

Annual Report 2008



The Australasian Institute of
Judicial Administration Incorporated

for the year ended 30 June 2008

COMMUNICATION WITH THE AIJA

The Institute welcomes and encourages inquiries about its work, about membership and judicial administration generally. Inquiries can be directed to:

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WEB SITE

The AIJA web site is located at <http://www.ija.org.au> and provides information about the Institute and its research and education programs.

PATRONS

The Hon Murray Gleeson AC
Chief Justice of Australia

The Rt Hon Dame Sian Elias GNZM
Chief Justice of New Zealand

COUNCIL

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Supreme Court of New South Wales

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Magistrate Annette Hennessy

Queensland

The Hon Justice Patrick Keane

Court of Appeal, Supreme Court of Queensland

The Hon Justice Susan Kenny

Federal Court of Australia

The Hon Justice Kevin Lindgren

Federal Court of Australia

The Hon Brian Martin

Chief Justice of the Northern Territory

The Hon Justice Michelle May

Family Court of Australia

Mr Norman Reaburn

Director, Legal Aid Commission of Tasmania

The Hon Justice Richard Refshauge

Supreme Court of the Australian Capital Territory

Ms Jane Reynolds

Family Court of Australia

Ms Anne Sullivan

Partner, Blake Dawson Waldron

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Senior Judge, Environment, Resources and Development Court, South Australia

The Hon Justice Christine Wheeler

Court of Appeal, Supreme Court of Western Australia

Her Honour Judge Mary Ann Yeats

District Court of Western Australia

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The Hon Justice Ron Young

High Court of New Zealand

Papua New Guinea Representative

The Hon Sir Salamo Injia Kt

Deputy Chief Justice, Papua New Guinea

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Professor Greg J Reinhardt

Assistant Director

Ms Liz Richardson (until January 2008)

Membership and Finance Officer (Part-time)

Mrs Heather Sevald

Administrative Secretary and Publications Officer (Part-time)

Mrs Kathy Jarrett

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Ms Delwyn Gillan

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PRESIDENT'S MESSAGE



The Hon Justice Virginia Bell

In the 2007 Annual Report I wrote of the International Consortium for Court Excellence which has been established to develop a Framework for Court Excellence. The work on the International Framework has continued throughout the year assisted by a meeting of the Consortium partners in Washington DC in November 2007. Thanks are due to Council members Laurie Glanfield and Christine Wheeler, who, with Andrew Cannon as alternate, have represented the AIJA in what has been a very important exercise. The Framework will be a significant document both for developed and developing countries. The Framework document is to be presented at a Court Quality Forum convened by the Institute in Sydney from 21-23 September 2008. All Consortium partners will be represented at the Forum. Planning for the Forum is well advanced and it is hoped that a range of developing countries in the Asia Pacific region will be represented.

The AIJA Annual Conference took place in Melbourne in October 2007. The theme of that conference was 'Cultures and the Law'. The conference discussed a wide range of issues relevant to cultural diversity in the context of the work of courts and tribunals. Several issues were identified for further educational events and research, including the use of interpreters in courts and tribunals and accommodating the needs of particular cultural groups in the judicial system.

The AIJA Council has considered whether the Institute should continue to convene an annual conference designed to raise a number of issues, alternatively, whether there should be a 'themed' conference which might take place with the Annual General Meeting of the Institute. Council has resolved that it would be best to conduct a themed educational event to be held in conjunction with the Annual General Meeting and the Court Quality Forum in September 2008 will provide the initial vehicle for this.

Several additional educational programs have been conducted throughout the year and are referred to more fully later in the Annual Report. They have included a Discovery Seminar held in Melbourne on 24 August 2007, an Indigenous Courts Conference in Mildura from 4-7 September 2007, a Workshop for Public Information Officers on 30 May 2008, the AIJA Oration in Judicial Administration delivered by the Lord Chief Justice of England and Wales, The Rt Hon Lord Phillips of Worth Matravers on 30 May 2008 and followed by the AIJA Courts Governance Seminar on 31 May 2008, the 11th AIJA Tribunals Conference convened in Sydney from 5-6 June 2008 and the 4th AIJA Law and Technology Conference held in Sydney from 26-27 June 2008.

The Project and Research Committee was convened by Council member, Bob Nicholson, until his retirement as a Federal Court judge in August 2007. Bob Nicholson's work as Convenor of that Committee and more generally in relation to the Institute was recognised by the conferral of life membership at the Annual Conference in September 2007. Council member and President Elect, Christine Wheeler, assumed

the role on the Project and Research Committee consequent upon the resignation of Bob Nicholson. The Committee has had a busy agenda. Work on a 2nd Edition of the Aboriginal Benchbook for Western Australia has been completed and it will be launched in Perth in August 2008. Work on the Child Witnesses Benchbook is nearing completion and several other projects are in the pipeline. Further details appear in this report

Work on the AIJA Strategic Plan has been completed and was approved by the AIJA Council at its meeting in November 2007.

Council member and former President, Peter Underwood, retired during the year. He took up the appointment as Governor of Tasmania 2 April 2008 and was able to attend a dinner that followed the Oration by Lord Phillips in Melbourne on 30 May at which a presentation was made to mark his retirement from Council and his term as President of the Institute.

The Institute is pleased to host a webpage devoted to Therapeutic Jurisprudence which has been widely acclaimed. The Communications Committee convened by Megan Greenwood, and the Board of Management, continue to monitor the website and, in particular, to consider further areas of judicial administration which might be included on it.

Ms Liz Richardson resigned as Assistant Director in January 2008. I am grateful to all the staff at the Secretariat and particular the Executive Director Professor Greg Reinhardt, for their work in what has been a very busy year.

*The Hon Justice Virginia Bell
President, AIJA*

REPORT FROM THE EXECUTIVE DIRECTOR



Professor Greg Reinhardt

The President, in last year's report, referred to the redesign of the AIJA website. The website has been completely updated and revamped.

Response to the new website from members and non members has been very positive indeed. The new site has received some thousands of hits since its establishment.

The new website has enabled information concerning the activities of the Institute to be posted immediately on the website. It is the policy of the Secretariat to ensure that all developments of interest to members are uploaded to the website so as to ensure immediate communication of information to members and to the broader public.

The website contains information concerning upcoming AIJA events and has links to papers from AIJA conferences and seminars. It contains quicklinks to Australian Courts, to court statistics, to the National Center for State Courts resource page and to the Australasian Jurisprudence Therapeutic Clearing House. The Institute is conscious of the desirability of others with objects consistent with those of the AIJA establishing a link to the website. The Board has approved a proposal from the Pacific Judicial Development Program for a link to the Guide to Judicial Conduct through the website.

It is proposed to devote part of the website to reports concerning AIJA Research.

Detailed reports appear elsewhere in relation to the educational and research activities of the Institute. The President, in her Report, has written of the considerable work undertaken on the International Framework for Court Excellence and planning for the Forum on court excellence to take place in Sydney in September 2008.

I have undertaken a number of speaking engagements during the year including the delivery of the Geoff Masel Lecture on Insurance Law in all Australian capital cities at the invitation of the Australian Insurance Law Association on "Can Courts Ignore the Reality of Insurance in Litigation?" The principal argument advanced in the lecture was the traditional view that insurance should be disregarded in dealing with a claim for liability in tort as between claimant and tortfeasor can no longer be sustained and that courts are likely to hold insurers to account in relation to the way in which litigation is conducted. The topic is of direct relevance to judicial administration.

I attended the 3rd International Conference on the Training of the Judiciary in Barcelona from 21-25 October 2007. All Australian and New Zealand Judicial Education Bodies were represented at that conference. Over 60 countries were represented at the conference. The principal focus of the conference was skills based education for the judiciary. This is something which has been developed with great success in Canada and which can be applied to all aspects of judicial training. The next conference is to take place in Sydney in October 2009 and will be convened by the National Judicial

College. I am a member of the steering committee for the conference.

I was involved for the second time in an educational program in Dhaka, Bangladesh in December 2007 led by Justice Peter Dutney of the Supreme Court of Queensland on alternative dispute resolution.

I continue to edit the Journal of Judicial Administration, to speak particularly on matters relevant to insurance law, and to teach both at Monash University and the University of Melbourne.

I would like to extend my thanks to all at the Institute who have worked so hard this year including Ms Liz Richardson, Assistant Director (until January 2008), Ms Delwyn Gillan, Mrs Kathy Jarrett, Mrs Heather Sevald and Mrs Mary Young. Their work at the Institute is greatly appreciated.

*Professor Greg Reinhardt
Executive Director, AIJA*

COUNCIL

The AIJA is governed by its Council, which has 29 elected and appointed members. They are drawn from a broad spectrum across the field of judicial administration, including representatives of the judiciary (including the magistracy), tribunals, court administrators, the legal profession, academia and government service. In addition to attending four regular Council meetings each year, all Council members are expected to serve on at least one Committee. A list of Council members as at 30 June 2008 appears at the front of this report.

Joining Council this year were Justice Kevin Lindgren of the Federal Court of Australia, the Hon Brian Martin, Chief Justice of the Northern Territory, Mr Norman Reaburn, Director of Legal Aid, Tasmania and Ms Jane Reynolds, Regional Registry Manager, Victoria, Tasmania and South Australia, Family Court of Australia.

Retirements from Council this year, were Justice Garry Downes, Chief Justice Peter Underwood AO, Mr George Turnbull and Ms Jennie Cooke.

During the year, Mr Richard Refshauge SC resigned as a member in the Professional Members category consequent upon his appointment as a judge of the Supreme Court of the Australian Capital Territory. Chief Judge Michael Rozenes resigned as a member in the Judicial Members' category. Justice Refshauge was appointed to fill the position vacated by Chief Judge Rozenes. Mr Chris Craigie SC, Director of Public Prosecutions for the Commonwealth, was appointed to fill the vacancy created by the resignation of Mr Refshauge. In August 2007, Justice Robert Nicholson AO resigned as a member of Council in the Judicial Members' category consequent upon his retirement as a judge of the Federal Court of Australia. The casual vacancy created by his resignation was filled by the Hon Justice Susan Kenny, Federal Court of Australia.

Following this year's Annual General Meeting, Council appointed Justice Christine Wheeler, Court of Appeal, Western Australia, President Elect and Mr Laurie Glanfield AM, Director-General of the New South Wales Attorney-General's Department as Deputy President.

OVERSEAS REPRESENTATION ON COUNCIL

As a reflection of the close ties between the Australian and New Zealand judiciaries, there is a permanent position on the AIJA Council set aside for a judicial representative from New Zealand, nominated by the Chief Justice of that country. That position is currently held by Justice Ron Young of the High Court of New Zealand.

Under a special provision in the AIJA Rules, Council has also granted observer status on Council to the Papua New Guinea judiciary, another country with which the Institute has close ties. The current PNG representative is The Hon Sir Salamo Injia Kt, Deputy Chief Justice of the Supreme Court of Papua New Guinea.

BOARD OF MANAGEMENT

Supervision of the day-to-day management of the Institute is the responsibility of the AIJA Board of Management. The Board consists of the President and two Deputy Presidents, or the President Elect and Deputy President, together with the Convenors of the AIJA's three standing committees – the Education Committee, the Project and Research Committee and the Communications Committee. The Board can also co-opt

other members of Council to serve on the Board.

As at 30 June 2008, the members of the Board of Management were Justice Virginia Bell, AIJA President, Justice Christine Wheeler, President Elect, Mr Laurie Glanfield AM, Deputy President, Dr Andrew Cannon AM, Convenor of the Education Committee, Ms Megan Greenwood, Convenor of the Communications Committee and Justice Pat Keane.

Justice Nicholson resigned as a member of the Board of Management (and Council) in August 2007 upon his retirement as a judge of the Federal Court of Australia and his position on the Board was filled by Justice Pat Keane. Upon the resignation of Justice Nicholson, Justice Christine Wheeler became Convenor of the Project and Research Committee.

LIFE MEMBERS

The AIJA award of Life Membership is given to members or others in the judicial administration community who are judged to have made a significant contribution to the AIJA's work or to the administration of justice generally. Council recognized the efforts this year of the Hon Justice Robert Nicholson.

Bob Nicholson has served 2 terms on Council and was a member of the AIJA Board of Management from March 2002 to August 2007. He chaired of the Advisory Committee for the AIJA Courts and the Public report. He was a Member of the Project and Research Committee (formerly the Research Committee) from August 1999 to September 2007 and then Convenor of the Committee from July 2003 until August 2007.

COURSE, CONFERENCE AND SEMINAR PROGRAMS

The AIJA's education program includes conferences, workshops, lectures and seminars designed for judges, magistrates, tribunal members, court administrators, lawyers and others with an interest in judicial administration. It includes regularly scheduled events and additional seminars and conferences on particular topics. The program is overseen by the AIJA's Education Committee, convened by Dr Andrew Cannon AM, Deputy Chief Magistrate, South Australia.

All AIJA education programs are conducted on a fee-paying basis, which requires registration fees to be set at a level that covers costs. The Institute also attempts to achieve a 20% profit on each education activity which is channelled to its Research Fund used to fund research into judicial administration.

2007-2008 programs included:

- **AIJA Discovery Seminar, Melbourne, 24 August 2007**

This seminar resulted from a request by the Council of Chief Justices that the AIJA look into the issue of Rules of Court relating to discovery and their possible harmonization as well as from the review being undertaken by the Victorian Law Reform Commission on civil procedure law.

The Council of Chief Justices and the Victorian Law Reform Commission identified

issues which might usefully be discussed and which formed the basis of a questionnaire distributed to all heads of jurisdiction as well as Law Societies and Bar Councils. The responses to that questionnaire were collated and formed the basis of discussion at the seminar under several headings:

- Practitioners' Perspective on Discovery – Plaintiff and Defendant
- Right to Discovery - Does it exist and should it exist?
- Ambit of Discovery – what is the appropriate test? Wide versus narrow – what works best.
- Statutory standards of overriding obligations - what should the standard be? What are the cost or other implications?
- Pre action disclosure – should it be permitted and should pre-action protocols be implemented?
- Obtaining information by oral examination – available by right
- Issues arising out of complex litigation involving substantial documentation - Rocket docket, - use of independent persons
- Wrap up of other issues raised by Courts, including: - Electronic document management, - Category based discovery and general discovery
- Costs orders limits or caps on discovery
- Practical ways of keeping Discovery disputes in check

The Practitioners' perspective was addressed by Mr Peter Gordon of Slater and Gordon, Solicitors and Ms Louise Jenkins of Allens Arthur Robinson, Solicitors. Professor Peter Cashman, the Commissioner responsible for the Victorian Law Reform Commission Reference also spoke at the Seminar.

Papers and presentations from the seminar and a summary of proceedings are available on the AIJA Website at <www.aija.org.au>

• **AIJA Indigenous Courts Conference, Mildura, Victoria, 4-7 September 2007**

The Conference was attended by some 278 delegates including a large number of Indigenous delegates.

The Conference had several important features:

- To focus on courts with specific procedures for dealing with Indigenous offenders throughout Australia, New Zealand and elsewhere;
- To involve Indigenous Elders, members of Indigenous communities, judicial officers and court administrators who sit on, or are involved in, Indigenous courts;
- To provide an opportunity for an exchange of information, experiences and views about the operation of specialist Indigenous courts;
- To provide a forum for the publication and dissemination of the results of research into the effectiveness of such courts and might thereby encourage the conduct of such research in the period before the conference;
- To provide discussion in relation to victims of crime;
- To provide a forum for Aboriginal legal and liaison officers; and
- Restorative justice and adult conferencing in Indigenous Courts context.

Sessions included:

- Indigenous Courts in Australia and the world. View presented from Western Australia, New Zealand, Queensland, Victoria, Papua New Guinea, South Australia, New South Wales, Fiji, Australian Capital Territory, Northern Territory and Canada.
- Current Initiatives in the Department of the Commonwealth Attorney-General
- Indigenous Courts: how effective are they and how can they be made more effective
- Indigenous courts: what do we know about them?
- Culturally Sensitive Court House Design: Ideas and Expectations
- Indigenous Children's Courts
- Indigenous Dispute Resolution and Conflict Management Case Study Project
- Criminal Injury Compensation
- Indigenous Legal Officers and Indigenous Liaison Officers
- Minimum Standards for Aboriginal and Torres Strait Islander Courts in Mainland Australia 2007-2010
- Training with a Cultural Perspective

Papers and presentations from the conference are available on the AIJA Website at <www.ajja.org.au>

• **25th AIJA Annual Conference, Melbourne, 12-14 October 2007**

The theme of the conference was Cultures and the Law. The conference was attended by some 133 delegates.

The keynote address was given by the Hon Robert French of the Federal Court of Australia and the subject of the address was 'Speaking In Tongues - Courts and Cultures'. Overseas speakers were The Hon Justice Catherine Davani, Supreme and National Court of Papua New Guinea, The Hon Justice Robert Torres, Supreme Court of Guam and Dr Richard Perry, Professor of Justice Studies, San José State University, California, United States of America

Sessions included:

- The Response of Courts to the Challenges of Cultural Diversity
- Addressing Social and Cultural Diversity in Judicial Process - Putting Ourselves in Context
- Culture and the Legal Recognition of Cultural Differences
- Emerging Communities: Court Users' Experiences
- A Judicial College of Victoria presentation involving representatives from emerging communities who will discuss the court room experience from a cross cultural perspective.
- Cross Cultural Communication in Court Room Cross Examination
- Cultural Defences and Indigenous Issues
- The Approach of Courts and Tribunals to the Needs of their Communities

Papers and presentations from the conference are available on the AIJA Website at <www.ajja.org.au>

- **AIJA Workshop for Public Information Officers, Melbourne, 30 May 2008**

The Workshop involved an exchange of information of relevant significant achievements and learning by Public Information Officers. It provided an opportunity for participants to discuss key communication achievements, challenges, issues and learning.

Issues affecting Public Information Officers included:

- Systems for the notification of suppression orders
- Media alerts on short-notice matters such as bedside hearings
- Access to court documents
- Policies on mobile phones in court, texting and photographing
- Formal liaison forums between the media and Judiciary/Registrars
- Opportunities and pitfalls in Judges going on talk-back radio
- Access to transcripts
- Handling of high profile trials/inquests
- Using the media to the advantage of the courts

Papers and presentations from the workshop are available on the AIJA Website at <www.aija.org.au>

- **AIJA Oration in Judicial Administration, Melbourne, 30 May 2008**

The 15th AIJA Oration was delivered by the Rt Hon The Lord Phillips of Worth Matravers, Lord Chief Justice of England and Wales in Court Room 1, Federal Court of Australia, Melbourne, 30 May 2008. The title of the Oration was "Courts Governance".

The Lord Chief Justice spoke of the experience in England and Wales in relation to Courts Governance. His Oration will inform the ongoing discussion in Australia regarding the relationship between the Executive and the Courts.

The Oration is available to download from the AIJA Website at <www.aija.org.au>

- **AIJA Courts Governance Seminar, Melbourne, 31 May 2008**

The keynote address was given by Professor Philip Williams, a co-author the AIJA Report "The Governance of Australia's Courts: A Managerial Perspective". Professor Allan Fels AO, Dean Australia and New Zealand School of Government provided a commentary on his address. The conference was attended by 77 delegates

Overseas speakers included Mr PJ Fitzpatrick, Chief Executive Court Service, Ireland and Professor Carl Baar, Justice System Administration, York University, Canada.

Sessions included:

- Courts Governance – The AIJA Report
- Courts Governance – A View from Government
- Courts Governance – the Overseas Perspective
- Courts Governance – An Australian Perspective
- Courts Governance – Building the Best Model

- Does courts governance matter?
- Should the executive be excluded from issues of courts governance?
- What are the essential requirements of any model?

Papers and presentations, together with a summary of proceedings from the seminar are available on the AIJA Website at <www.aija.org.au>

• **11th AIJA Tribunals Conference, Sydney, 5-6 June 2008**

The Keynote Address was delivered by M. Patrick Frydman, President of the Administrative Court of Appeal of Versailles who spoke on administrative decision making in France. The Commonwealth Attorney, the Honourable Robert McClelland MP also spoke at the conference. The conference was attended by 194 delegates.

Sessions included:

- The Psychology of Decision-making
- Maintaining a Worklife Balance
- The Role of Tribunals in the Administration of Justice
- Human Rights and Anti-discrimination
- Consumer Tribunal Issues
- Issues for Merits Review Tribunals
- Making Decisions on the Papers
- Oral Decision-making
- Protective Jurisdiction of Tribunals
- Professional Discipline and Vocational Regulation Tribunal and Board Issues
- Recent Developments in Procedural Fairness
- Pre-empting Difficult Decisions in Court including Contemptuous Behaviour

Papers and presentations from the conference are available on the AIJA Website at <www.aija.org.au>

• **4th AIJA Law and Technology Conference, Sydney, 25-27 June 2008**

The conference was concerned to identify current issues relevant to the practical use of technology in courts and tribunals. It follows upon earlier successful conferences on law and technology. The conference was attended by 156 delegates.

The keynote address was given by the Attorney-General for New South Wales, the Hon John Hatzistergos MLC.

The program was organised to include a number of sessions under the following headings:

- Current State of Courts in Australia
- Current State of Courts (International)
- eLitigation
- Judicial Resources Online

Papers and presentations from the conference are available on the AIJA Website at <www.aija.org.au>

Other Education Activities

During the past year, the AIJA also contributed to a number of other education events run by other organisations. These included participation in the National Judicial Orientation Program in Sydney on 29 October – 2 November 2007 (the AIJA has three representatives on the Steering Committee for the Program, as well as the Executive Director of the AIJA).

STRATEGIC PLAN AND PROJECT THEMES

The AIJA Strategic Plan provides for the AIJA Council to set the themes that will direct the Institute's work. Council has approved a strategic plan for 2008-2011 which identifies several themes to guide the AIJA's activities:

- Cost of litigation
- Procedure (including caseflow management):
 - civil
 - criminal
 - appellate
- Court performance and accountability
- Disadvantaged & self-represented litigants
- Alternative approaches to justice, including alternative dispute resolution and problem-solving justice
- The impact of technology on the justice system

Council reviews these themes on a regular basis to ensure that new or emerging issues are quickly accommodated.

RESEARCH

The AIJA Project and Research Committee considers proposals for funding research projects from the AIJA Research Fund and makes recommendations to Council for approval of new projects. The Committee, convened until August by Justice Robert Nicholson and subsequently by Justice Christine Wheeler has met regularly throughout the year. The Research Fund consists of profit earned on AIJA conferences and seminars.

Current research projects on hand or concluded during the year include:

- **Jury Charges**

This project, begun in 2003, is supervised by a Project Advisory Committee consisting of experienced trial court judges from all Australian jurisdictions and New Zealand, and until his retirement in July 2007, was convened by Justice Geoff Eames of the Victorian Supreme Court. The project aims to examine jury charges and communication with the jury and to assist in developing procedures and policies that will enhance judicial communication with the jury. The principal researcher is Professor James Ogloff of Monash University.

The first stage of the project, a survey of trial court judges concerning their communications with juries, was completed last year and a report on the findings of the survey has been finalised and published. It is available from the AIJA Secretariat. The second stage of the project, namely interviews with

judges is underway, with further stages of the project yet to be determined.

The work initiated by the Institute has been assumed by the Victorian Law Reform Commission under the direction of the Honourable Geoff Eames.

- **Proportionality**

A review of the literature on the topic of 'proportionality' has been conducted by Associate Professor Sue Campbell, Law School, Monash University. Associate Professor Campbell spoke on this topic at the 2004 AIJA Annual Conference and her report has been published in (2005) 14 *Journal of Judicial Administration* 144.

As noted above, the AIJA Project and Research Committee have under consideration how best to proceed with a project focused on proportionality subject to the Civil Justice Review underway by the Victorian Law Reform Commission.

The Committee has recommended and Council has agreed that a suitable area of research is proportionality as it affects litigation in the area of family provision or testators' family maintenance. Council has approved research in that area.

- **Child Witnesses in Sexual Offence Cases**

The project was begun as a follow up to the seminar on Child Witnesses which took place in July 2004. An Advisory Committee chaired by Judge Helen O'Sullivan of the Queensland District Court has been engaged in scoping the project and identifying a researcher. The objective is to produce a benchbook to assist judicial officers in this difficult area.

An initial draft of the benchbook was prepared by Dr Michael King, former Magistrate, Western Australia and considerable work on that draft has been carried out by Judge O'Sullivan and the Advisory Committee.

Work has advanced to this stage where it is expected that the benchbook will be published early in 2009.

- **Legal Thesaurus Project**

The project is intended to provide assistance in the task of retrieval of computerised information and to complement the AIJA publication *Guide to Uniform Production of Judgments*. The project commenced in 2000 under the supervision of the project Advisory Committee headed by The Hon Trevor Olsson AO until his retirement from the Committee in early 2007. The AIJA Project and Research Committee are considering the best way forward for this project.

The Committee has identified a commercial publisher as the best way for pursuing the project and discussions are taking place to advance this.

- **Court Statistics**

The AIJA Project and Research Committee has under active consideration the issue of performance indicators and court statistics and has identified the area of quality as relates to courts and the judiciary for work to be conducted. The

AIJA has formed a Quality Reference Group to specifically consider the work required on this topic. In the related topic of judicial benchmarking, three AIJA Council members are representing the AIJA in an International Consortium for Court Excellence involving the Subordinate Courts of Singapore, the United States bodies the Federal Justice Center and the National Center for State Courts. (See next)

- **International Framework for Court Excellence**

The Australasian Institute of Judicial Administration, the Federal Judicial Center of the United States of America, the National Center for State Courts of the United States and the Subordinate Courts of Singapore are the signatories to a Consortium for the development of an International Framework for Court Excellence. Others involved in developing the Framework are the European Commission for Efficiency of Justice, the World Bank and Spring Singapore. The Consortium has developed a Framework of values, concepts and tools by which courts, worldwide, can voluntarily assess and improve the quality of justice and court administration they deliver.

The Framework is of significance for all courts and tribunals.

A forum will take place in Sydney from 21-23 September 2008 at which the Framework will be introduced and those involved in the Framework will address various aspects of it and its practical application to securing court excellence.

The AIJA, and the other parties to the Consortium, believe that the Forum provides an opportunity for courts and tribunals to learn about and become involved in a process which will improve the quality of justice and court administration in their jurisdiction.

Purpose of the Framework

An International Consortium consisting of groups and organizations from Europe, Asia, Australia, and the United States developed this International Framework for Court Excellence. The goal of the Consortium's effort has been the development of a framework of values, concepts, and tools by which courts worldwide can voluntarily assess and improve the quality of justice and court administration they deliver.

The Framework represents a resource for assessing a court's performance against seven detailed areas of court excellence and provides clear guidance for courts intending to improve their performance. It provides a model methodology for continuous evaluation and improvement that is specifically designed for use by courts. It builds upon a range of recognized organisational improvement methodologies while reflecting the special needs and issues that courts face. The Framework incorporates guidance on standard performance measures, but more importantly it provides a path for improvement in the quality of court performance. Unlike many existing initiatives employed by courts throughout the world to measure or improve specific areas of a court's activities or services, the Framework takes a holistic approach to court performance. It

represents a process for a whole-court approach to achieving court excellence rather than simply presenting a limited range of performance measures directed to limited aspects of court activity.

The absence of a court-specific framework and the inadequacy of existing benchmarking and performance measurement systems, at an international and national level, inspired the Consortium to develop this Framework. Although a broad understanding of key areas and standards for court performance does exist, courts need more than a collection of qualitative and quantitative performance measures. The Framework represents the product of an international attempt to identify a process for achieving court excellence regardless of the location or size of a court or the resources or technology available to it. It is designed to apply to all courts and to be equally effective for sophisticated large urban courts and smaller rural or remote courts.

The International Framework for Court Excellence also incorporates case studies, court performance improvement processes and a range of available tools to measure court performance and development. It is intended that the Framework will be regularly reviewed and modified to reflect new systems and initiatives directed to improving how courts deliver services. It serves also as a rich resource of information on the range of court improvement initiatives adopted throughout the world.

- **Problem Solving Benchbook**

Dr Michael King former Magistrate, Western Australia, is responsible for this project, namely, a project for the preparation of a benchbook to assist new and currently serving judges and magistrates

1. by providing essential information concerning key problems confronting offenders – addiction, mental illness and domestic violence; and
2. in the development of judging skills by providing information and techniques in problem solving judging and therapeutic jurisprudence.

The Problem Solving Benchbook seeks to fill a significant gap in the literature and judicial education by providing a comprehensive resource setting out important information concerning key offending related problems and the problem solving judging approach and set out techniques that judges and magistrates can use in their day to day work to enhance their effectiveness.

The suggested outcomes from the benchbook are:

- A more informed and expert judiciary.
- Qualitatively better judging in problem solving courts.
- More uniform problem solving practices between courts.
- A better and more helpful experience for participants.
- More effective problem solving court programs.

Work on the benchbook is due to be completed in the first half of 2009.

- **Other**

The AIJA has contributed to or is involved in research on a national survey on

Australian Judges, Juries and interactive visual evidence: impacts on deliberations processes and outcomes and Judicial Officers and Workload Allocation.

COMMUNICATIONS

The AIJA Communications Committee was formed as a result of strategic planning process in 2005. The Committee's terms of reference are to:

- Enhance the AIJA's profile in the Asia/Pacific region;
- Develop an international focus through liaison with international bodies sharing common objectives;
- Develop a closer working relationship with court administrators to encourage greater exchange of information and ideas;
- Develop a communications strategy for members and non-members to deliver information about the AIJA, its services and projects;
- Develop strategies to target member groups such as magistrates, court administrators, tribunal members and the legal profession;
- Develop a services strategy that makes effective use of technology and encourages non-members to join the AIJA; and
- Involve members in AIJA activities by:
 - seeking ideas for, or opinions about, AIJA projects;
 - forming interest groups; and
 - holding specific conferences and workshops.

The Committee is convened by AIJA Board and Council member Ms Megan Greenwood, Chief Executive Officer of the Supreme Court of New South Wales.

This Committee has been very active since it formed, developing a position statement on the AIJA's role, the revision of the AIJA's media protocol, the formulation of policy in relation to corporate membership, the upgrading of the AIJA website and the formulation of the AIJA Strategic Plan for 2008-2011. These documents are available on the AIJA website.

SPONSORSHIP

Council has approved a sponsorship protocol drafted by Council member John Gunson. The protocol is designed to formalise the circumstances in which it is appropriate for the AIJA to accept sponsorship in relation to education activities and research. The sponsorship policy can be viewed on the AIJA website under About Us - Policies and Protocols.

PUBLICATIONS

Each year, the AIJA issues a number of publications. These include published reports from research projects, our newsletter, *AIJA News*, and papers from conferences and seminars, including the AIJA Oration. The Law Book Company publication, the *Journal of Judicial Administration*, edited by the Executive Director, also provides an opportunity to publish lengthier articles in the field. Information about recent publications, and general information about the Institute's work, is available on its web site <www.aija.org.au>.

The following are the main publications produced in the year under report:

- **Journal of Judicial Administration**
Published by the LBC Information Services (Thomson Legal & Regulatory Group Pty

Ltd), the *Journal of Judicial Administration* (JJA) acts as a focus for the description, discussion and analysis of developments in the field of judicial administration. As editor of the journal, the Executive Director endeavours to include material which focuses on current issues in relation to the role and operation of the judicial system and related institutions. The JJA is now a refereed journal.

AIJA INFORMATION COLLECTION

The AIJA library contains a collection of materials relating to judicial administration from Australian sources, but supplemented by other jurisdictions: mainly the United States, the United Kingdom, New Zealand and Canada. Our Librarian, Mary Young, is happy to take reference inquiries from members and researchers.

AIJA FUNDING AND ACCOUNTS

The AIJA receives the major part of its funding from contributions by all Australian Governments through the Standing Committee of Attorneys-General (SCAG). This is supplemented significantly by the Institute's income from membership fees. The AIJA Research Fund is constituted by means of a 20% contribution levied on its education programs.

The Institute's accounts are annually audited by Ms Alison Brown, of the firm Deloitte Touche Tohmatsu, Chartered Accountants. Copies of the Annual Financial Statements will be available for the Annual General Meeting to be held in September.

AIJA AND MONASH UNIVERSITY

The AIJA has an affiliation arrangement with Monash University Law School which enables it to occupy premises in Monash Law Chambers at 1st Floor, Equity Chambers, 472 Bourke Street Melbourne. The arrangement provides the Institute with a range of services and the AIJA is grateful for the assistance provided to it by the university during the year. The Dean of the Law School, Professor Arie Freiberg, is a member of the AIJA Council.

MEMBERSHIP

The Institute's membership as at 30 June 2008 was 921. The membership was made up as follows:

| MEMBERSHIP | By State/ Territory | MEMBERSHIP | By Category |
|------------------------------|------------------------|---------------------------|----------------|
| New South Wales | 233 | Judges | 345 |
| Victoria | 223 | Masters | 12 |
| Queensland | 120 | Magistrates | 81 |
| South Australia | 77 | Tribunal Members | 86 |
| Western Australia | 84 | Court Administrators | 67 |
| Tasmania | 40 | Legal Practitioners | 123 |
| Northern Territory | 15 | Academics | 35 |
| Australian Capital Territory | 40 | Librarians | 15 |
| Overseas | 89 | Corporate | 82 |
| | | Others | 27 |
| | | Retired Judicial Officers | 27 |
| | | Gov't Officers | 21 |
| TOTAL | 921 | TOTAL | 921 |

LOCAL CHAPTERS

The AIJA Rules provide for the development of local chapters.

Currently there is an active Local Chapter of the AIJA in South Australia, chaired by AIJA Council Member Judge Christine Trenorden. The membership of the Local Chapter is 82.

