

# Annual Report 2014



The Australasian Institute of  
Judicial Administration Incorporated

for the year ended 30 June 2014

## **PATRONS**

### **The Hon Robert French AC**

Chief Justice of Australia

### **The Rt Hon Dame Sian Elias GNZM**

Chief Justice of New Zealand

## **COUNCIL**

### **Presidents**

#### **The Hon Justice Mark O'Regan KNZM**

President, Court of Appeal of New Zealand and New Zealand representative

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##### **The Hon Justice Michelle May**

Family Court of Australia

#### **Deputy President**

##### **Mr Laurie Glanfield AM**

Director, Department of Attorney General and Justice, New South Wales

#### **Members**

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Supreme Court of the Northern Territory

##### **Hon Justice Malcolm Blue**

Supreme Court of South Australia

##### **Her Honour Judge Gillian Braddock**

District Court of Western Australia

##### **Mr Andrew Bridgman**

Secretary for Justice and Chief Executive, Ministry of Justice, New Zealand

##### **Dr Andrew Cannon AM**

Deputy Chief Magistrate, South Australia

##### **Mrs Anne Coghlan**

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##### **Mr Chris Craigie SC**

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##### **Mr David Curtain QC**

Barrister, Victoria

##### **Magistrate Peter Dixon**

Magistrates Court of Tasmania

##### **Mr Grant Donaldson SC**

Solicitor General's Office

##### **Professor Arie Freiberg AM**

Monash University

##### **The Hon Justice Bob Gotterson AO**

Court of Appeal, Queensland

##### **Mr John Gunson**

Partner, Gibney & Gunson, Solicitors, New South Wales

##### **The Hon Justice Ian Gzell**

Supreme Court of New South Wales

##### **Magistrate Annette Hennessy**

Magistrates Court of Queensland

##### **His Honour Judge Peter Johnstone**

Children's Court of New South Wales

##### **The Hon Justice Susan Kenny**

Federal Court of Australia

##### **Professor Kathy Mack**

Flinders University, South Australia

##### **The Hon Justice Robert Mazza**

Supreme Court of Western Australia

##### **Her Honour Judge Christine Mead**

Federal Circuit Court of Australia

##### **Mr Dan O'Gorman SC**

Barrister, Queensland

##### **Mr Robert Pigou**

Ministry of Justice, New Zealand

##### **The Hon Justice Steven Rares**

Federal 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**

Manager – Victoria/Tasmania  
Family Court of Australia & Federal Court of Australia

##### **Mr Steven Stevens**

Principal, Stenas Legal, Victoria

##### **The Hon Marilyn Warren AC**

Chief Justice, Victoria

##### **Mr Roger Wilkins AO**

Secretary, Commonwealth Attorney-General's Department

##### **Papua New Guinea Representative**

##### **The Hon Justice Gibbs Salika CSM OBE**

Deputy Chief Justice, Papua New Guinea

## SECRETARIAT

### **Executive Director**

Professor Greg J Reinhardt

### **Executive Secretary**

Ms Delwyn Gillan

### **Membership and Finance Officer (Part-time)**

Ms Heather Sevald

### **Administrative Secretary/Publications Officer (Part-time)**

Ms Kathy Jarrett

### **Librarian (Part-time)**

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## PRESIDENT'S MESSAGE

The Hon Justice Michelle May

I have enjoyed my first year as AIJA President immensely. It has provided me with a great insight into a wide range of important issues affecting judicial administration at first hand and the opportunity to meet many people involved with courts and tribunals.

I would like, at the outset, to thank my predecessor, Justice Mark O'Regan KNZM for his work as President which has provided a sound basis for the ongoing programme of the AIJA. In his President's message, delivered with the last Annual Report, Mark noted the retirement of Deputy Chief Magistrate Andrew Cannon AM and the imminent retirement of Mrs Anne Coghlan, Mr John Gunson, Magistrate Annette Hennessy, Mr Norman Reaburn. I wish also to express my thanks to all of these members of Council for their contribution to the work of the AIJA over many years and I extend my best wishes to each of them for the future.

At the Annual General Meeting held on 5 October 2013, Justice Duncan Kerr Chev LH, President of the Administrative Appeals Tribunal and the Council of Australasian Tribunals, replaced Mrs Coghlan as Council member in the Tribunal Members' Category. Justice O'Regan was replaced by Chief High Court Judge Helen Winkelmann in the Judicial Members' Category and Mr Reaburn was replaced by Ms Suzan Cox QC, Director of the Northern Territory Legal Aid Commission, in the Professional Members' Category. Mr John Gunson's position in the Professional Members' Category was subsequently filled by Mr Michael Colbran QC.

During the year, Mr Andrew Bridgman, Secretary for Justice and Chief Executive, Ministry of Justice, New Zealand, resigned as a member and was replaced by Mr Robert Pigou, Deputy Secretary Higher Courts and CJESP, Ministry of Justice, New Zealand, in the Court Administrators' Category and Judge Christine Mead of the Federal Circuit Court resigned in the Judicial Members' Category to be replaced by Judge Philip Burchardt of the Federal Circuit Court.

### **Life Membership**

Council has resolved to award life membership to Justice Virginia Bell AC and to Deputy President, Mr Laurie Glanfield AM.

Justice Bell was appointed to Council in October 2000. She became a member of the Board of Management, a member of the Education Committee and a Deputy President. From September 2006 until September 2008 Justice Bell was AIJA President.

Justice Bell has provided significant service to the AIJA and to the administration of justice generally both as a judge of the Supreme Court of NSW and as a judge of the High Court of Australia.

The award of life membership to Justice Bell was made during the Self-Represented Litigants' Conference in April. On that occasion awards were presented to a number of individuals and organisations in the AIJA Award for Excellence in Judicial Administration. These are noted elsewhere in the Annual Report.

Mr Glanfield has provided valuable service to the AIJA over many years in many ways, but particularly as the liaison person between the AIJA and Standing Committee of Attorneys-General and its successor. This has in no small way secured funding for the AIJA and ensured ongoing communication between the AIJA and the Attorneys. I would also like to mention the considerable work which Laurie has carried out in relation to the International Framework for Court Excellence (IFCE). He was instrumental in advancing the idea for the IFCE and in the drafting of the IFCE document. More generally, he has assisted in the promotion of the IFCE, including in a wide range of jurisdictions both in Australia and overseas.

An award of life membership is a fitting recognition of Laurie's contribution to the AIJA which is ongoing as a Council and Board member and as a Deputy President.

#### **International Framework for Court Excellence (IFCE)**

The Framework has been a prominent focus of the work of the AIJA during the year. There was a meeting of the IFCE Executive during the International Organisation for Judicial Training Conference in Washington DC in November 2013. That conference also provided the opportunity for presentations on the Framework to a large audience drawn from courts and tribunals throughout the world including many from developing countries.

A document designed to set out future governance arrangements regarding the IFCE has been prepared by Mr Laurie Glanfield. The Board has agreed with the assistance of the National Center for State Courts (NCSC) and the concurrence of other consortium partners to the establishment of a Secretariat for the IFCE at the AIJA's offices. The tasks involved will include communication of material to IFCE members, maintenance of a list of members, the development and maintenance of the IFCE website, reporting on developments in relation to the implementation of the IFCE and the preparation of a regular newsletter. Ms Liz Richardson, formerly Deputy Executive Director of the AIJA, has been employed on a part-time basis as the IFCE's Officer within the AIJA Secretariat. She has taken to her new role with great enthusiasm.

Some minor changes have been made to the IFCE documents and Greg Reinhardt will refer in his report, to be published as part of the Annual Report to the hosting of delegations of judges from Kenya which is to be followed by a further delegation from Nigeria, in August.

It is very pleasing that the IFCE has now been taken up in many jurisdictions and it will continue to be the role of the AIJA and its partners to promote the IFCE whenever and wherever possible.

### **Sponsorship Protocol**

The AIJA Board of Management (and Council) have reviewed the AIJA's Sponsorship Protocol and some changes have been made to it. This, together with all other protocols, is available on the AIJA website.

### **Planning Exercise**

The AIJA Board of Management met in February in Sydney to look at the AIJA's financial position in light of losses sustained in recent years and generally in relation to AIJA planning. This was followed by a meeting of the AIJA Council in March 2014 which examined and discussed, amongst other things:

- (i) The relationship between the AIJA and other bodies, particularly those that provide judicial education;
- (ii) The type of educational events which should be offered by the AIJA and the need to engage the legal profession in educational programmes;
- (iii) The development of strategies for growing membership;
- (iv) AIJA publications and the cost of publications; and
- (v) The need to engage members, through a survey, in relation to AIJA activities.

All AIJA Standing Committees have taken note of the matters discussed in March and I am grateful to the convenors of all Committees, Education (Ms Jane Reynolds), Project and Research (Justice Robert Mazza) and Membership and Communications (Justice Bob Gotterson AO) for their work in endeavouring to implement the planning discussed by Council at its meeting in March. I wish, in particular, to acknowledge the work of the Education Committee in relation to the Self-represented Litigants Conference which took place in Sydney from 15-17 April 2014. That event resulted in a good profit for the AIJA which will contribute to the AIJA's ongoing work in research.

### **Cultural Diversity**

The AIJA has supported the creation of a Judicial Council on Diversity with the endorsement of the Council of Chief Justices. Greg Reinhardt is to be the AIJA representative on that Council. Ongoing planning is taking place in relation to a conference on cultural diversity expected in March 2015.

A report on AIJA publications during the year appears elsewhere in the Annual Report. Of particular interest is the long awaited publication of the AIJA History. The author of that report, Dr James Waghorne, has, with the encouragement of the Advisory Committee, adopted a thematic approach to the AIJA History. It is good that the history has been published.

I extend my thanks to the Secretariat and to Professor Greg Reinhardt for their unstinting work during the year.

*The Hon Justice Michelle May  
President, AIJA*



## REPORT FROM THE EXECUTIVE DIRECTOR

Professor Greg Reinhardt

The AIJA has convened two major conferences during this year, namely, the AIJA Indigenous Justice Conference held in July 2013 in Adelaide and then Assisting Unrepresented Litigants – a Challenge for Courts and Tribunals Conference held in Sydney in April 2014. Details of both conferences will be found elsewhere in this report.

It is important to note the significant work involved in the development of programmes for events such as the two that I have mentioned. I am pleased to draw upon the resources of those interested in particular areas who are able to identify themes not otherwise available through a call for papers and, more importantly, to identify speakers.

The Indigenous Justice Conference was the third of its kind. Previous conferences were held in Mildura and Rockhampton. The Indigenous Justice Conference gives those involved in or with an interest in Indigenous justice the opportunity to meet and exchange views in relation to contemporary Indigenous justice issues including sentencing, the evaluation of Indigenous courts and Indigenous people in the prison system.

The Adelaide conference itself gave rise to a number of key themes and issues regarding Indigenous justice which will be explored and carried forward by the Indigenous Justice Committee. Significantly, the AIJA is also involved in research affecting Indigenous people and reference can be made to the research project which will be funded by the Commonwealth Attorney General's Department and which is referred to later in the report.

The conference entitled 'Assisting Unrepresented Litigants – a Challenge for Courts and Tribunals' was an event which had partly resulted from a suggestion that there was a need to examine fully the impact which unrepresented persons have on courts and tribunals. At meetings of the Working Group established under the auspices of the AIJA in relation to the Productivity Commission's Report on Government Services it was noted that there was no real measure of the impact which unrepresented litigants have on the administration of justice. Some courts and tribunals keep statistics regarding numbers of unrepresented persons who come before them but other information is either scant or non-existent. The conference provided an opportunity to consider this and many other important matters affecting those working in courts and tribunals, including the practising profession, as well as self represented litigants themselves.

Programmes identified for next year include Cultural Diversity (March 2015) and Court and Tribunal Technology (May 2015).

I am pleased that the AIJA History has been completed and the response to it has been very positive.

The AIJA's work in relation to the Framework for Court Excellence continues and it is very pleasing that the Secretariat is now the Secretariat for the Framework.

I extend my thanks to Ms Liz Richardson, Ms Delwyn Gillan, Ms Kathy Jarrett, Ms Liz Porter, Ms Heather Sevald and Ms Mary Young for their work throughout the year.

*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 2014 appears at the front of this report.

## **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 was occupied for part of year by Mr Andrew Bridgman and is currently held by Mr Robert Pigou.

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 Justice Gibbs Salika KBE CSM OBE, 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 Membership and Communications Committee. The Board can also co-opt other members of Council to serve on the Board.

As at 30 June 2014, the members of the Board of Management were Justice Michelle May, AIJA President, Mr Laurie Glanfield AM, Deputy President, Justice Robert Mazza, Deputy President, The Hon Justice Bob Gotterson AO, The Hon Justice Steven Rares and Mrs Jane Reynolds.

## **AIJA AWARD FOR EXCELLENCE PRESENTATIONS**

### **2013 Winner - Awarded jointly to:**

High Court of New Zealand, the Hon Justice Helen Winkelmann, Chief High Court Judge, High Court of New Zealand, the Hon Justice Forrest Miller, High Court of New Zealand, her Honour Chief Judge Jan-Marie Doogue and District Court of New Zealand, his Honour Judge Colin Doherty.

### **Award of Commendation**

Mr Graeme Pearce, Cross Borders Indigenous Family Violence Programmes, Northern Territory, Aunty Colleen Welch for her work as an Aboriginal Elder and Court Justice Officer, South Australia and Hon Justice Alan Wilson for his work in court administration in relation to the establishment of Queensland Civil and Administrative Tribunal (QCAT).

## **CONFERENCE AND SEMINAR PROGRAMMES**

The AIJA's education programme 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 programme is overseen by the AIJA's Education Committee, convened by Dr Andrew Cannon AM, Deputy Chief Magistrate, South Australia until his resignation in July 2013, Ms Jane Reynolds, Manager, Family Court of Australia and Federal Circuit Court of Australia is the current convenor.

All AIJA education programmes 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.

2013-2014 programmes included:

**AIIA Indigenous Justice Conference – Current Issues in Delivering Indigenous Justice – Challenges for the Courts, 18-19 July 2013, Adelaide**

The conference was attended by 130 delegates. Some key themes discussed were:

- Change rhetoric from “tough on crime” to “smart on crime” – more focus on prevention, early intervention, diversion and rehabilitation
- Add justice targets to the 6 existing Closing the Gap targets
- Justice Reinvestment should be supported – the re-direction of resources from incarceration to community programmes and support. Detention as a measure of last resort for dangerous and serious offenders and shifting culture away from prison to supporting community based programmes (Senate Cttee report 20/6/13, NIDAC report Prison vs Residential Treatment – Deloitte Access Economics)
- Greater value should be placed on youth diversion from the court system – for 10-15 year olds diversion should be paramount.
- Need greater number of Aboriginal Lawyers and targeted recruitment programmes
- Need greater funding to Aboriginal Legal Services
- Indigenous Sentencing Courts are unique, evolving and effective and should be supported by courts administrations, justice agencies and community services.
  - Relationships are very important and process is more important than outcome
  - Indigenous courts are transforming mainstream processes into something more meaningful
  - Success of establishing courts from the ground up, community based, not one size fits all
  - Judicial Officer’s relationship with Elders very important and takes time to establish – cannot be assumed
  - Indigenous courts return respect to Elders and give them a voice and cultural authority
  - Suggestion for national body for Elders
  - Suggestion for national recognition system for any Judicial Officer wanting the privilege of learning and serving Aboriginal people
  - Culturally neutral justice system is a mono-cultural justice system that reflects the dominant culture
  - Recidivism is one amongst many measures to evaluate – qualitative measures such as increasing respect of Elders, improved community relationships, defendants understanding and participating in court proceedings and outcomes, and positive effects upon Aboriginal community relationships with court system.
- Need greater attention to historical and social context of disadvantage when sentencing Aboriginal offenders – not discriminatory, nor paternalistic – “individualised justice”
- Importance of courts recognising unique difficulties of remote communities and their access to justice, in particular for women victims of family violence.
- Newly emerging links between the negative experience of members of Stolen Generation ie grief, loss, trauma, anger, self harm, and contact with the criminal justice system.
- The Indigenous Justice Committee will meet to consider how best to proceed with recommendations and other matters arising from the Conference.

Thanks are due particularly to John Gunson for his work in relation to sponsorship for Indigenous attendees and to Ms Sarah Alpers.

Papers/presentations available can be found at <http://www.aija.org.au/Ind%20Courts%20Conf%2013/Program.pdf>

### **AIJA Seminar on Restorative Justice Alternatives to the Criminal Justice System, 28 November 2013, Melbourne**

The seminar was attended by 113 delegates in Melbourne and other states were represented via video-link from Adelaide, Brisbane, Hobart, Darwin, Perth and Sydney.

The purpose of this seminar was to discuss restorative justice alternatives to the criminal justice system in certain kinds of sex assault cases, most notably “historic” family sex abuse cases, “date rape cases” and cases involving intellectually disabled victims.

The seminar was moderated by Damien Carrick of Radio National’s The Law Report, and featured a panel comprising Justice Marcia Neave, Court of Appeal, Victoria, Victorian County Court Judge Sue Pullen, barristers Mark Gibson and Jane Dixon SC, Carolyn Worth from the South Eastern Centre Against Sexual Assault and Fiona Landon from New Zealand’s Project Restore, one of the few programmes in the world to have ever used restorative justice conferencing in sex cases.

An edited DVD of the seminar, including the lively “question time” afterwards, is available for purchase from the AIJA for AUD\$15 including postage (email your details to [heather.sevald@monash.edu](mailto:heather.sevald@monash.edu)).

### **Assisting Unrepresented Litigants – A Challenge for Courts and Tribunals Conference, 15-17 April 2014, Crowne Plaza, New South Wales**

The conference was attended by 139 delegates, topics discussed were:

- Case Study Pinpointing the various dilemmas for Courts and tribunals of self- represented litigants – The dark side of SRLs: Are they the new face of process abuse in Australian courts?
- A self- represented litigant’s experience with the Court
- Unrepresented Litigants – at home and away
- Self Represented Litigants – the Federal Circuit Court Experience
- The Participation of Unrepresented Litigants in Dispute Resolution Conferences of the Children’s Court of NSW. Observations; statistics and anonymised case studies from a Children’s Registrar’s perspective
- The Merits Review of decisions by the National Disability Insurance Agency
- Self-representing people and the interface with Legal Aid
- Self Represented Parties and the Court Rules in Queensland
- “With a little help from a friend”: Unrepresented litigants, friends and the question of payment
- A Third Way? The experience of Lay Advocates in both specialist and common law employment litigation in NZ
- Guidelines for barristers on dealing with self-represented litigants
- Self represented litigants in the High Court of Australia
- Querulant Behaviour in Litigation
- Managing the constant tension which exists between trying to persuade self-represented litigants (in civil proceedings and civil appeals particularly) to seek and retain legal advice (in the higher court setting) whilst always being cautious to keep the 'access to justice doors open
- The use of technology to provide pro bono assistance to unrepresented litigants in regional and remote Australia
- ‘Fourth Party’ assistance for unrepresented litigants; The next generation of online lodgement technology
- The Unrepresented Litigant on Appeal
- The unrepresented group member and Australian class actions
- Special Problems for Lay Participants in the Inquisitorial Context of a Coroner’s Inquest
- Innovative approaches or programmes being used-piloted/proposed in Australian and overseas jurisdictions
- Walk a Mile in My Shoes: Understanding Self Represented Litigants’ Experiences
- Unrepresented litigants before tribunals
- Tough love - justice and the right to self-representation in NSW tribunals
- Assisting self-represented parties outside of the hearing room: a registry perspective
- Access to justice in the State Administrative Tribunal: Experiences of self-represented litigants in strata title proceedings

- Legal aids scheme in Indonesia: Between the Policy and the Implementation
- Do-It-Yourself Law: Access to Justice and the Challenge of Self-Representation
- Data Collection and measuring the impact of self represented litigants on any given jurisdiction
- Assisting Self-represented Litigants for Cases with On-going Site Hearings or On-site Conciliation Conferences
- Unrepresented litigants and the practising profession. The importance of Preserving the Independent Criminal Bar
- Counsel's duty to assist opposing litigants where they are unrepresented

Papers/presentations available can be found at <http://www.aija.org.au/Unrep%20Litigants14/Program.pdf>

### **Timeliness in the Justice System: Ideas and Innovations Forum, 16-17 May 2014, Monash University Law Chambers**

The AIJA was involved in the planning for this conference and it was co-badged with the Australian Centre for Justice Innovation (ACJI). The Forum was attended by 69 delegates. The two-day invited Forum brought together senior judicial officers, researchers and policy-makers from around Australia and overseas to discuss issues and innovations in timeliness and to generate ideas for the implementation of promising innovations. Topic covered included:

- ❖ Defining Timeliness
- ❖ Innovations in Timeliness, Technology, Obligations
- ❖ Issues in Timeliness
- ❖ Latest Ideas in Case Management
- ❖ Innovations in Timeliness: Changing Processes, Resourcing and Organisation
- ❖ Future Directions

### **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 2012-2015 which identifies several themes to guide the AIJA's activities:

- ❖ Cost of litigation
- ❖ Innovating for the future, including simplification and harmonisation of civil, criminal and appellate procedure and case-flow management
- ❖ Court performance and accountability
- ❖ Disadvantaged & self-represented litigants
- ❖ Appropriate approaches to justice, including alternative dispute resolution and problem-solving justice
- ❖ Technology and 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 by Justice Robert Mazza, 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:

- **Harmonisation of Court Rules**

The Sub-committee of the Council of Chief Justices has proceeded with work in relation to the harmonisation of rules in relation to service out of Australia and commercial arbitration. The Sub Committee is chair by Justice Arthur Emmett of the Court of Appeal, New South Wales. It continues to monitor the harmonised rules adopted throughout Australia as the result of its work.

The establishment of the Sub-committee was the result of the initial work undertaken by the Institute and it is represented on this Sub committee by the Executive Director, Greg Reinhardt.

- **Proportionality**

In December 2011, the AIJA published research on proportionality as it affects litigation in the area of family provision or testators' family maintenance. Professor Prue Vines, Law School, the University of New South Wales and colleagues from that University conducted this research published under the title "Bleak House Revisited? Disproportionality in Family Provision Estate Litigation in New South Wales and Victoria". The Institute will consider further empirical research on proportionality as it affects such litigation.

The Project and Research Committee has resolved, with the concurrence of the AIJA Council, that priority be given to work on the project 'Why do some civil cases end up in a full hearing?' This project will touch upon matters relevant to proportionality.

- **Jurors and Expert Evidence**

The AIJA has previously published work on the reaction of judges and magistrates to expert evidence. Professor Ian Freckelton and Dr Jacqui Horan are involved in further work, supported by the AIJA with an Australian Research Council grant, which will look at the reaction of jurors and the practising profession to expert evidence.

All empirical research has been conducted and the results of that research will be available either late in 2014 or early 2015 to be published by Oxford University Press. The publication of the research by Oxford University Press is a significant development which is likely to give greater authority to the research.

- **Accessibility of Programmes for Indigenous Offenders**

In November 2008 the AIJA Council gave in principle support to a proposal put forward through the Indigenous Justice Committee prepared by Chief Justice Brian Martin and Justice Stephen Kaye to examine the Accessibility of Programmes for Indigenous Offenders.

Dr Troy Allard, co-director, Justice Modelling at Griffith Key Centre for Ethics Law Justice and Governance completed the report. After review by the Project and Research Committee and the Council it was agreed that further work should be undertaken. Dr Adam Tomison, Director, Australian Institute of Criminology is currently engaged in this work. Some difficulty has been encountered in obtaining relevant information from correctional bodies. This now appears to be resolved and Dr Tomison should be able to proceed with his work.

Funding for the research has been made available by the Commonwealth Attorney-General's Department and the result of the research are expected in the early part of 2015.

- **Proposed Protocol in Relation to Interpreters and their work in Courts and Tribunals**

Professor Sandra Hale, University of New South Wales and formerly of the University of Western Sydney, was engaged to conduct research towards a protocol which will meet the needs and concerns both of courts and tribunals and those of interpreters. Many of these were the subject of discussion at the Interpreters conference in Fremantle in March 2009.

In June 2011 Professor Hale submitted her report entitled "*Interpreter Policies, Practices and Protocols in Australian Courts and Tribunals: A National Survey*" released by the AIJA. The AIJA has provided financial assistance to Professor Hale to the Australian Review Council Linkage Grant "Interpreters in Court: Witness Credibility with Interpreted Testimony". Her research continues.

- **Statutory judicial review in Australia: A comparative analysis of the Australian Capital Territory, Queensland and Tasmanian schemes**

The report was published in the *Journal of Judicial Administration* (JJA) 23 (2) (October 2013) 73-129.

- **Public Perceptions of Sentencing**

The AIJA has approved financial assistance, through an Australian Research Council grant for Professor Kate Warner's research on "Gauging informed public opinion on sentencing sex offenders: a national study". The project will look at:

- Do informed members of the public think sentencing is too lenient for sex offences (for all sex offences, for specific types of sex offences and for sexual offences compared with non-sexual violent offences)?
- Are informed members of the public more likely to believe sentencing for sex offences is too lenient when responding to abstract questions about sentencing compared with real cases (i.e. is there a perception gap, that is a difference between abstract views of sentencing severity and the severity of the actual sentence in their case)? If so, what factors may explain this?
- Are there jurisdictional differences in perceptions of leniency in sentencing for sex offences?
- What are the perceived wrongs of sexual offences and what factors affect offence seriousness from the perspective of informed members of the public? Do their views differ from the views of judges?
- How does the jury method compare with a vignette methodology in terms of measuring informed public opinion?

This project, which is being conducted by Professor Kate Warner of the University of Tasmania and a team of researchers, is proceeding. Many juror interviews have been conducted in Victoria, Tasmania and New South Wales and they continue.

- **Access to Legal Information – A Pilot Study**

This research conducted by Dr Lisa Toohey, Queensland University of Technology, Brisbane, and other researchers is concerned with the information use of people during times of legal need. The study will build upon the small but growing body of work that explores people's legal information use.

- **Why do some civil cases end up in a full hearing? Formulating litigation and process referral indicia**

Preliminary work is being undertaken by Professor Tania Sourdin of The Australian Centre for Justice Innovation (ACJI) and other researchers in the Centre.

- **Juries and Justice: How do Juries deal with Inadmissible Evidence**

Dr Diane Sivasubramaniam (Psychological Sciences and Statistics, Swinburne University) and others have requested seed funding to support an ARC Discovery Project on juries and justice: How do juries deal with inadmissible evidence? The AIJA has awarded Swinburne University funding for this project and an Advisory Committee has been established.

The Report is due to be received in October 2014.

## **MEMBERSHIP AND COMMUNICATIONS**

The AIJA Membership and Communications Committee was formed as a result of the strategic planning process in 2005. In May 2010 the AIJA Council conducted a planning day to review the activities of the Institute.

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 Justice Robert Gotterson AO of the Court of Appeal, Queensland.

This Committee has been very active during its existence, 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 2012-2015. These documents are available on the AIJA website.

## **PUBLICATIONS**

### **Tribunal Independence by Associate Professor Pamela O'Connor**

This publication was jointly commissioned by the AIJA and the Council of Australasian Tribunals (COAT).

In the words of Professor O'Connor:

This is a study of institutional provisions and arrangements that enable tribunals to perform their functions impartially and independently. The primary function of Australian and New Zealand tribunals is the resolution of disputes, and the principal method is adjudication. There is a growing international interest in identifying, enhancing and measuring the institutional arrangements that safeguard impartial adjudication by tribunals. They include legislative provisions, common law rules of judicial review, government policies, procedures and guidelines, funding arrangements, service agreements, administrative practices and conventions, cultural and societal norms, values and attitudes. They are found in variable combinations and interact in complex ways.

Professor O'Connor's work is a valuable contribution to the broader question of independence in the administration of justice but is of particular significance to those who work in tribunals. The AIJA is pleased to have been involved with COAT in relation to this publication.

### **Improving Justice : A History of the AIJA by Dr James Waghorne**

This history takes in all the significant details of the AIJA's history, including the formation of the first AIJA council in 1976 and the first AIJA seminar – held in 1982 and focusing on the issue of “delay” in the courts . It also explains the context for the 2003 change in the AIJA's brief - from the original “bringing modern management techniques and research to judicial administration” to the present “promoting excellence in courts and tribunals”.

But this book was not commissioned as an exercise in self-congratulation or even as a strict documentation of the activities of this organisation over the 40-plus years that have passed since 1972, when its founder, the ACT's Justice Russell Fox, argued that the operating systems of justice needed urgent reform and then suggested that the people most capable of finding remedies for system faults could be found within the judiciary itself.

Instead, this work maps the activities of the AIJA against the background of the dramatic changes in the administration of the justice system that have occurred over the last three decades. It also explains how the AIJA, with its focus on innovations and challenges, continues to evolve in response to changes in the styles of reform required in the modern era. Accordingly, *Improving Justice* looks forward as much as it looks back.

### **JOURNAL OF JUDICIAL ADMINISTRATION**

Published by Thomson Reuters, 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.

Information about recent publications, and general information about the Institute's work, is available on its website <http://www.aija.org.au/JJA/JJA%20Abstracts.pdf>

### **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. The AIJA 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 Council on Law and Justice (SCLJ). 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 programmes.

The Institute's accounts are now annually audited by Mr Henry Perlen of Agostinelli Perlen Chartered Accountants. Copies of the Annual Financial Statements are available on request.

### **AIJA AND MONASH UNIVERSITY**

The AIJA has an association arrangement with Monash University Law School which enables it to occupy premises on the ground floor of the Monash Law Chambers at its premises at 555 Lonsdale 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. Professor Arie Freiberg AM, is a member of the AIJA Council.

## MEMBERSHIP

The Institute's membership as at 30 June 2014 was 719. The membership was made up as follows:

MEMBERSHIP	By State/ Territory	MEMBERSHIP	By Category
New South Wales	169	Judges	269
Victoria	158	Magistrates	52
Queensland	132	Tribunal Members	48
South Australia	57	Court Administrators	28
Western Australia	67	Legal Practitioners	90
Tasmania	28	Academics	30
Northern Territory	11	Librarians	19
Australian Capital Territory	25	Corporate/Sponsor	63
Overseas	72	Others	47
		Retired Judicial Officers	54
		Government Officers	18
		Student	1
<b>TOTAL</b>	<b>719</b>	<b>TOTAL</b>	<b>719</b>

## COMMUNICATION WITH THE AIJA

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

The Executive Director, AIJA  
Ground floor, 555 Lonsdale Street  
MELBOURNE VIC 3000  
Telephone: (03) 9600 1311, Facsimile: (03) 9606 0366  
Email: [gregory.reinhardt@monash.edu](mailto:gregory.reinhardt@monash.edu)

## WEBSITE

The AIJA website is located at [www.aija.org.au](http://www.aija.org.au) and provides information about the Institute and its research and education programmes.