awareness Conference 12-14 June 2002, Alice Springs
- Overview report - AIJA Indigenous Cultural Awareness Program
- Conference papers - 'Access to Justice - The Way Forward' 20th AIJA Annual Conference, 12-14 July 2002 (Brisbane)
- Papers from the 5th AIJA Tribunals' Conference, 6-7 June 2002 (Melbourne)

What's New in the Library . . .

- Allender, Tandrell; Gatti, Sonia; McCubbin, Jayne; Mailer, Diane.** Unrepresented Litigants At What Cost? November 2002.
- Australia. Administrative Appeals Tribunal.** Annual Report. 2001-2002.
- Australia. Administrative Review Council.** Annual Report 2001-2002.
- Australia. Administrative Review Council.** Report on the Council of Australasian Tribunals. October 2002.
- Australia. Federal Magistrates Service.** Annual Report 2001-2002.
- Australia. Steering Committee for the Review of Commonwealth / State Service Provision; Australia. Productivity Commission.** Report on Government Services : Canberra: AusInfo. 2003. 2 vols. vol. 1: Education, Health, Justice vol. 2: Emergency Management, Community Services, Housing. (CD).
- Bennett, John Michael.** Sir Archibald Burt: First Chief Justice of Western Australia 1861-1879. Sydney: Federation Press. 2002.
- Bennett, John Michael.** Sir Charles Cooper: First Chief Justice of South Australia 1856-1861. Sydney: Federation Press. 2002.
- Bennett, John Michael.** Sir William a'Beckett: First Chief Justice of Victoria 1952-1857
Sydney: Federation Press. 2001.
- Bennett, John Michael.** Sir James Dowling: Second Chief Justice of New South Wales 1837-1844. Sydney: Federation Press. 2001.
- Bennett, John Michael.** Sir Francis Forbes: First Chief Justice of New South Wales
Sydney: Federation Press. 2001.
- Childrens Court of Queensland.** Annual Report 2001-2002.
- Commonwealth of Massachusetts.** Commission on Judicial Conduct. Annual Report 2000.
- Compensation Court of New South Wales.** Annual Review 2001.
- District Court of Queensland.** Annual Report 2001-2002
Family Court of Australia. The Changing Face of the Expert Witness 2002.
- Federal Court of Australia.** Annual Report 2001-2002.
- Guardianship and Administration Tribunal.** Annual Report 2001-2002.
- Institute of Judicial Studies.** Annual Report 2001/2002.
- Judicial Commission of New South Wales.** Annual Report 2001-2002.
- Judicial Studies Board.** Competence Framework for Chairmen and Members of Tribunals. October 2002.
- Judicial Studies Board.** Tribunals Committee; Genn, Hazel. Tribunals Training Needs Analysis: Executive summary. London: JSB. May 1999.
- Law Reform Commission of Western Australia.** Discussion Paper on Contempt by Disobedience to the Orders of the Court Project no. 93.
- Law Reform Commission of Western Australia.** Report on Judicial Review of Administrative Decisions. December 2002 Project no. 95.
- Malcolm, David K.** Launch of the Aboriginal Benchbook for Western Australian Courts. 30 May 2002.
- Mearns, David.** Looking Both Ways: Models for justice in East Timor. Sydney: Australian Legal Resources International. Includes 3 papers: Introduction: delivering justice and resolving conflict; Alternative Dispute Resolution and Customary Practice in East Timor; Variations on a Theme: coalitions of authority in East Timor.
- National Alternative Dispute Resolution Advisory Council.** Annual Report 2001-2002.
- National Judicial Institute.** Judicial Education in Canada: Course calendar and education resources. Ottawa: NJI. 2002.
- New South Wales. Administrative Decisions Tribunal.** Annual Report 2001-2002.
- New South Wales Law Reform Commission.** Apprehended Violence Orders: Part 15A of the Crimes Act. November 2002.
- New Zealand Law Commission.** Seeking Solutions: Options for change to the New Zealand court system. December 2002.
- Queensland Crime and Misconduct Commission.** Forensics Under the Microscope: Challenges in providing forensic science services in Queensland. October 2002.
- Queensland. Department of Justice and Attorney-General.** Annual Report 2001/02.
- Queensland. Department of Justice and Attorney-General.** Strategic Plan: 2002-2006.
- Queensland. Industrial Court.** Annual Report of the President of the Industrial Court of Queensland in Respect of the Industrial Court of Queensland, the Queensland Industrial Relations Commission and the Industrial Registrar's Office. 2002.
- Queensland Magistrates Court.** Annual Report: 2002.
- Supreme Court of Queensland.** Annual Report 2001/2002.
- Supreme Court of Queensland.** Mental Health Court: Report 28 February - 30 June 2002.
- Victorian Civil and Administrative Tribunal.** Annual Report 2001-2002.
- Victorian Law Reform Commission.** Failure to Appear in Court. 2002.
- Victorian Parliament Law Reform Committee;** Thompson, Murray (Chairman) Inquiry into Oaths and Affirmations with Reference to the Multicultural Community.
- Yeats, Mary Ann.** Launch of the Aboriginal Benchbook for Western Australian Courts. 6p. 30 May 2002.
- Zorza, Richard.** The Self-help Friendly Court: Designed from the ground up to work for people without lawyers. Williamsburg VA: NCSC. 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

Mr Peter Alcorn, School of Law, University of Queensland

Ms Sue Duncombe, ADR Plus Pty Ltd, New South Wales

Mr Robert Gotterson, QC, Barrister, Queensland

Mr Robert Hulme SC, Deputy Senior Crown Prosecutor, New South Wales

Mr Helmet Kirsch, Victoria

Mr Peter Lauritsen, Magistrate, Victoria

Ms Melanie Little, Magistrate, Northern Territory

Mr Peter Maynard, Family Court of Australia

Mr John McGinness Chief Executive Officer, National Judicial College of Australia

National Native Title Tribunal, Western Australia

Ms M Sloss SC, Barrister, Victoria

Ms Anita Smith, President, Guardianship & Admin. Board, Tasmania

Ms Marion Whalan, New South Wales

Mr Nimal Wikramanayake SC, Barrister, Victoria

Ms Pamela Wilde, Legislation and Policy Division, New South Wales Attorney-General's Department

5th Australasian Residential Tenancies Conference

Christchurch, New Zealand, 15-17 October 2003
'Diversity in Action'

A conference for residential tenancies professionals involved in dispute resolution and the management or administration of tribunals and residential tenancies legislation.

The conference will provide a diverse and flexible programme with a balance of plenary sessions, workshops and networking opportunities. Part of the conference will be divided into three main streams of:

- Conciliation and mediation
- Administration and service delivery
- Adjudication

For further details contact:
Glynis Woollams/Jodie Pickering
Conference Co-ordinators
Ministry of Housing
PO Box 50 445
Porirua, New Zealand

AIJA PUBLIC OFFICER APPOINTED MASTER OF ACT SUPREME COURT

The AIJA congratulates its long-standing Public Officer, David Harper, OAM on his recent appointment as Master of the Supreme Court of the ACT. David was an early Council member of the AIJA and his firm maintained AIJA membership records for many years until the Secretariat was established.

He has performed the duties of the AIJA's public officer since 1987 and was made a Life Member of the Institute in 1986. David was also awarded a medal of the Order of Australia (OAM) in 1999.

WOULD YOU PREFER TO RECEIVE THIS NEWSLETTER ELECTRONICALLY?

AIJA News is now available in electronic (pdf) format.

If you would rather receive an electronic version instead of a hard copy, please email Kathy Jarrett at the Secretariat on Kathy.Jarrett@law.monash.edu.au with your current email address.

This newsletter can also be downloaded from the AIJA website at <http://www.aija.org.au/publications.htm>

MEMBERSHIP INVOICES

AIJA membership is based on the financial year. Members will receive invoices for 2003-2004 membership in July 2003. 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 our Membership Officer, Heather Sevald on (03) 9600 1311 or Email: Heather.Sevald@law.monash.edu.au