

Report on Performance

Achieving a Just & Secure Society

The report on performance covers both administered items and departmental outputs.

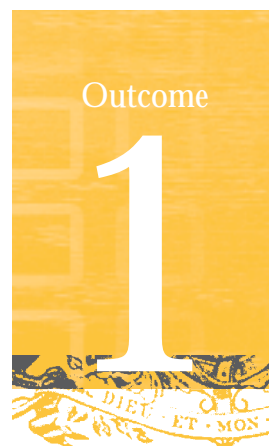
Administered items are those items of expenditure controlled by Government and managed by the Department on behalf of the Government. These items include grants, subsidies, fees, fines and loans to other governments and related payments. Departmental outputs are the goods and services the Department provides for or on behalf of the Government.

The performance report on departmental outputs follows the outcomes and outputs framework of the 2000–01 Portfolio Budget Statements with amendments introduced in the 2000–01 Portfolio Additional Estimates Statements. Some variations to output descriptions have been introduced to better reflect the services provided and to accommodate organisational changes.

Reports of evaluations undertaken during the year, including those listed in the 2000–01 Portfolio Budget Statements, are incorporated into the performance information for the relevant output.

An equitable and accessible system of federal law and justice

Achieving a Just & Secure Society



RESOURCE SUMMARY

	(1) Budget ¹ 2000–2001 \$'000	(2) Actual ² expenses 2000–2001 \$'000	(3) Variation (column 2 minus column 1)	(4) Budget ³ 2001–2002 \$'000
Administered Expenses (including third party outputs)	243 236	214 144	(29 092)	242 418
Total Administered Expenses	243 237	214 144	(29 093)	242 418
Price of Departmental Outputs				
Output 1.1: Maintenance and development of the federal system of justice and the rights and responsibilities of individuals, families, business and the community				
	24 339	23 771	(568)	24 711
Output 1.2: Support for the Attorney-General as First Law Officer and advice on constitutional policy				
	5 168	4 961	(207)	5 263
Output 1.3: Administration of payments for, and the delivery of, government programs including legal assistance and family law related services				
	3 232	3 623	391	3 597
Output 1.4: Protection of Australia's interests internationally and compliance with Australia's international obligations				
	4 415	5 375	960	4 425
Output 1.5: Drafting of legislative and other instruments and publications of legislation and related materials				
	9 426	8 742	(684)	9 412
Output 1.6: Machinery of government obligations				
	5 735	5 270	(465)	5 163
Total Price of Outputs	52 315	51 742	(573)	52 571
Revenue from Government (Appropriation) for Departmental Outputs				
	49 115	46 518	(2 597)	49 795
Revenue from other Sources				
	3 200	4 207	1 007	2 776
Total Departmental Revenue	52 315	50 725	(1 590)	52 571
TOTAL FOR OUTCOME 1 (Total Price of Outputs and Administered Expenses)				
	295 551	265 886	(29 665)	294 989
			2000–2001	2001–2002
Average Staffing Level			365.1	354.1

¹ Full-year budget, including additional estimates and internal restructure between outputs.

² Actual expenses includes the capital use charge.

³ Budget prior to additional estimates.

PERFORMANCE REPORT – Administered items

Australian organisations – grants

Performance measure: Grants made in accordance with agreed funding arrangements.

Amounts are paid to various bodies in accordance with Government decisions including the Commonwealth's contribution to the Australian Institute of Judicial Administration, Red Cross for international law dissemination and the Council for Civil Liberties. All payments were made in accordance with agreed funding arrangements.

International bodies – membership contributions

Performance measure: Grants made in accordance with agreed rates of contribution.

The General Assembly of the International Institute for the Unification of Private Law (UNIDROIT) at its 54th session on 30 November 2000 set Australia's contribution at \$66 017. This amount was paid in January 2001. Australia's membership contribution to the World Intellectual Property Organisation (Berne Union) for the protection of the rights of authors in their literary and artistic works, was \$195 830. Australia's contribution to the Hague Conference on Private International Law was \$97 235 and \$25 153 was paid to the Organisation for Economic Cooperation and Development (OECD) in respect of the financial action task force program.

Financial assistance towards legal costs and related expenses

Performance measure: Assistance provided in accordance with relevant legislation and in compliance with the terms of individual grants.

The Commonwealth administers a number of statutory and non-statutory financial assistance schemes. Under these schemes legal or financial assistance is provided in cases where assistance is not generally available from legal aid commissions and where the circumstances constitute special cases of Commonwealth interest. The statutory schemes include matters arising under certain provisions of the *Workplace Relations Act 1996*, the *Freedom of Information Act 1982* and the *Native Title Act 1993*. The non-statutory schemes include matters involving overseas custody (child removal), public interest and test cases.

Assistance has been provided in accordance with relevant legislation and in compliance with the terms of individual grants

Publication of Acts and Statutory Rules

Performance measure: Expenditure in accordance with the Legislative Printing Program.

The item refers to an administered fund for the printing and publishing of legislation in hardcopy form (Acts, Statutory Rules, reprints or consolidations of Acts and Statutory Rules, bound volumes, tables and indexes). In 2000–2001, the allocation was \$1 599 547

and the expenditure \$1 564 411. Thirty reprinted Acts and Statutory Rules, comprising 9917 pages, 12 bound volumes (eight of Acts and four of Statutory Rules) comprising 14 125 pages and 374 pages of various tables were printed and published during the year.

Law Courts Limited – contributions to operating expenses and costs of the joint Law Library

Performance measure: Payments made in accordance with Commonwealth–NSW funding agreement.

Contributions to the operating expenses for the Joint Law Courts library are made on the basis of a formula agreed between the Commonwealth and the NSW Government. Payment was made in accordance with that formula.

Grants to family relationship support organisations

Performance measure: Funds provided in accordance with Service Agreements between the Commonwealth and individual service providers.

The Family Relationships Services Program is jointly funded by the Attorney-General's Department and the Department of Family and Community Services. The Program is administered by Family and Community Services. Funds for certain services under the Family Relationships Services Program are supplied by the Attorney-General's Department. Arrangements governing the relationship between Family and Community Services and the Attorney-General's Department are agreed in a Business Partnership Agreement.

The service types which are funded under this arrangement are family and child mediation under the Family Law Act, children's contact services and a specific contact orders pilot project and additional primary dispute resolution and conciliation services. Family and child counselling under the Family Law Act is jointly funded by Family and Community Services and the Attorney-General's Department.

In addition to the service types funded by the Attorney-General's Department, service types funded by Family and Community Services are marriage and relationship education, family relationships skills training, adolescent mediation and family therapy, and family and relationships counselling.

Reimbursements, or payments on account of reimbursement made, for services under the Family Law Act 1975 and the Child Support Scheme legislation

Performance measure: Funds provided in accordance with Commonwealth–State agreements.

Payments made in accordance with Commonwealth–State agreements.

Constitutional Centenary Foundation Incorporated

Performance measure: Contribution in accordance with Government approved grant.

Payment was made in accordance with the Commonwealth's agreed contribution. (This will be the final payment to the Constitutional Centenary Foundation as the Foundation is being wound-up.)

Family Court of Western Australia – operating expenses

Performance measure: Quarterly payment made in accordance with the agreement with the WA Government.

By arrangement between the Commonwealth and the Government of Western Australia, made in accordance with s.41 (1) of the *Family Law Act 1975*, the Commonwealth contributes to the operating expenses of the Family Court of Western Australia. Payments were made in accordance with the Commonwealth–State agreement.

Community legal services

Performance measure: Funds provided in accordance with Service Agreements between the Commonwealth and individual service providers.

The Commonwealth Community Legal Services Program purchases general and specialised legal services on behalf of the most needy members of the Australian community.

Services delivered by community legal services reflect the needs of the local community. The community legal service provide a range of assistance on legal and related matters to people on low incomes and those with special needs. They form an integral part of legal service delivery in Australia.

Many services offer general legal assistance in areas such as family and civil law. Others specialise in tenancy or consumer rights, youth advocacy, immigration law, environmental law, child support or women's issues.

Funds were provided in the reporting period in accordance with service agreements.

Construction of court facilities

Performance measure: Payment made in accordance with contractual arrangements.

The Melbourne Law Courts project is part of the court construction program to provide dedicated court facilities for federal jurisdictions. Payments have been made in accordance with contractual arrangements.

Payments for the provision of legal aid

Performance measure: Funds provided in accordance with formal agreements between the Commonwealth and the relevant States and Territories.

Funding for legal aid commissions is provided by both the Commonwealth and State/Territory governments. State/Territory funding is directed towards the provision of assistance in State/Territory matters. Commonwealth funding is used to provide assistance in Commonwealth matters and it is provided through purchaser/provider agreements which specify outcomes, output levels and prices for service delivery. Legal aid commissions are independent statutory organisations established under State and Territory legislation to provide legal assistance to people who are unable to afford the cost of private legal services.

The Commonwealth sets priorities and guidelines for the provision of legal aid for matters arising under Commonwealth law. The Commonwealth is committed to providing legal aid for matters, which arise under Commonwealth law on a fair basis to as many people as possible. Family law matters, and especially matters relating to children, are a key priority area.

Funds have been allocated in accordance with formal agreements between the Commonwealth and the relevant States and Territories.

Commonwealth legal aid program

Performance measure: Funds provided in accordance with formal agreements between the Commonwealth and relevant State and Territory legal aid commissions.

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Funds have been allocated in accordance with formal agreements between the Commonwealth and relevant State and Territory legal aid commissions.

For expenditure under Part 9 of the Native Title Act 1993

Performance measure: Expenditure in accordance with formal agreements, once finalised, between the Commonwealth and State and Territory governments.

All States and Territories have been invited to enter into bilateral agreements with the Commonwealth to reimburse them for 75 per cent of native title compensation costs and 50 per cent of the cost of tribunals performing native title functions.

Funds for such assistance have been appropriated as a Specific Purpose Payment since 1997–98. However, pending the signing of financial assistance agreements, no payments have yet been made. Because of the uncertainty as to the number and effect of compensable acts, a reference to native title financial assistance has been included in the Budget Statement of Risks.

Remuneration and Allowances Act 1990 – Justices of the High Court

Performance measure: Payments made in accordance with entitlements and agreed arrangements.

Payment of remuneration and allowances to High Court and Federal Court judges has been made in accordance with entitlements and agreed arrangements.

Judges Pensions Act 1968

Performance measure: Payments made in accordance with entitlements and agreed arrangements.

Pension payments and payments to widows and dependents of deceased judges have been made in accordance with entitlements and agreed arrangements.

PERFORMANCE REPORT – Departmental outputs

Output 1.1: **Maintenance and development of the federal system of civil justice and the rights and responsibilities of individuals, families, business and the community**

Performance measure: Policies maintain and develop institutional frameworks that deliver efficient and effective justice.

Judicial system and administrative law

The beginning of the year saw the successful commencement of the new Federal Magistrates Service, which began hearing cases on 3 July 2000. The Department continued to provide support and assistance to the new Service as it established itself as a functioning court. The success of the new Service in providing a quicker, more user-friendly forum for the resolution of less-complex family law and a range of other federal law matters has been assisted by the cooperative efforts of the Federal Magistrates Service, the Federal Court of Australia, the Family Court of Australia and the Department.

Once the new Service began hearing cases, it became evident that some fine-tuning of the federal magistrates' jurisdiction was needed. To achieve this, the Department consulted stakeholders, including the Law Council of Australia, and developed several amendments to the relevant legislation. The *Jurisdiction of Courts (Miscellaneous Amendments) Act 2000* clarified the Federal Magistrates Service's jurisdiction to hear matters transferred from the Federal and Family Courts. The jurisdiction of federal magistrates to hear residence applications was also expanded by removing the need for the parties to consent to that jurisdiction (*Family Law Amendment Act 2000*). The Department is consulting stakeholders and providing advice to Government on other potential areas of jurisdiction for federal magistrates.

The Administrative Review Tribunal (Consequential Provisions) Bill 2000 was introduced into the House of Representatives on 12 October 2000 and was debated with the Administrative Review Tribunal Bill 2000, which had been introduced on 28 June 2000. This legislation would establish the Administrative Review Tribunal with the function of reviewing administrative decisions on their merits. It would be readily accessible and provide a review that is fair, just, economical, informal and quick. The new Tribunal would replace the Administrative Appeals Tribunal, the Social Security Appeals Tribunal, the Migration Review Tribunal and the Refugee Review Tribunal. Amalgamation would maximise information-sharing and foster the development of existing best practice across all jurisdictions of the Tribunal, enable more streamlined review structures and processes to be adopted, and rationalise resources and create efficiencies. The two Bills passed the House of Representatives on 8 December 2000. On 26 February 2001 the Senate rejected the Bills. The Government is undertaking further consultations with a view to possible revision and reintroduction of the Bills.

The Department consulted a wide range of organisations (including federal courts, other Commonwealth departments with relevant interests and the Law Council of Australia) on the recommendations made by Australian Law Reform Commission in its report, *Managing Justice: a review of the federal civil justice system*. The report is the result of a

wide-ranging and comprehensive empirical inquiry conducted over four years, which covers federal courts and tribunals and community and court-based alternative dispute resolution schemes. About half of the Commission's 138 recommendations are directed to the Federal and Family Courts and the Administrative Appeals Tribunal and relate primarily to procedural matters. Others are addressed to legal practice and legal professional bodies, including the Law Council of Australia, and to universities and other bodies with responsibilities for legal education. All recommendations are directed at improving the federal civil justice system. At the end of the reporting year, after consultation with other departments and bodies to which recommendations were directed, work was well advanced on preparation of a draft Government response, which is expected to be tabled before the end of 2001.

In addition to these specific matters related to the judicial system, the Department provided advice to the Attorney-General and numerous departments on the operation of the justice system, the jurisdiction of federal courts and tribunals, legal procedure and administrative law. It assisted the Attorney-General in making 81 appointments to federal courts and tribunals, including 12 judicial appointments.

Judicial education

Judicial education is an important means of assisting judges and other judicial officers to deliver efficient and effective justice. Following a recommendation by the Australian Law Reform Commission that the Attorney-General facilitate the establishment of an Australian judicial college, the Secretary of the Department co-chaired a working group established by the Attorney-General in October 2000 to explore options for such a college. The working group consisted of judicial officers from Commonwealth and State courts and representatives of the Commonwealth, New South Wales, Victorian and Western Australian Governments. The Department provided policy and secretariat support. The working group consulted widely and developed detailed proposals for the establishment of a national college. Its report was provided to the Attorney-General in May for consideration by the Standing Committee of Attorneys-General at its meeting in July 2001. As a result of that report, the Standing Committee agreed in principle to establish a National Judicial College of Australia and asked the working group to continue as a steering committee for the implementation of the proposal. The College will provide judicial officers with nationally consistent training in order to respond to developments in judicial responsibilities and Australia's changing society.

International litigation

The Department was involved in preparations by Australia for its participation in negotiations on a proposed new Hague Convention on Jurisdiction and Recognition and Enforcement of Judgments in Civil and Commercial Matters. This involvement included public consultation on the draft Convention and preparation of briefing for the Australian delegation to the negotiations. The object of the negotiations is to produce a Convention that will facilitate the enforcement worldwide of civil judgments, thus assisting international commercial and other relationships.

Australia accepted the accessions of four countries to the Hague Convention on the Taking of Evidence Abroad in Civil Matters 1970. Such accessions facilitate litigation with an international dimension.

Human rights

The Department was closely involved in preparations by Australia for its participation in the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in South Africa from 31 August to 7 September 2001. A representative of the Civil Justice Division attended the second preparatory meeting held in Geneva from 21 May to 1 June 2001 and attended the third meeting held 30 July to 10 August 2001. The object of the Convention is to produce a Declaration and Programme of Action directed at identifying practical measures at the national, regional and international levels for combating racism, racial discrimination, xenophobia and related intolerance.

The Human Rights and Equal Opportunity Commission is the independent statutory body charged with a range of functions related to protecting and raising awareness of the rights and responsibilities of individuals and families. The terms of two Commissioners (Mr Chris Sidoti, Human Rights Commissioner, and Ms Susan Halliday, Sex Discrimination Commissioner) expired during the reporting year. In order to ensure that a broad range of people could be considered for the positions, applications were sought, in each case, through advertisements in newspapers across Australia. Dr Sewryn Ozdowski OAM was appointed Human Rights Commissioner and acting Disability Discrimination Commissioner from 8 December 2000. At the end of the reporting year, the President of the Commission was acting Sex Discrimination Commissioner, with Ms Pru Goward due to take up her appointment in this position on 30 July 2001.

In addition to these specific matters, the Department provided a wide range of legal and legal policy advice to the Government on Commonwealth human rights and anti-discrimination legislation, and in particular in relation to issues identified by courts, the Human Rights and Equal Opportunity Commission or other bodies or individuals as affecting the effectiveness of the protections that legislation provides.

Family law

The Family Law Pathways Advisory Group was established on 17 May 2000 to formulate recommendations to the Government on providing stronger and clearer pathways to early assistance for families facing separation. The members of the group were drawn from academia, legal aid, family relationships and other community service providers, the Family Court and magistrates courts, and the community. Key government agencies, including the Department of Family and Community Services, the Attorney-General's Department, the Department of the Prime Minister and Cabinet, Centrelink and the Child Support Agency were also represented on the group.

The Group invited submissions from the public and consulted nationally through focus groups of people and service providers in the family law system. Case studies were also collected and analysed. The wide range of views provided through these avenues enabled the Group to consider and develop broad recommendations for Government. The Group met on six occasions during 2000–01. The report is being finalised and will be presented to the Attorney-General and Minister for Family and Community Services.

A new funding model for family law legal aid assignments was developed for introduction from 1 July 2000. The model will ensure that legal aid commissions in all States and Territories will make grants of aid for family law on the same basis. The model is designed to encourage the use of alternative means of resolving disputes.

Expensive Commonwealth Criminal Cases Fund

In January 2000, an Expensive Commonwealth Criminal Cases Fund, which will receive \$9 million over four-and-a-half years, was established. The fund assists legal aid commissions with expensive Commonwealth criminal cases which might otherwise impact on the commissions' ability to fund other types of cases of priority to the Commonwealth, particularly in the family law area. To date, a total of \$839 868 has been expended on five applications.

Intercountry adoption and child abduction

The Commonwealth is the central authority for the Hague Convention on Intercountry Adoption. Australia now has relations with 39 other countries under this Convention. The Commonwealth is also assisting in the renegotiation of bilateral adoption agreements with countries that have not yet joined the Hague Convention.

In relation to the Child Abduction Convention, Australia now has relations with 62 other countries under this Convention.

Electronic transactions

The *Electronic Transactions Act 1999* develops our existing legal framework by removing legal impediments to the use of electronic communications to satisfy legal requirements. As stated in last year's report, the Act permits a person to use an electronic communication (subject to certain minimum criteria) to satisfy a legal requirement to provide information in writing, to sign a document, to produce a document or to retain information or a document. During this period the Act applied to laws of the Commonwealth specified in the regulations. A number of amendments were made to the Electronic Transactions Regulations 2000 during this period to increase the number of Commonwealth laws specified to 301.

From 1 July 2001 the Act applies to all laws of the Commonwealth unless they are specifically exempted. In preparation for this phase of the Act's implementation extensive consultations were undertaken with all portfolio departments to identify any Commonwealth laws (a term which includes both statutes and delegated legislation) that should be exempted from the application of the Act. Following this consultation Ministers who considered exemptions were necessary for laws administered by their departments wrote to the Attorney-General requesting exemptions. The Attorney-General considered requests for exemptions from the Act in the context of the Government's policy that all appropriate services must be delivered online by 2001. Regulations to amend the Electronic Transactions Regulations 2000 were made to insert the list of exempt laws into the Regulations with effect from 1 July 2001. The list identifies over 100 laws of the Commonwealth that are exempted, either in whole or in part, from some or all of the provisions of the Act.

Development of State and Territory legal frameworks was also essential to ensure a nationally consistent approach to the use of electronic communications. As stated in the last year's report, the uniform Electronic Transactions Bill 2000 was developed by the States and Territories in consultation with the Commonwealth. Enactment of the Bill, which had already been enacted in New South Wales and Victoria, also occurred in South Australia, Tasmania, Queensland, the Northern Territory and the Australian Capital

Territory. The Bill had been introduced into the Western Australian Parliament in 2000 but lapsed on the calling of an election in that jurisdiction. The expectation that the Bill would be enacted in 2000–01 has been substantially satisfied.

National Aboriginal Justice Advisory Council

The Information and Security Law Division has responsibility for providing secretariat support to the National Aboriginal Justice Advisory Council (NAJAC) that meets several times a year. In 2000–01 NAJAC met in Melbourne, Hobart and Brisbane.

The NAJAC comprises State and Territory Aboriginal Justice Advisory Council (AJAC) representatives. Indigenous involvement is through the local AJACs that report to the NAJAC. AJACs were formed as a result of Recommendations 2 and 3 of the Royal Commission into Aboriginal Deaths in Custody to provide each Government with advice on Aboriginal perceptions of criminal justice matters and the implementation of recommendations of the Royal Commission.

NAJAC and the Division played a key role in the Ministerial Summit on Deaths in Custody held in July 1997. One of the outcomes of the Summit was an agreement that Governments, in partnership with the indigenous community, develop Justice Plans that would coordinate Commonwealth, State and Territory funding and service delivery for indigenous programs and services to address the over-representation of indigenous people in the criminal justice system. In 2000–01 an Aboriginal Justice Plan was introduced in Queensland. Plans are also in place in Western Australia and Victoria.

In addition to supporting the NAJAC, the Division regularly provided briefings on the outcomes of the work of NAJAC to the Standing Committee of Attorneys-General, the Corrective Services Ministers Conference, the Australasian Police Ministers Conference and the Ministerial Council on Aboriginal and Torres Strait Islander Affairs. The Division also provided input to responses to Ministerial representations and parliamentary questions and contributed to international reports on indigenous justice issues as they related to deaths in custody.

Copyright

After delivering its findings to the Attorney-General in 2000, the Copyright Law Review Committee *Report on the Jurisdiction and Procedures of the Copyright Tribunal* was published in February 2001. The Report makes a number of recommendations for changes in the way the Copyright Tribunal operates. A recommendation in relation to the appointment of extra Tribunal members was taken up in new appointments made to the Tribunal in March 2001. Other recommendations are under active consideration.

Privacy

The *Privacy Amendment (Private Sector) Act 2000* recognises the importance of efficient and effective justice by granting jurisdiction to the Federal Magistrates Service to hear complaints by individuals. This is consistent with the approach in the legislation to provide inexpensive and accessible ways to solve privacy disputes.

The formal separation of the Office of the Federal Privacy Commissioner from Human Rights and Equal Opportunity Commission commenced on 1 July 2000. This allows for

the more effective administration of the public sector and private sector privacy regimes by the Privacy Commissioner.

Native title

Three Determinations made by the Attorney-General in relation to mining and exploration activities permitted under the Queensland *Mineral Resources Act 1989* under s.26A of the *Native Title Act 1993* (NTA) and four Determinations made under s.43 of the NTA came into effect on publication in the *Commonwealth Gazette* of 18 September 2000, and are now in force. Two Determinations in relation to the Mineral Resources Act made under s.26B of the NTA and the four Determinations made under s.43A of the NTA were disallowed by the Senate on 30 August 2000. The Determinations did not commence before they were disallowed and are not in force.

The Attorney-General made two s.26A Determinations requested by the New South Wales Government on 17 October 2000. These Determinations exempt from the right to negotiate a class of low-impact exploration licences under the *Mining Act 1992* (NSW) and the *Petroleum (Onshore) Act 1991* (NSW). These Determinations were not disallowed by the Senate and became operational on 13 December 2000.

On 27 October 2000 the Attorney-General made the *Native Title (Right to Negotiate – Alternative Provisions) (Western Australia Laws about Alternative Provision Areas) Determination 2000* under s.43A of the NTA. The Determination was disallowed by the Senate on 9 November 2000. The Determination did not commence before it was disallowed and is not in force.

The Government has established principles to be applied in the negotiation of Indigenous Land Use Agreements under the NTA by Commonwealth departments and agencies. These principles are designed to ensure that agreements negotiated by individual departments and agencies are consistent in their terms and comply with relevant Commonwealth policies and practices in relation to the impact of Commonwealth activity on native title. The principles were promulgated to Commonwealth agencies and work is continuing on the development of guidelines based on the principles.

Conditions for the provision by the Commonwealth of financial assistance for native title compensation and the administrative costs of tribunals have been settled, and all States and Territories invited to enter into bilateral agreements with the Commonwealth. Cooperation between governments in meeting the costs associated with native title will facilitate the equitable and efficient resolution of native title issues.

The Attorney-General has established the Native Title Coordination Committee to monitor and regularly review the Commonwealth native title system to ensure that the system is able to respond flexibly to the needs of both indigenous and non-indigenous participants. The Committee is chaired by the Department. In addition to officers from several areas within the Department, membership includes representatives from the Federal Court, the National Native Title Tribunal, the Department of the Prime Minister and Cabinet, the Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs and the Aboriginal and Torres Strait Islander Commission.

Performance measure: Policies recognise needs, rights and responsibilities of individuals and families.

Human rights

The Department coordinated the development of the Government's response to the report of the Human Rights and Equal Opportunity Commission on pregnancy and work. The Government's response, which was announced on 1 November 2000, accepted the majority of the Commission's recommendations. The Department subsequently provided input to the Sex Discrimination Commissioner in the development of guidelines relating to pregnancy and work issued by her in April 2001. The Department is working with other agencies to develop appropriate information to assist both employers and employees in managing pregnancy and work issues.

The Government introduced the Sex Discrimination Amendment Bill (No 1) 2001, in response to the decision of the Federal Court in *McBain v State of Victoria [2000] FCA 1009* (28 July 2000). The Bill is intended to ensure that the *Sex Discrimination Act 1984* does not prevent States and Territories from legislating to restrict access to assisted reproductive technology services to women who are married (and not separated) or living in a de facto relationship. The Bill was referred to the Senate Legal and Constitutional Legislation Committee for inquiry and report. The Department appeared before the Committee, which reported on the Bill on 27 February 2001. The Bill was passed by the House of Representatives on 2 April 2001 and introduced into the Senate on 22 May.

On 8 June the Attorney-General donated 50 superseded Apple Macintosh computers from the Attorney-General's Department to 11 community groups that support older Australians and people with a disability. Recipient organisations were: the Deafness Council of NSW; the Illawarra Disability Trust; the Council on the Ageing (NSW); Macarthur Disability Services; the Lifestyle Assistance and Accommodation Service Inc. (South Australia); the Victorian Council of Deaf People; the Autism Association of South Australia; the Job-Link Service (Northern Territory); the Northern Tasmanian Older Persons Reference Group; Oakdale Services (Tasmania); and the University of the 3rd Age (ACT).

Judicial system

Australia lodged its instrument of accession to the Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations 1973. The Convention will permit the enforcement worldwide of Australian child support assessments and court orders for maintenance. Negotiations continued on a proposed bilateral treaty with the United States of America on child and spousal maintenance.

Substantial progress was made in a Commonwealth–State working group developing model legislation to implement the Hague Convention on Jurisdiction and Measures of Protection of Children 1996. The Convention deals with the jurisdiction of family courts and child protection authorities, and the international enforcement of decisions relating to the protection of children.

Primary dispute resolution in family law

The 1999–2000 Budget provided \$15.7 million over three years for additional primary dispute resolution initiatives. A strategy was developed to promote and develop effective dispute resolution services. Research into the information and communication needs of

consumers in the family law system was undertaken through a national study. In addition, \$3.1 million of this funding is being spent on the expansion and enhancement of primary dispute resolution services provided by legal aid commissions and the development of a national strategy for primary dispute resolution in legal aid commissions.

The *Family Law Amendment Act 2000*, which commenced on 28 December 2000, provides a new three-tier compliance regime for parenting orders, comprising of:

- preventative measures in the first instance (to encourage parents to seek assistance to improve communication between them and to assist their understanding of their joint parenting responsibilities);
- remedial measures if the first step is not effective (such as relationships programs to assist the parents to resolve conflicts about parenting); and
- punitive action as a final resort if the first two tiers are unsuccessful.

The Family Law Amendment Act also provides for parties to elect to settle their property disputes by arbitration, rather than by judicial determination.

Property settlements – superannuation

A significant responsibility of the Department is to advise on the implementation of the Government's policy that superannuation interests should be divided between the parties in the event of a marriage breakdown.

The *Family Law Legislation Amendment (Superannuation) Act 2001*, which is the first module in the implementation of that policy, received Royal Assent on 28 June 2001. The substantive provisions of the Act, which provide for the splitting of superannuation payments pursuant to either an agreement between the parties or a court order, will commence in the second half of 2002.

Marriage celebrants

A staged review of the marriage celebrants program, aimed at establishing a professional approach to marriage celebrancy through highly trained and dedicated celebrants, is currently being finalised.

Information law

The importance of the need to protect the personal information of individuals was recognised by the passage of the *Privacy Amendment (Private Sector) Act 2000*. When the Act comes into operation on 21 December 2001, individuals will for the first time have some measure of control over the collection, use and disclosure of their personal information by many private sector organisations, including the right to access and correct their personal information.

The Attorney-General announced a review of existing Commonwealth privacy laws to consider whether there is a need for more specific protection of children's personal information. The Department is being assisted in this review by a consultative group which includes experts in marketing, Internet issues, education, discrimination, courts, broadcasting and privacy.

A draft Freedom of Information Bill 2000 was prepared for introduction into Parliament. The Bill will implement the Government's decision to apply the *Freedom of Information Act 1982* to documents held by contractors to which the Commonwealth or an agency has a right of access. This would enable individuals to seek access under the FOI Act to such documents.

A variety of draft Bills and Regulations were examined by both the Department and the Office of the Federal Privacy Commissioner from the perspective of how individuals' personal information was being treated. Recommendations were made to agencies about how an individual's privacy could be better addressed in relation to particular policy initiatives.

Native title

The structures and processes established by the *Native Title Act 1993* and the programs funded by the Commonwealth (the native title system) provide a framework for the administration and management of native title. These mechanisms enable native title holders to have their native title rights recognised and protected, and enable persons potentially affected by native title to be sure about the impact of native title on their rights and interests and to participate in native title cases where appropriate.

Performance measure: Policies provide solutions for, and recognise an appropriate balance of, competing community interests.

Disability discrimination

Disability standards may be promulgated under the *Disability Discrimination Act 1992*. The Disability Discrimination Act (DDA) Standards Project ensures that there is effective consultation with the disability community in the development of disability standards. This assists the Department in developing policy that balances competing community interests.

Significant progress was made on the development of disability standards in the reporting year. The Government announced in October 2000 that it had agreed to Draft Disability Standards for Accessible Public Transport, developed by a Taskforce which reports to the Australian Transport Council (a Council of Commonwealth, State and Territory transport ministers). The draft standards were developed through extensive consultation with representatives of key stakeholder groups. The standards are designed to provide access to mainstream public transport for people with a disability and to provide transport operators with certainty and flexibility.

A taskforce established by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) has been progressively developing draft disability standards for education. Draft standards and accompanying guidance notes were released for consultation with key stakeholder groups and submissions received until the end of 2000. The Department funded representatives of the DDA Standards Project to prepare an information paper on the draft standards directed to the disability community, and to conduct consultations in capital cities around Australia. The results of the consultation process were considered by the taskforce, which was due to report to MCEETYA in July 2001.

The Government announced in April 2001 that it has tasked the Australian Building Codes Board with developing amendments to the Building Code of Australia to allow the Building Code to form the basis for a Disability Standard on access to premises. The Department is represented on the Building Access Policy Committee, which includes representatives of key stakeholder groups, and will be consulting broadly on its proposals.

Alternative dispute resolution

Alternative dispute resolution is an important means of resolving disputes without necessarily using the judicial system. The Department plays an important role in the development of alternative dispute resolution policy in Australia, taking into account the diverse needs of the community, ranging from those involved in family law disputes to those dealing with expensive commercial disputes. Primary dispute resolution in family law is discussed in more detail earlier in this report. The Department provides the secretariat for the National Alternative Dispute Advisory Council in its development of advice to the Attorney-General on means of resolving disputes without the need for a judicial decision. The General Manager, Civil Justice and Legal Services, is an ex officio member of the Council. In April 2001 the Council provided a report to the Attorney-General setting out a framework of alternative dispute resolution standards. (Copies of the report can be obtained from the Department by contacting Mr David Syme (02) 6250 6666.)

Copyright

In December 2000, the *Copyright Amendment (Moral Rights) Act 2000* was passed and came into operation upon receiving assent on 21 December 2000. The Act provides for the right of authors of literary, dramatic, musical and artistic works and the producers, directors and screenwriters of films to be identified as the creators of their works and films. It also provides a right to take action against false attribution of their works and films and a right to object to derogatory treatment of their works and films that prejudices their reputation. Legislation on moral rights had been previously introduced in 1997 and withdrawn in 1998 for further consultations with affected interests. Moral rights are required to be protected by the Berne Convention on copyright, of which Australia is a member country.

The moral rights provided for in this Act will be of assistance in improving the protection of indigenous arts and cultural expression.

The Intellectual Property and Competition Review Committee presented its final report to the Attorney-General and the Minister for Industry, Science and Resources in October 2000. The report, published in December 2000, strongly endorsed the reforms in the *Copyright Amendment (Digital Agenda) Act 2000*, and also made a number of recommendations for amendment and review of other provisions of the *Copyright Act 1968*. The Department participated in an interdepartmental committee that prepared advice to the Government on the response that it should make to the report.

In November 2000 the Attorney-General tabled the Government's response to the report of the House of Representatives Standing Committee on Legal and Constitutional Affairs, *Don't stop the music!* The Department is collaborating with the Department of Communications, Information Technology and the Arts in the main follow-up action required by that response, namely, encouraging the various copyright collecting societies to adopt a voluntary code of conduct.

In April 2001, the Attorney-General asked the Copyright Law Review Committee to inquire into the relationship between copyright and contract. The reference will examine the extent to which contracts are being used to override provisions of the Copyright Act, how this affects the copyright balance and the attitudes of stakeholders in relation to this issue. In June 2001 the Committee published an issues paper and made a public call for submissions. The Committee is due to deliver its final report to the Attorney-General in April 2002.

The *Copyright Amendment (Digital Agenda) Act 2000* was passed in September 2000 and commenced operation on 4 March 2001. The legislative amendments provide greater copyright protection to works and other protected subject matter on-line, in the context of rapid technological developments. The amendments are consistent with the World Intellectual Property Organization (WIPO) Copyright Treaty and WIPO Performances and Phonograms Treaty. The amendments include a new 'right of communication' to copyright owners, but provide for appropriate extension of exceptions to the new right to ensure ongoing appropriate access to copyright material through new communications technologies. In particular the amendments seek to address the needs of libraries and archives, whilst preserving the rights of creators to fully exploit online markets. The operation of the legislation will be reviewed three years after commencement, to monitor the effect of the amendments and to ensure the right balance has been struck.

Amendments to the Copyright Regulations 1969 and the Copyright Tribunal (Procedure) Regulations 1969 made to support the digital agenda reforms also commenced on 4 March 2001.

The Copyright Amendment (Parallel Importation) Bill 2001 was introduced into the House of Representatives in February 2001 and after passage in June 2001, was introduced into the Senate. The legislative amendments will allow for parallel importation of legitimately produced books, periodicals, printed music and software products. These proposed changes implement Government policy in balancing, on the one side, competition and access and, on the other, the protection of the rights of copyright owners.

The Copyright (International Protection) Regulations 1969 were amended in March 2001 to update references relating to multilateral and bilateral recognition of adequate protection given to Australian copyright owners in other countries.

Privacy

The *Privacy Amendment (Private Sector) Act 2000* was developed in close consultation with business and consumer interests. The *Privacy Act 1988* recognises that privacy is not an absolute right and that there are important public interests that compete with privacy. The free flow of information to the Australian public through the media, the recognition of the right of business and government to achieve their objectives in an efficient way and the need for law enforcement bodies to perform their legitimate functions are relevant public interests that were taken into account in developing the legislation.

Native title

Oversight by the Native Title Coordination Committee will assist the Commonwealth native title system to respond flexibly to the needs of both indigenous and non-indigenous parties. Extra funding provided over the next four years will benefit native title claimants

through additional assistance to be provided through Aboriginal and Torres Strait Islander Commission to representative bodies, and non-indigenous participants in native title cases will benefit from additional resources for legal assistance available through the Department.

Performance measure: Policies provide solutions that recognise legitimate business interests.

Disability discrimination

The development of disability standards is intended to ensure that the objective of eliminating as far as possible discrimination against people with disabilities is achieved without imposing undue burdens on business. Consultative groups developing draft standards include representatives from government, industry and the disability sector. This ensures that business interests are appropriately recognised in the development of the standards.

Electronic transactions

The enactment of the uniform Electronic Transactions Bill in all jurisdictions except Western Australia provides a nationally uniform legislative scheme for the use of electronic communications by business. The Bill makes clear that contracts can be formed by the use of electronic communications.

Copyright

In September 2000 the Department, jointly with the Department of Communications, Information Technology and the Arts (DoCITA), published an issues paper on the proposal to give film directors copyright in their films. This fulfilled a public commitment earlier given by the Attorney-General and the Minister for the Arts that the Government would look at this possibility. A number of submissions were received, including those from film producers as well as the organisations representing directors.

In October the Department, jointly with DoCITA, published an issues paper on the proposal to extend the term of protection for photographs to the term for other artistic works. Legislation for this would remove discrimination between photographers, including commercial operators, and creators of other artistic works. It would also be consistent with an obligation of the WIPO Copyright Treaty, putting Australia in a position to consider acceding to the treaty. A substantial number of submissions were received on the proposal.

Privacy

The *Privacy Amendment (Private Sector) Act 2000* was developed in close consultation with business interests and it is supported by them. The scheme in the legislation is based on a co-regulatory approach to privacy protection. This allows private sector organisations to develop their own privacy codes which, if approved by the Federal Privacy Commissioner, replace the legislative National Privacy Principles. A code can also include its own code adjudicator in place of the Federal Privacy Commissioner. The legislation recognises the importance of certainty and a level playing field for business. However, the legislation exempts most small business from its scope where they are likely to pose a low threat to

privacy. To give affected businesses and other organisations time to adjust to the requirements of the legislation, it will not come into operation until 21 December 2001, and for affected small businesses 21 December 2002.

Native title

The determination of alternative state regimes and provision of extra funding for the Commonwealth native title system are aimed at facilitating the speedier resolution of native title applications in order to provide greater certainty for native title holders, State and Territory governments and the mining, pastoral and other rural industries.

Performance measure: Commonwealth laws (and State/Territory laws with which they interact) and Government policies are effectively explained, implemented and applied.

Human rights

The Attorney-General held two NGO (non-government organisation) forums on human rights in the reporting year. Each forum provided an opportunity for peak non-government organisations with a commitment to human rights to put their views to the Attorney-General, his staff and the Department and for Government policies to be explained to these organisations. Relevant areas of the Department attend so that Government policies that are not well understood, or are contentious, are able to be discussed in detail with the organisations represented, providing a basis on which the Department can consider whether the explanation of Government policies is effective, or could be improved.

Electronic transactions

The Department's e-commerce Internet site (at www.ag.gov.au/ecommerce) continues to be updated to provide information on developments with the *Electronic Transactions Act 1999* and associated matters. While no formal mechanisms are in place to measure the effectiveness of the site, public feedback, comments and questions are regularly received through an email box linked to the e-commerce site.

The Department, in conjunction with the Australian Government Solicitor, organised and ran the Government Online Legal Issues Conference in August 2000 in Canberra. The Conference, which attracted over 100 participants, provided information on the legal issues raised by the Government's online commitments and included discussions on the *Electronic Transactions Act 1999*, privacy and copyright developments and issues, law enforcement issues in electronic commerce, and the development and use of electronic signatures.

Copyright

The *AGD e-News on Copyright* is a free departmental electronic newsletter regularly sent to a list of over 900 subscribers (a doubling of membership since June 2000). It provides regular detailed updates about copyright policy development, publicises calls for submissions, provides news about international copyright developments and WIPO copyright initiatives, and includes occasional case notes on significant cases relating to

copyright. It also provides details of who to contact in the Intellectual Property Branch for further information and assistance. This initiative continues to attract wide interest and favourable comment. It is effective in keeping stakeholders informed of policy and legislative change and is regarded as a useful source of information as evidenced by the large increase of subscribers. The Branch continued to answer numerous queries via telephone and email relating to the application of copyright law and policy.

Very soon after the commencement of both the *Copyright Amendment (Moral Rights) Act 2000* and the *Copyright Amendment (Digital Agenda) Act 2000* general background briefings on the Acts were put on the Department's website. The amendments were also publicised in the *AGD e-News on Copyright*.

Departmental officers delivered workshops and information sessions on the *Copyright Amendment (Digital Agenda) Act 2000* in all national centres. These seminars attracted wide interest and expressions of appreciation. They provided an effective means both of assisting potentially affected businesses and their advisers to understand the impact of the changes and for the Government to hear their views. They also enabled Government to hear of the implementation issues being encountered.

Privileges

In response to a recommendation of the Senate Standing Committee on Privilege, the Department participated in presenting six seminars to senior public servants in 2000–01 to ensure those officers had a good understanding of the law and practice relating to parliamentary privilege.

Freedom of Information

The FOI home page on the Department's website was enhanced. It provides general information for people wishing to make an FOI application, as well as detailed guidance for agencies to assist with the effective processing of FOI applications.

Privacy

Numerous fact sheets and other useful background information were posted on the privacy homepage on the Department's website during the development of and immediately following the passage of the *Privacy Amendment (Private Sector) Act 2000* in December 2000.

Departmental officers participated in various seminars and information sessions to raise awareness about the private sector privacy legislation. The Department provided the Office of the Federal Privacy Commissioner with continued support and assistance to prepare for the commencement of the legislation on 21 December 2001. The legislation will be reviewed after it has been in operation for two years to assess whether it has been effective.

Advice was provided to Commonwealth agencies in relation to the application of the Privacy Act and the Freedom of Information Act to ensure the legislation was applied effectively.

Native title

The Department has been working closely with State, Territory and Commonwealth agencies to facilitate implementation of the *Native Title Act 1993* (NTA) in the resolution of native title issues. In particular, the Department has worked with several Commonwealth agencies to ensure that the Commonwealth's policy framework is effectively applied in the negotiation of Indigenous Land Use Agreements, and that fair outcomes result for all parties. Liaison with State and Territory governments on native title matters is ongoing, including in relation to the development of State and Territory native title legislation.

The Native Title Coordination Committee monitors the efficiency and effectiveness of the native title system as a whole, and the use of resources required to progress the administration and determination of native title. Extra funding of \$86 million is being provided over the four years from 1 July 2001 to the National Native Title Tribunal and the Federal Court, to enable the speedier resolution of native title applications, and to the Aboriginal and Torres Strait Islander Commission (ATSIC) and the Department to support participants in the native title process.

The Department is managing Commonwealth participation in over 200 native title cases to seek to ensure that the NTA is interpreted in a way that is consistent with the Parliament's intention. A number of the applications are before the Federal Court for determination and the remainder have been referred to the National Native Title Tribunal for mediation. The Department is also involved in litigation in particular native title cases where the Commonwealth has specific property interests.

Evaluations

Native title

A review of the Commonwealth native title system was undertaken by a Steering Committee chaired by the Native Title Division of the Department with representatives from the Federal Court, the National Native Title Tribunal, ATSIC, the Department of the Prime Minister and Cabinet, the Department of Finance and Administration, and the Civil Justice and Family Law and Legal Assistance Divisions of the Department.

The review included a formal acquittal of additional funding provided to the Federal Court and the National Native Title Tribunal in the 1997–98 Budget and to the Legal Assistance Branch in the 1998–99 Budget; examination of the appropriateness of the framework for the implementation of native title in relation to the future likely workload in the system; and identification of further initiatives and the appropriate level of resources required to progress the administration and determination of native title.

The recommendations of the Steering Committee were accepted by the Attorney-General. As a result, extra funding of \$86 million is being provided over the four years from 1 July 2001 to the National Native Title Tribunal and the Federal Court to enable the speedier resolution of native title applications, and to ATSIC and the Department to support participants in the native title process. The Attorney-General has also established the Native Title Coordination Committee to advise on whether each element of the Commonwealth native title system has sufficient resources to respond flexibly to the needs of both indigenous and non-indigenous parties.

Output 1.2: Support for the Attorney-General as First Law Officer and advice on constitutional policy

Performance measure: Policies, and their administration, maintain and develop an institutional framework for the efficient and timely delivery of high quality legal services to the Commonwealth.

The Office of Legal Services Coordination (OLSC) assists and advises the Attorney-General in the performance of his role as First Law Officer of the Commonwealth. The OLSC also provides advice on and coordinates the supply of legal services to the Commonwealth and its agencies.

A key function of the OLSC is to overview compliance with the Legal Services Directions (the Directions) issued by the Attorney-General pursuant to s.55ZF of the *Judiciary Act 1903* and provide advice on their application. The Directions ensure the maintenance of proper standards in legal service delivery to the Commonwealth, particularly in litigation. The Directions include appendixes that deal with legal work tied to government legal services providers, especially the Australian Government Solicitor (AGS) (if it involves constitutional law issues, international law, national security issues, or 'Cabinet work'), the Commonwealth's obligation to act as a model litigant, the handling of monetary claims and the engagement of counsel (including limits on counsel fees), and assistance to officials for legal proceedings.

In performing its functions the OLSC helps to ensure the efficient delivery of high quality legal services to the Commonwealth and its agencies.

Legal services, with only limited exceptions, are provided to the Commonwealth and its agencies through a number of means: in-house lawyers (that is, lawyers who provide legal services within their own organisation), private law firms, lawyers in the Attorney-General's Department and the AGS. The AGS was established as a Commonwealth authority on 1 September 1999, and the Commonwealth's ownership interest in the AGS is represented by two 'shareholder ministers': the Attorney-General as portfolio minister for the AGS, and the Minister for Finance and Administration. The OLSC advises the Attorney-General on the operation of the AGS as a separate authority and coordinates the Department's ongoing relationship with the AGS.

The OLSC plays an important role in assisting Commonwealth departments and agencies with their acquisition of legal services. The OLSC advises on whether particular work is tied to government legal service providers, and advises also on strategies to ensure that a coordinated, whole-of-government approach is adopted in litigation as appropriate. The OLSC also exercises a number of delegations under the Directions.

The OLSC also advises the Attorney-General on Commonwealth litigation policies to ensure that proper standards are met in the handling of claims and litigation involving the Commonwealth.

During 2000–01 the OLSC dealt with a number of requests for approval for the engagement of counsel above prescribed fee levels, and regularly consulted with agencies on counsel fee matters. The OLSC also continued to investigate allegations of breaches of the Commonwealth's model litigant obligations, and provided advice on the settlement of claims and on the application of the directions to Commonwealth agencies.

The OLSC monitors the operation of the Commonwealth legal services market and compliance with the Directions generally.

Performance measure: Development and advancement of legal cooperation between Australia and the Asia-Pacific Region.

The Department was instrumental in having a Memorandum of Understanding on Legal Cooperation executed between the Government of Australia and the Government of the Republic of Indonesia. The Australian Attorney-General and the Indonesian Minister for Justice and Human Rights signed the Memorandum in Canberra on 25 October 2000.

The Department provides, with Indonesia, the Co-chair of the Working Group on Legal Cooperation established under the Australia-Indonesia Ministerial Forum in Bali, in February 1999. Although the group has not yet been able to meet, there has been continuing activity in 2000-01 in the area of legal cooperation by the Department and by various groups and organisations supportive of the formation of the Working Group. This activity was reported by the Attorney-General and noted by Ministers at the Australia-Indonesia Ministerial Forum held in Canberra in December 2000.

A departmental initiative on Alternative Dispute Resolution (ADR) with Indonesia was implemented in 2000-01. This was a two-stage project funded by the Australian Agency for International Development (AusAID) under the Asia-Pacific Economic Cooperation Support Program. It involved participants from the Jakarta Initiative Task Force, the Indonesian Ministry of Justice and Human Rights and the Indonesian National Board of Arbitration who visited Australia to participate in an international ADR conference and a study tour, and to undertake mediation training. The second phase of the project involved training with these organisations in Indonesia. Bond University was successful in winning a selected tender process and delivered a series of four training modules on ADR in Jakarta between November 2000 and May 2001. These modules were enthusiastically received and have resulted in requests for further training. The involvement of the Indonesian Centre for Environmental Law in the first phase of the project was supported by the International Legal Services Advisory Council (ILSAC) Ad Hoc Legal Visits program, which is funded by AusAID.

The function of ILSAC is to improve Australia's international performance in legal and related services. The Council is a part-time advisory body and reports to the Attorney-General. The Council was reconstituted by the Attorney-General in January 2001 and 16 members appointed for a three year term ending 31 December 2003 under the Chairman, the Hon. Sir Laurence Street, AC KCMG QC. Details on ILSAC and its current members are listed on ILSAC's website: www.law.gov.au/ilsac. Secretariat services to ILSAC are provided by the Department.

Legal services are a significant element in Australia's international trade in professional services. In 1999-2000, the year of most recent data, legal services exports were \$194 million and imports \$58 million, giving a positive balance of trade for legal services of \$136 million.

The Attorney-General led an Australian Legal Services Mission to Singapore in late May/early June 2001 to promote Australian legal and related services. The Mission was an initiative of ILSAC in support of the Commonwealth Government's interest in achieving more liberal market access to Singapore's legal services sector. It was organised by the Department in collaboration with the Australian Trade Commission (Austrade). The Mission included senior members drawn from private practice, university law schools and commercial dispute resolution as well as from government. Private sector members met

their own costs of participation in the Mission. While in Singapore, the Attorney-General held meetings with his counterpart and other Singapore Ministers on a range of matters of legal policy interest to Australia and Singapore.

The Department prepared submissions and, with ILSAC, provided advice to the Department of Foreign Affairs and Trade concerning legal services matters relevant to the Australia–Singapore Free Trade Agreement negotiations.

ILSAC assisted the Department and the Department of Foreign Affairs and Trade in developing an initial negotiating proposal on legal services for a proposed new round of multilateral trade negotiations that was lodged by Australia in Geneva at a Special Session of the Council for Trade in Services of the World Trade Organization (WTO) in March 2001. The proposal identifies specific guiding principles relevant to achieving liberalisation of trade in legal services and puts forward the limited licensing model to regulate aspects of transnational legal practice. This model provides for a separate right of practice for foreign lawyers who practise foreign law in a host country. Further information may be obtained from <http://www.dfat.gov.au/trade/negotiations/services/index.html> .

The ILSAC Secretariat organised and implemented a one week program in December 2000 for a delegation of Chinese lawyers and officials visiting Australia under AusAID's ongoing Economics and Foreign Trade Training Project. The visitors were interested in the experience of Australia's legal services sector following the establishment of the WTO in 1975 and in dispute resolution matters, which may be of assistance to China in its anticipated accession to the WTO next year.

Work continued on a range of other matters relevant to ILSAC's terms of reference. This included the distribution to 93 overseas countries of *Studying Law in Australia 2001*. Overseas students are the primary audience for this annual publication, as well as overseas law academics who influence the choice of a student's study destination. The publication, which is produced by the Council of Australian Law Deans, remains the only comprehensive guide to the study of law in Australia with a listing of undergraduate and postgraduate law courses offered by all 28 Australian university law schools. The publication is available on the Internet: www.law.newcastle.edu.au/cle/cald/index.html .

Performance measure: Timely and effective coordination of the Commonwealth's involvement in the Standing Committee of Attorneys-General (SCAG).

Three meetings of the Standing Committee of Attorneys-General (SCAG) were held during 2000–01. SCAG, jointly with the Ministerial Council for Corporations, agreed on the new corporate law scheme to replace the scheme that was found wanting by the High Court. This agreement resolved the uncertainty that had arisen following the High Court decisions which had caused major difficulties for corporate regulation in Australia. On each occasion SCAG Ministers also met as a meeting of Commonwealth, State and Territory censorship ministers. The Department provided briefing material for the Attorney-General and the Minister for Justice and Customs in relation to those meetings. Departmental officers attended the meetings to provide briefing and other assistance to the Attorney-General and the Minister for Justice and Customs. At the SCAG meeting in Adelaide in March 2001 Ministers agreed that while they would continue to meet as SCAG Ministers three times a year, they would meet as censorship ministers only twice a year.

Performance measure: Timely assistance and sound policy advice provided to Government on constitutional issues in litigation and in policy development.

Assistance was provided to the Attorney-General, particularly in his role as a member of SCAG, in responding to the High Court's constitutional decisions in *Re Wakim* (1999) 198 CLR 511 and *Hughes* (2000) 74 ALJR 802.

The *Jurisdiction of Courts (Cross-Vesting) Act 1987*, with complementary State and Territory legislation, had established a scheme for cross-vesting jurisdiction between Commonwealth, State and Territory courts to overcome uncertainty about the individual jurisdictional limits of those courts. At the time, it was welcomed nationally as the answer to arid and inconvenient jurisdictional debates which had long plagued litigants, practitioners and courts. However, in *Re Wakim*, the High Court found the scheme to be unconstitutional in so far as it sought to cross-vest State jurisdiction in federal courts. Consequently, the Federal Court lost most of its jurisdiction under a range of Commonwealth, State and Territory cooperative legislation, including the Corporations Law. The Constitutional Policy Unit of the Department was instrumental in the formulation of the *Jurisdiction of Courts Legislation (Amendment) Act 2000*, which was enacted by the Commonwealth in May 2000 (and commenced on 1 July 2000) in response to *Re Wakim*. Among other things, the Act provided the Federal Court once again with jurisdiction to review decisions of Commonwealth officers and authorities under the cooperative schemes in question. However, the Federal Court's general jurisdiction under some of the schemes could not fully be restored.

In *Hughes*, the High Court identified further constitutional limits on cooperative arrangements in deciding that duties under State Corporations Laws could not be conferred on Commonwealth authorities in the absence of a connection with Commonwealth constitutional power. The decision had particularly deleterious consequences for the administration of the Corporations Law. The Constitutional Policy Unit was once again instrumental in formulating a response. It was centrally involved in the negotiation of the new federal corporations legislation which commenced on 15 July 2001. The *Corporations Act 2001* and related Commonwealth, State and Territory legislation was designed to put Australia's system of corporate regulation on a secure constitutional foundation. It involves the most significant reference of constitutional power from the States to the Commonwealth in Australia's history. In effect, it re-enacts the previous array of eight separate Commonwealth, State and Territory laws as a single federal law. It restores the corporations jurisdiction of the Federal Court and preserves the jurisdiction of the State and Territory courts.

In addition, the Constitutional Policy Unit provided advice and assistance to the Attorney-General in relation to the establishment of the Royal Commission into the failure of HIH Insurance, announced by the Prime Minister on 18 June 2001, and the Royal Commission into the building and construction industry, announced by the Prime Minister on 26 July 2001.

More generally, assistance was provided to the Attorney-General as necessary in relation to constitutional policy and litigation matters of continuing relevance to the Commonwealth. In particular, the Unit provided advice in relation to various proceedings arising out of the *Hughes* decision.

Performance measure: Commonwealth classification of publications, films and computer games policies recognise the rights and responsibilities of the public and industry members in the classification of film and literature.

A significant number of amendments to the classification scheme were made by the *Classification (Publications, Films and Computer Games) Amendment Act (No. 1) 2001*. These amendments received the Royal Assent on 22 March 2001 and, unless proclaimed earlier, will commence operation one year from that date. This delay in commencement is necessary in order to give the States and Territories time to make complementary changes to the State and Territory components of the cooperative legislative scheme.

The amending Act expands the current range of films exempt from classification to include certain current affairs, hobbyist, sporting, family, live performance, musical presentation and religious films. This has been done to ensure continued availability of specialist product on the Australian market, which may be affected adversely by the cost of classification services. To preserve the integrity of the current classification scheme, the films exempted will lose that exemption if they fall outside the 'General' and 'Parental Guidance' classification. The amendments also enable the Director of the Office of Film and Literature Classification to waive in whole or part the classification fees or charges for a short film from a new or emerging film-maker. This exemption will be available where the material will have a limited distribution and is of special interest. The amending Act also expands the range of persons and organisations that can be considered to be 'a person aggrieved' for the purposes of seeking a review of a classification decision.

Output 1.3 Administration of payments for, and the delivery of, government programs including legal assistance and family law related services

Performance measure: Implementation of new or enhancement of existing programs

- **successful implementation and enhancement of programs and projects within projected timeframes.**

The 1999–2000 Budget provided \$15.6 million over four years to establish 25 new contact services for children of separated parents in high-need urban and regional centres across Australia. A needs-based planning process identified the 25 highest-need areas, and a tender process was conducted for organisations applying for funding to provide the services. The new services became operational in 2000–01.

A pilot project is being funded, through the Family Relationships Services Program (FRSP), to test approaches to support families experiencing difficulties with post-separation child contact. The project was established in April 1999 and funding has been extended to June 2002. An evaluation is under way and will be finalised early in 2002.

Counselling services funded through the FRSP received an injection of \$1 million in 2000–01 to assist in addressing demand and to develop a child-focused approach to counselling. Child Inclusive Practice forums were held with the community sector in August–September 2000.

From the 1999–2000 Budget allocation of \$15.7 million for additional primary dispute resolution initiatives, \$1.2 million was transferred to the Federal Magistrates Service for the purchase of dispute resolution services from the community sector.

Funding was also provided for enhanced dispute resolution services in 33 selected high need regional areas through approved counselling organisations under the Family Relationships Services Program administered by Department of Family and Community Services.

Funding was provided for new conciliation services to be provided by the community sector from 1 July 2001. The Department of Family and Community Services called for tenders following the development of a transition strategy by the Attorney-General's Department to respond to the cessation of pre-filing counselling services from the Family Court Registries at Sydney, Parramatta, Melbourne, Dandenong, Adelaide and Brisbane.

A new program for the professional development of lawyers and mediators in family law to improve dispute management practices is being established and will be developed and implemented in 2001–02.

A new program of partnership projects was established to improve coordination of primary dispute resolution service providers at a local community level and these projects will commence in 2001–02.

In addition, \$3.1 million of this funding is being spent on the expansion and enhancement of primary dispute resolution services provided by legal aid commissions. This includes a national training and information program, which will assist in the development of nationally consistent intake and screening procedures within commissions.

Following an evaluation of the administration of the War Veteran's Legal Aid Scheme during 1999–2000, new guidelines were developed with a view to achieving consistent national practice across legal aid commissions in the administration of the Scheme. The new guidelines came into effect on 1 July 2000. In order to ensure that adequate and appropriate assistance continues to be available to veterans, the evaluation report recommended that the operation of the new guidelines be reviewed six months after their implementation. The Department is currently reviewing the operation of the guidelines in consultation with key stakeholders.

The 1999–2000 Budget provided funding to establish a national telephone hotline and Internet site to provide information about family law and child support matters to the community. In the previous Budget, the Government committed funding for a regional, rural and remote legal advice telephone service. These initiatives were integrated to ensure the best possible delivery of information and advice. This resulted in the launch of Australian Law Online on 21 June 2001, consisting of the Family Law Hotline and the Family Law Online website. These are the first two elements of a national initiative to improve access to family law information and dispute resolution services.

Pro Bono Task Force

The Attorney-General hosted the first National Pro Bono Law Conference: For the Public Good in August 2000. The conference was attended by more than 320 representatives from the public, private and community legal sectors, judges, legal educators and representatives from the business and philanthropic sector around Australia.

A major outcome of the conference was the establishment of the Pro Bono Task Force in October 2000. The Attorney-General made available \$1 million in the 2001–02 budget over the next four years to support actions arising from the Task Force report.

The report was provided to the Attorney-General in June 2001, with a key recommendation being the establishment of a National Pro Bono Research Centre. The Attorney-General has endorsed this recommendation and work has begun towards establishing the Centre.

New regional community legal services

The Attorney-General officially opened five new regional community legal services during the financial year. The services were established with funds provided in previous years' Budget announcements. The services opened by the Attorney-General were the Riverland and Mount Gambier services in South Australia, opened in December 2000, the Gippsland service in Victoria, opened in February 2001 and the Kimberley and the Goldfields services in Western Australia, opened in April 2001.

Performance measure: Negotiation and management of agreements and contracts

- **successful negotiation and management of agreements and contracts which reflect the Commonwealth's requirements.**

A business partnership agreement between the Department and the Department of Family and Community Services, for the delivery of family law-related dispute resolution services, commenced in August 1999 and continued throughout 2000–01. The agreement facilitates the transfer of funds and collaboration between the two departments.

New legal aid agreements were signed with all States and Territories other than Victoria and the ACT. Negotiations in these jurisdictions are continuing. The new agreements are based on purchaser-provider principles, with an increased focus on outputs. They incorporate an improved performance information framework covering financial, quantity and quality information. Additional funding of \$63 million over four years, announced by the Government in December 1999, has been allocated under the new agreements. The review of the Commonwealth legal aid guidelines, which is scheduled to take place every two years, will commence in August. Revised guidelines are scheduled to be implemented by State and Territory legal aid commissions from July 2002.

Service standards and performance indicators for community legal services have been developed which identify a set of core outputs common to organisations. These have been used to develop meaningful performance indicators for the Commonwealth Community Legal Services Program. The project included a series of consultation forums with key stakeholders. The project outcomes will be incorporated into three year service agreements commencing in 2002–03.

The Community Legal Services Information System (CLSIS) project will provide a new data collection and reporting system for the Commonwealth community legal services program. The CLSIS was initiated to replace the existing system—the National Information Scheme—with a new and efficient system which meets the needs of the Government and all other stakeholders. Development of the system is under way. The new system will be distributed to organisations providing community legal services during 2001–02.

Performance measure: Administration of programs

- **applications for assistance, or payments made, under special schemes, assessed in accordance with agreed arrangements or guidelines for financial assistance.**

Assistance was provided under 23 schemes for legal or financial assistance. These included the *Native Title Act 1993*, the *Workplace Relations Act 1996*, the Commonwealth Public Interest and Test Cases Scheme and the Overseas Custody (Child Removal) Scheme. Approximately \$8.524 million was provided.

Consistent with the Government's policy to ensure that all parties have fair access to assistance in dealing with native title, \$7.5 million of the \$8.524 million was provided towards assisting respondents to native title claims.

Significant matters where assistance was provided included the Mirriuwung Gajerrong case (Full Court of the High Court), Yarmir & Ors – Croker Island case (Full Court of the High Court), Wandarang, Alawa, Mara & Naglakan Peoples – Roper River/St. Vidgeon Station case, Anderson obo Euhlay-I-Dixon v Wilson & Ors – Western Divisions Lands case, Yorta Yorta case, Wellesley Island case, Ngaluma/Injibandi, Yaburara & Coastal Mardudhunera Peoples claim, Karajarri (combined claim), Wanjina Wunggurr Willinggin claim and De Rose Hill Station claim.

In addition, various grants were made to support the provision of advice and assistance to improve the general awareness of native title issues. For example, assistance was provided through the Australian Local Government Association to undertake training workshops in the use and application of the *Working with Native Title Guide*. Assistance was also provided to various peak bodies and organisations to monitor native title claims; and assistance and advice was provided to members in relation to native title.

The 2001–02 Budget provides additional funding of \$86.0 million over four years (spread across all elements of the native title system) to enable the native title system to operate more effectively and to speed up the resolution of native title claims. The additional funding for the provision of financial assistance to non-claimant parties (i.e. respondents) is \$14.023 million. This extra money will help to provide greater certainty about native title and reflects the increased and changing workload on the system.

Performance measure: Service delivery by funded organisations

- **funded organisations meet performance targets specified in agreements and contracts;**
- **initiatives implemented enhance service delivery by funded organisations.**

Where performance targets were specified for funded organisations they were generally met and, in a number of instances, exceeded. Performance targets will be specified in all agreements from 2001 onwards.

The new Commonwealth legal aid agreements specify outcomes, output levels and prices for service delivery. Legal aid commissions' performance is assessed in terms of effectiveness (the extent to which outcomes have been achieved), efficiency (the outputs produced for the funding provided) and service quality. Through service agreements, community legal services are bound by a series of accountability requirements including performance targets. Organisations report to, and are monitored by, State-level program managers.

Performance measure: Consultation and liaison with stakeholders

- **maintenance of effective partnerships and consultative arrangements with stakeholders.**

Regular liaison meetings about dispute resolution are held with the Family Court of Australia, the Federal Magistrates Service, community sector industry representative bodies and the Department of Family and Community Services to ensure that funding arrangements deliver effective and appropriately targeted services. In addition, the Department undertook consultation with the Family Court, the industry representative bodies and the Department of Family and Community Services in order to establish new conciliation services that replaced pre-filing counselling services at the court registries in Sydney, Parramatta, Melbourne, Dandenong, Adelaide and Brisbane. Liaison with the community sector is monitored under the Business Partnership Agreement between the Department and the Department of Family and Community Services.

The Department provided secretariat support for the Family Law Pathways Advisory Group and the consultation program undertaken nationally in September and October 2000 as part of its consideration of a wide range of views.

The Department is currently in the process of consulting with legal aid commissions and other key stakeholders on projects such as the review of the Commonwealth legal aid guidelines, the Commonwealth legal aid funding model, and a national strategy for primary dispute resolution services provided by the commissions. Various organisations were also consulted in the process of the development of a national fee scale for Commonwealth legal aid matters.

A consultant was engaged in April 2000 to undertake a national evaluation of primary dispute resolution programs in legal aid commissions. This project was completed in December 2000. Its findings will inform the development of strategies to improve the quality of programs, as well as the development of new Commonwealth funded programs in this area.

The Department participates in quarterly meetings held by National Legal Aid, which comprises the directors of the various legal aid commissions.

A Program Liaison Officer position was funded within the National Association of Community Legal Centres to facilitate community and project development between that sector and the Department.

Consultation continued through State program managers for the community legal services program.

Evaluations

Reviews of the Community Legal Service Funding Program in South Australia and Victoria

The review of community legal services in South Australia was completed in February 2001 with the announcement of preferred tenderers for four regional community legal services for the Adelaide metropolitan area. The review marked a new approach to community legal service delivery which ensures that all areas within the metropolitan area of Adelaide are within the service area of one of the four new services.

The review of services in Victoria was completed in June 2001 when the Commonwealth and Victorian Attorneys-General received the final report of the review implementation advisory group. The report canvassed a number of options for distributing funding to services in Victoria, but did not make any conclusive findings or recommend a preferred funding model. Existing Commonwealth funding arrangements were maintained for Victorian community legal services.

Reviews of the Community Legal Service Funding Program in Western Australia and New South Wales

These evaluations, notified in the Portfolio Budget Statements 2000–01, have not yet commenced. It is anticipated that they will be concluded by 30 June 2002.

Contact Orders Pilot (funded by the Department and managed by Department of Family and Community Services)

This evaluation is being undertaken by the Sydney Children's Hospital and it is anticipated that it will be concluded by early 2002.

Evaluation of Primary Dispute Resolution in Legal Aid Commissions

This evaluation was undertaken by the Law and Justice Foundation of NSW and was completed in December 2000. The evaluation report has been provided to the Attorney-General. The findings of the evaluation will inform the development of strategies to improve the quality of programs, as well as the development of new Commonwealth funded programs in this area.

Output 1.4: **Protection of Australia's interests internationally and compliance with Australia's international obligations**

Performance measure: Relevant, sound and timely legal advice on international law issues.

The Department provided advice on a wide range of international law issues including advice relating to the domestic implementation of international law in Australia. Much of that advice was provided under very tight deadlines, and usually within required timeframes. The response from clients suggested a high level of satisfaction with the relevance and quality of the advice provided. An example of advice given under a tight deadline was that given in the course of the successful hot pursuit and arrest of a Togolese fishing vessel, the *South Tomi*.

Areas of international law advice included the law of the sea and Australia's maritime zones, marine pollution, fisheries, whaling, world heritage, Antarctic issues, World Trade Organization agreements, the constituent documents of international organisations, environmental instruments (including those concerning hazardous wastes, ozone-depleting substances, persistent organic pollutants, chemical importation and greenhouse gases), air and space law, people smuggling, drug trafficking, extraterritorial application of the laws of Australia, international human rights law, humanitarian law, refugee law, the external affairs power and advice on a wide range of statutes implementing international law.

Advice was provided, as required, to law enforcement and prosecuting authorities within Australia and overseas, on miscellaneous issues relating to extradition and mutual assistance in criminal matters.

Legal advice was also provided on arrangements under the *Defence (Visiting Forces) Act 1963* relating to criminal jurisdiction over foreign service personnel who were alleged to have committed criminal acts in Australia.

The Department provides advice as required on matters involving overseas child abduction, overseas adoption and overseas maintenance.

Performance measure: Development and implementation of sound and effective policy on international law issues.

The Office of International Law provided international law policy advice on a range of issues, including human rights, trade, the environment and fisheries.

The Office was closely involved in the Government's review of Australia's interactions with the United Nations Human Rights Treaty Committee system, the outcomes of which were announced in August 2000. It was involved also in the subsequent development of the high-level diplomatic initiative to move the reform process forward. The Office participated in an Australian-convened workshop on the reform of human rights reporting procedures in Geneva in June 2001 that brought together for the first time representatives from the treaty committees, the Office of the High Commissioner for Human Rights, the UN Division for the Advancement of Women and country representatives to discuss treaty body reform issues. This was a significant move forward in building momentum for improvements to the treaty body system.

In conjunction with other Government departments and agencies, the Office continues to develop Australia's case to support an extended continental shelf adjacent to the Australian mainland and the Australian Antarctic Territory.

The Office also contributed extensively to the development of policy in relation to the Food and Agricultural Organization's International Plan of Action on Illegal, Unregulated and Unreported Fishing, new treaties concerning the management of fish stocks in the Southern Indian Ocean and the Central and Western Pacific Oceans, the new Convention on the Conservation of Albatrosses and Petrels, and the new Global Biodiversity Information Facility.

The Office has also been involved in developing a framework for strengthening the economic legal infrastructure within APEC.

Work continued on the preparation of domestic legislation to enable Australia to comply with the obligation to cooperate with the proposed International Criminal Court, and to enable Australia to enforce its decisions in the future. Work continued to ensure that the crimes within the jurisdiction of the proposed Court, namely genocide, crimes against humanity and war crimes, are comprehensively covered in domestic legislation.

The Secretary and an officer of the Criminal Justice Division represented Australia at the 2000 Pacific Islands Law Officers' Meeting in Rarotonga, Cook Islands, in October 2000. Two officers from the Criminal Justice Division travelled to Fiji in June 2001 to attend and present papers at the Forum Regional Security Committee.

The Criminal Justice Division coordinated Australia's involvement in the United Nations Commission on Crime Prevention and Criminal Justice, participating in the tenth session of the Commission in Vienna in April 2001. The Department also carried out continuing work associated with the Commonwealth of Nations.

The Head of the Information and Security Law Division chaired the OECD Working Party on Information Security and Privacy which is reviewing the 1992 OECD Security Guidelines and undertaking a number of projects to enforce privacy protection internationally.

In the field of intellectual property law the Department has continued to provide representation at relevant meetings of the World Intellectual Property Organization (WIPO), in particular, the Standing Committee on Copyright and Related Rights and the Asia-Pacific Economic Cooperation (APEC) Intellectual Property Experts Group. Throughout the year, the Organisation has continued to focus on dealing with issues relevant to new technology and implementation of existing agreements, a focus that Australia has generally supported. A departmental representative also attended an APEC Copyright Symposium held in Japan in March 2001. Departmental representatives participated in technical assistance and cooperation activities in conjunction with WIPO, including intellectual property training in Samoa (August 2000), Indonesia (October 2000) and Pakistan (March 2001), briefing for stakeholders in the Philippines (August 2000) and a workshop with Pacific island nations in Brisbane (June 2001).

The Department works cooperatively with the Child Support Agency on the implementation of new legislative and treaty arrangements on child support enforcement. The Child Support Agency is now the principal sending and receiving agency in overseas maintenance matters. The Department retains responsibility for certain categories of child and spousal support matters.

The Department hosted a three-day meeting with State and Territory agencies to discuss issues arising from the implementation of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and related intercountry adoption matters.

Performance measure: Effective response to challenges to Australia's interests and rights in international courts.

The Office of International Law worked closely with the Department of Foreign Affairs and Trade on World Trade Organization litigation. The Office participated in the teams representing Australia in the WTO cases concerning measures taken by Korea in relation to imported Australian beef and measures taken by the United States in relation to imported Australian lamb. Also, it participated in the drafting of the third party submissions made by Australia in the *United States-Shrimp Turtle Case*. The *Korea-Beef Case* and the *United States-Lamb Case* were resolved in Australia's favour. On related matters, the Office presented evidence to the Joint Standing Committee on Treaties inquiry into Australia's relationship with the WTO, and provided training in China on WTO dispute law and procedures.

The Office was responsible for the conduct of the *Southern Bluefin Tuna Case* against Japan before the first arbitral tribunal established under the United Nations Convention on the Law of the Sea. In August 2000, the Tribunal found that it lacked jurisdiction over the case. However, the litigation and the judgment of the Tribunal were significant contributing factors to the satisfactory settlement achieved with Japan in that case.

Performance measure: Treaties and arrangements negotiated, concluded and administered.

The Office of International Law participated in a range of international negotiations on behalf of Australia, including those concerning:

- the Annual General Session of the United Nations Commission on International Trade Law (UNCITRAL), which finalised the Legislative Guide to Privately Financed Infrastructure Projects;
- the UNCITRAL working groups dealing with international arbitration and conciliation and the development of a Convention on the Assignment of Receivables in International Trade;
- bilateral Investment Promotion and Protection Agreements;
- a World Health Organization Framework Convention on Tobacco Control;
- the revised International Undertaking on Plant Genetic Resources;
- a Convention on Security Interests in International Mobile Equipment being developed by the Institute for the Unification of Private Law (UNIDROIT) and two associated protocols, one dealing with aircraft components and the other on space objects;
- a draft UNESCO Convention on the Protection of Underwater Cultural Heritage;
- a Free Trade Agreement with Singapore; and
- maritime delimitation with New Zealand.

The Office also participated in negotiations that led to the adoption of the following agreements:

- Agreement with Russia on cooperation in space activities;
- Convention on Civil Liability for Pollution Damage Caused by Bunker Oil. The Office led the Australian delegation to the Diplomatic Conference and chaired the Drafting Committee;
- Timor Sea Arrangement. The Office played a key role in the negotiations with East Timor and the United Nations Transitional Administration in East Timor that led to the Arrangement.

Criminal matters

Australia's international criminal justice interests were advanced by continuing efforts to increase the network of bilateral treaties and arrangements on extradition and mutual assistance in criminal matters.

During 2000–01 an extradition treaty with Latvia was signed. At 30 June 2001, arrangements were in place for an extradition treaty with South Africa and mutual assistance in criminal matters treaties with Monaco and Sweden to enter into force shortly. Criminal Justice Division advised government agencies on negotiations of Memoranda of Understanding on a range of issues, including migrant smuggling, the exchange of financial intelligence and law enforcement cooperation.

Administration continued of the present network of bilateral treaties and arrangements on extradition, mutual assistance and law enforcement cooperation. Negotiations for bilateral treaties and discussions on possible arrangements and MOUs continued with several countries.

Work continued on domestic arrangements with the States and Territories, as well as appropriate international treaty arrangements with other countries, for the international transfer of prisoners. Negotiations on a draft international transfer of prisoners treaty with Thailand were completed during the reporting year.

The Department continued to lead an interdepartmental task force relating to the Statute of the International Criminal Court. The Court will be a permanent body based in The Hague. It will have prospective jurisdiction to deal with perpetrators of the most serious crimes of concern to the international community.

Criminal Justice Division continued to participate in UN negotiations for the elaboration of a Convention against Transnational Organised Crime and associated protocols on migrant smuggling, trafficking in persons and trafficking in firearms. Negotiations on the convention and protocols were completed during the year and Australia signed the Convention in December 2000.

The Department also participated in the Second Global Forum on Fighting Corruption and Safeguarding Integrity, preparatory to UN negotiations on a convention against corruption set to commence in 2001–02.

Australia's international criminal justice interests were further advanced by continuing to contribute to the ongoing administration of UN Drugs Conventions. The Criminal Justice Division briefed Australia's delegations for meetings concerning implementation of aspects of the 1988 UN Drugs Convention, including in relation to maritime interdiction matters.

The *Criminal Code Amendment (United Nations and Associated Personnel) Act 2000* was passed by Parliament on 5 October 2000 and came into force on 1 January 2001. The Act implements Australia's obligations under the Convention on the Safety of United Nations and Associated Personnel. The Act adds new offences covering attacks on UN personnel to the Criminal Code.

Regulations were made to implement Australia's extradition obligations under the Convention on the Safety of United Nations and Associated Personnel, simultaneously with the enactment of implementing legislation to enact the relevant criminal offences.

The Department participated in the negotiations of the Working Group of a UN Ad Hoc Committee on a draft Comprehensive Convention on International Terrorism in September/October 2000 and February 2001. The September/October meeting was the first consideration by the Working Group of the draft Comprehensive Convention. Bi-annual negotiations are ongoing.

Electronic commerce

The Department continued its involvement with the United Nations Commission on International Trade Law Working Group on Electronic Commerce, participating in two meetings. The Working Group completed its draft Model Law on Electronic Signatures (together with its draft Guide to Enactment) and presented it to the Commission for consideration. The Model Law will provide internationally recognised guidance to countries considering legislation dealing with electronic signatures. The Working Group also identified and considered a number of future work topics and decided that identifying legal solutions to some of the problems around electronic contracting were the most pressing priority.

Intellectual property

A departmental representative led the Australian delegation to the World Intellectual Property Organization (WIPO) Diplomatic Conference on the Protection of Audiovisual Performances in Geneva in December 2000. The delegation played an active role at the conference. Most provisions of a draft new treaty were agreed and conference concluded with only one outstanding issue remaining unresolved. The Department represented Australia at the sixth session of the WIPO Standing Committee on Copyright and Related Rights in Geneva in May 2001, which continued work towards a possible new treaty on the protection of the rights of broadcasters. Other international negotiations extending to intellectual property issues have involved departmental representatives participating in negotiations for an Australia–Singapore Free Trade Agreement.

The Department also provided briefings and assistance on intellectual property aspects of the proposed Hague Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters. Assistance was provided to the Australian delegation in respect of ongoing negotiations, experts group meetings and the Diplomatic Conference held in June 2001.

Child abduction

A bilateral agreement was concluded between Australia and the Arab Republic of Egypt regarding cooperation on protecting the welfare of children. The agreement establishes a mechanism to assist Australian nationals whose children have either been abducted to Egypt or where difficulties with contact between a parent and child have arisen. Egypt is not a party to the Hague Convention on the Civil Aspects of International Child Abduction of 1985. Hence the mechanisms and protocols available under the Convention cannot be utilised in cases involving Egypt. Egypt is one of several countries with child custody laws based on religious law and is unlikely to become a party to the Convention.

A similar agreement with Lebanon is being negotiated with a view to it being concluded in 2001.

The Hague Conference on Private International Law, which develops and administers Hague Conventions, conducted its four-yearly review of the operation and implementation of both the Intercountry Adoption Convention (November 2000) and the Child Abduction Convention (March 2001). The Department, as Central Authority for each Convention, actively participated in the Australian delegation to each Special Commission review meeting. The Australian delegation was invited to join the Committee to prepare the recommendations and conclusions of the Child Abduction Special Commission.

Performance measure: Compliance with reporting requirements of international treaties and appropriate responses to international committees.

The Office of International Law was primarily responsible for the presentation of Australia's Third and Fourth Reports under the International Covenant on Civil and Political Rights to the United Nations Human Rights Committee in July 2000. The Committee expressed its appreciation of the quality of the reports of Australia, the extensive additional oral and written information provided by the delegation during the examination of the reports and the answers to its written and oral questions.

The Office also had primary responsibility for the presentation of Australia's combined Second and Third Report under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the United Nations Committee Against Torture in November 2000. The Committee welcomed the constructive dialogue with the Australian delegation and greatly appreciated the detailed information submitted both orally and in writing in response to the questions asked by the Committee.

Criminal Justice Division coordinated and prepared comprehensive responses for various treaties and committees. These included questionnaires on compliance with UN drugs conventions and the annual Financial Action Task Force self-assessment survey.

The Criminal Justice Division also represented Australia at meetings of the OECD Working Group on Bribery in International Business Transactions in December 2000 and June 2001. The Working Group is close to achieving its initial objective of harmonising laws amongst OECD countries in this area. The compliance of such laws with the OECD Convention on Bribery in International Business Transactions is thoroughly evaluated by lawyers on the Working Group. Australian and Swedish representatives were lead evaluators in relation to the Danish legislation at the December 2000 meeting and

Australia and Argentina in relation to the New Zealand legislation at the June 2001 meeting. The Danish and New Zealand laws were found to be in compliance with the Convention. The second stage of the Working Group's activities will include on-site evaluations of the effectiveness of enforcement measures in each country. The first such evaluation is expected to occur later this year (Finland). It is not expected the evaluation of Australia will occur until late next year or early 2003.

Performance measure: Process of international casework meets/satisfies requirements of Australian and foreign law.

Human rights matters

The Office of International Law is responsible for responding to communications by individuals to UN human rights treaty committees alleging breaches of human rights in Australia. In July 2000, responses to 14 communications were outstanding. A further seven communications were received during 2000–01. Responses to 16 communications were lodged and three communications withdrawn in the course of the year. The Australian submissions in two communications had yet to be finalised at the end of the year. Only one communication involving Australia was finalised by a Committee; it was found inadmissible.

In addition, the Office responded to a number of communications and requests for advice from non-treaty based United Nations human rights mechanisms.

Criminal matters

Extradition casework is handled in accordance with statutory deadlines and international treaty obligations. During the reporting year, the number of requests made to Australia was less than that for 1999–2000, but there was an increase in the number of requests made by Australia. Further details are at Appendix 13.

During the course of the year a number of cases, such as the Cabal extradition request by Mexico, the Kalejs extradition request by Latvia, and the Macarthur extradition request by Australia to Indonesia, received significant media coverage. These cases were continuing as at the end of the reporting period; however, a number of other cases were successfully concluded during the reporting year.

Mutual assistance in criminal matters casework is handled in accordance with legislative requirements and international treaty obligations. The number of requests made to Australia for mutual assistance in criminal matters, and the number of requests made by Australia to foreign countries, were equivalent to those for 1999–2000. As in previous years, most of the requests involved major fraud, money-laundering or large-scale drug trafficking matters. There were also several requests involving people smuggling and wildlife smuggling allegations, and Australia continued to provide assistance to European jurisdictions in several war crimes matters. Further details are at Appendix 13.

Australia made a number of mutual assistance requests to countries to which requests had not been made before, including Colombia, Panama and Thailand. The variety of matters dealt with under the mutual assistance regime continues to develop, with a growing trend in requests for email records from the United States, where such records are generally held. An increasing overlap between mutual assistance and extradition matters has become evident, with mutual assistance requests having been made in several extradition cases.

Two protracted mutual assistance matters involving confiscation of the proceeds of crime were successfully concluded during 2000–01. One of those matters has resulted in the agreement of the Hong Kong Special Administrative Region (HKSAR) authorities to share confiscated assets with Australia. The Australian authorities will be receiving funds totalling over A\$722 000 pursuant to that agreement. The second matter has resulted in the forfeiture of funds totalling over A\$490 000 in the Philippines, which will be remitted to Australia.

Three requests to the United States dating back to October 1998 were finalised with the provision of substantial evidence of relevance to the prosecution of Mark John Smith, who was convicted in Melbourne on 27 October 2000 of the murder of his young son and the attempted murder of his wife. He was sentenced to 26 years imprisonment on 6 December 2000.

In April 2001, the *Mutual Assistance in Criminal Matters Act 1987* (the 'MA Act') was amended to clarify the meaning of 'foreign restraining order' for the purposes of that Act and the *Proceeds of Crime Act 1987*. The amendment followed decisions of the Supreme Court of Victoria (in July 1999) and the Victorian Court of Appeal (in March 2000) that a foreign order for the seizure of property held by an alleged offender in Australia did not constitute a 'foreign restraining order' for the purposes of the MA Act. The amendment will ensure that orders issued in civil law jurisdictions for the purpose of preserving property believed to constitute the proceeds of crime will be capable of enforcement in Australia, and accordingly that Australia will be in a position to meet its obligations at international law in respect of the provision of assistance in criminal matters.

The International War Crimes Tribunal in The Hague remained active during 2000–01 in seeking assistance from Australia in locating and interviewing potential witnesses and possible suspects. The Department coordinates the arrangements for providing such assistance. The relevant figures are in Appendix 13.

Under the *Migration Act 1958*, the Attorney-General is authorised to issue Criminal Justice Certificates to non-citizens who are required in Australia for the administration of criminal justice. The relevant figures are in Appendix 13.

International civil procedures matters

A growing volume of international civil litigation by and against Australian companies and individuals resulted in increasing requests for advice made to the Department from courts, government agencies and private legal practitioners on overseas service of process, taking of evidence and enforcement of civil judgments. To assist the public, an Internet web page on these subjects was maintained. Substantial work continued to be undertaken on processing of requests by Australian and foreign courts for assistance in the taking of evidence and the service of process in civil litigation.

In 2000–01 the Department dealt with 173 applications for return and access under the Convention on the Civil Aspects of International Child Abduction. There were 48 enquiries concerning child abduction to non-Hague Convention countries.

Under the UN Convention on the Recovery Abroad of Maintenance and Reciprocal Arrangements, 26 applications for maintenance were sent to overseas authorities in 1999–2000 and 19 applications were received. There were 819 active cases still on foot at June 2001. Since July 2000, the Child Support Agency now administers the majority of

cases under these programs. There were 40 requests for assistance in locating defaulters in maintenance matters. There were 11 requests for assistance in parentage testing in relation to child support matters.

Under arrangements for reciprocal registration of custody orders, five orders were sent for registration and 44 orders were received for registration.

Output 1.5: Drafting of legislative and other instruments and publication of legislation and related materials

Performance measure: Level of demand for drafting and advising services (billable and non-billable).

The Office of Legislative Drafting (OLD) provided departments and agencies with a total of 653 completed drafts of instruments in 2000–01.

The total of 3374 pages of Statutory Rules made in 2000–01 was slightly less than the total pages made in 1999–2000 and slightly higher than the average of 3300 pages for each year since 1988–89. The total number of Statutory Rules (390) was slightly higher than in 1999–2000 (383).

Of the 653 completed draft instruments, 165 instruments (approximately 25 per cent) were billable. Total billable drafting revenue produced in 2000–01 was \$727 596; this was \$189 000 (21 per cent) less than in 1999–2000. The decrease is attributable mostly to a reduction in the size of the billable instruments themselves. By contrast, the number of billable matters opened fell by only 3 per cent (from 244 to 237).

Performance measure: Satisfaction of clients with the advice and service provided, and the quality of legislative instruments, as expressed in Parliament by the Senate Standing Committee on Regulations and Ordinances.

A number of clients expressed their satisfaction with the work of the Office, both orally and in writing. No complaints about the level of service or quality of work were received.

Of 390 Statutory Rules made during the year, none contravened the scrutiny principles of the Senate Standing Committee on Regulations and Ordinances.

Performance measure: Availability of reprints and electronic consolidations of Commonwealth legislation and compliance with publishing and tabling standards and the level of user satisfaction.

The Office continued to give priority to the electronic versions of consolidations of Commonwealth legislation, but a small number of hardcopy 'reprints' was published in response to bookshop demand (30 individual titles, with a total of 9917 pages). Other hardcopy publishing included 12 volumes (14 125 pages) of annual collections of legislation and 374 pages of indexes and tables. All titles in force are now available, at no cost, from the SCALEplus website on the Internet. From the beginning of 2000, all electronic consolidations added to the system have been made available in Adobe Portable Document Format (PDF) to provide an alternative to the existing Rich Text Format (RTF), and that has been well received by users.

A number of users expressed their satisfaction with the availability of reprints and electronic consolidations, generally by the email feedback facility, less frequently by phone or mail. All consolidations—electronic and hardcopy—are produced to Office-imposed standards.

Performance measure: Extent to which new and consolidated Commonwealth legislation, and related information, is available on SCALEplus in a timely way and the level of user satisfaction.

Changes to work practices in the area of OLD responsible for the consolidation of Commonwealth legislation saw a continuing improvement in the time taken to consolidate legislation and make it available to SCALEplus. Throughout the year virtually all titles have been available, with all in-force amendments incorporated, from the date of commencement of the amendments. Some delay occurs when a single Act makes numerous amendments to a large number of different Acts to take effect very soon after assent, or when an amending Act takes effect on assent. Delay is, of course, inevitable when amendments are retrospective. Other legal material added to SCALEplus (e.g. decisions of courts and tribunals) consistently met or bettered performance targets for timeliness. During the year, 'hits' on the site were never less than a million a month and some months saw that figure double. A number of users expressed their satisfaction with the extent and timeliness of SCALEplus information, generally by the email feedback facility, less frequently by phone or mail.

Performance measure: Extent to which new legislative instruments, and related information, are available on the Legislative Instruments Database (LID) in a timely way and the level of user satisfaction.

Access to the LID during 2000–01 increased significantly, with hits averaging around 30 000 a month compared with only 20 000 a month in the previous year. Higher levels of interest have occurred on the days following meetings of the Executive Council and gazettal of instruments. The database now contains images and index information for over 8630 instruments that have been backcaptured in anticipation of the enactment of the Legislative Instruments Bill. ('Backcapture' is the registration of legislative instruments made in anticipation of the enactment of the Legislative Instruments Bill.) The index, which contains useful information about instruments on the database, continues to be maintained.

In accordance with performance measures developed for the database, new regulations and a number of other instruments backcaptured in consultation with some departments and agencies, continued to be entered into the database within one day of gazettal. Backcapture of court rules commenced in 2000–01 and will continue in 2001–02.

The response from users of the database has been positive.

Evaluations

Benchmarking legislative drafting and publication against other drafting offices

It proved not practicable to carry out a benchmarking study in the course of the year. However, it is proposed to carry out a client survey in 2001–02 and to re-examine options in relation to the benchmarking study.

Output 1.6: Machinery of government obligations

Performance measure: Cabinet and Parliamentary

- **compliance with quality and procedural standards as laid down in relevant guidelines, including Cabinet, Legislation and EXCO Handbooks**
- **answers to Parliamentary questions prepared within 30 days of receipt.**

The Ministerial and Parliamentary Section advises all areas of the Department on Cabinet, legislation and Executive Council processes and ensures that all associated material complies with the quality and procedural standards laid down in the relevant handbooks. In this regard, all requirements were fully met.

During the year, 110 Parliamentary questions were received. Answers to 40 of these questions were prepared within 30 days. A further 59 answers were prepared within 60 days and nine others exceeded this time. At 30 June 2001, two questions remained unanswered, both of which were within the 30 day period for response.

The Section reports regularly to the Department's Executive and Division and Office Heads on outstanding Parliamentary questions, and monitors overdue items. While the departmental target for responding to questions is 30 days, it is not unusual for this time limit to be exceeded because of the complexity of the matters raised or the need to obtain information from across the portfolio as a whole.

Performance measure: Ministerial briefing

- **ministerial briefing prepared for Ministers immediately issues of public sensitivity arise**
- **subject to availability of agenda papers and to particular Ministers' requirements, Ministerial briefing is to be provided 2 weeks in advance of Ministerial Council meetings and other meetings attended by Ministers.**

Departmental procedures require the briefing of Ministers as soon as issues of public sensitivity arise. Briefing is provided through the preparation of Possible Parliamentary Questions, to anticipate issues which might arise in the Parliament, or detailed submissions which canvass all aspects of an issue for Ministers' information or seek their approval for particular courses of action.

Specific briefings were provided for the following meetings attended by Ministers:

- three meetings of the Standing Committee of Attorneys-General;
- two meetings of the Australasian Police Ministers' Council;
- two meetings of the Inter-governmental Committee of the National Crime Authority;
- one meeting of the Corrective Services Ministers' Conference; and
- one meeting of the Ministerial Council on Drug Strategy.

Performance measure: Ministerial correspondence

- **quality: 90 per cent of responses made within 28 days**
- **quantity: 12 000 communications received.**

During the year, the Department received approximately 9000 items of ministerial correspondence. Of that correspondence requiring a response, just over 67 per cent was finalised within 28 days. It was not always possible to deal with correspondence within this timeframe because of its complexity.

The Ministerial and Parliamentary Section reports regularly to the Department's Executive and Division and Office Heads on outstanding correspondence and monitors overdue items.

Performance measure: Ministerial submissions

- **quality: 97 per cent of submissions approved**
- **quantity: 5400 submissions.**

During the year, the Department sent approximately 5700 submissions to its Ministers (which included a number of submissions originating within other agencies in the portfolio). A total of 4724 submissions was returned to the Department by the end of the period. Of this number, 4534 (96 per cent) were approved by Ministers.

Performance measure: Government responses to reports of Royal Commissions, Parliamentary Committees and non-Parliamentary Committees and other organisations significantly impacting on the portfolio

- **preliminary Ministerial briefing is to be provided within one day of the tabling of the report, or earlier if possible**
- **a substantive analysis of Parliamentary Committee reports is to be provided to Ministers within two weeks of publication.**

Briefing was provided to Ministers prior to tabling of reports or as part of the daily Question Time brief.

The Ministerial and Parliamentary Section reports regularly to the Department's Executive and Division and Office Heads on the status of responses to Parliamentary committee and other reports having a significant impact on the portfolio and monitors overdue items. The relevant action areas of the Department are kept informed of timelines for the provision of associated briefing to Ministers. A mechanism for monitoring compliance with this performance measure will be examined in the context of the future development of the Department's information management system.

Performance measure: Performance Management

- **full compliance with Financial Management Act and public accountability obligations in presentation of Portfolio Budget Statements and annual report including effective and meaningful performance information**
- **clearly stated strategic direction and a coherent performance management regime which delivers sound internal management.**

Public accountability

The Attorney-General's 2001–02 Portfolio Budget Statements were prepared in accordance with the Government's guidelines and tabled in the Senate by the due date. The Department's annual report for 1999–2000, tabled in October, complied fully with the *Requirements for Annual Reports* approved by the Joint Committee of Public Accounts and Audit.

The Legal and Constitutional Legislation Committee raised concerns during consideration of Additional Estimates on 19 February 2001, about the time being taken to respond to the Committee's questions. At the budget Estimates hearings on 28 May 2001, the Committee expressed its gratitude for the timeliness of responses to questions taken on notice at the February hearings.

'Whole-of-government' obligations

The Department met its 'whole-of-government' obligations, in responding in accordance with required standards and within timeframes imposed or agreed, on a number of issues including:

- Access and Equity;
- workplace diversity;
- various reporting obligations under the *More Time for Business* initiative including:
 - Regulation Impact Statements
 - Regulatory Performance Indicators
 - Annual Regulatory Plans
 - Time-boxes
 - Statistical Clearing House clearance of planned business surveys;
- Service Charters;
- Australian Bureau of Statistics Biennial Survey of Research and Development activity;
- National Competition Policy Annual Report;
- National Environment Protection Measures Report;
- contribution to various Budget statements, including on:
 - the environment
 - indigenous programs
 - regional Australia
 - women;
- Personal Information Digest returns required by the Privacy Commissioner; and
- due diligence investigations associated with the sale of Commonwealth assets.

Performance management

The Department has in place an integrated approach to performance management that synthesises planning, accountability, reporting and evaluation activity. The model links individual performance with corporate goals and incorporates a regime of performance review from the level of the individual through to broad organisational elements.

Performance measure: **Public Affairs**

- **externally set deadlines and quality and procedural standards met in relation to management of corporate communications and media issues, drafting media releases, speech writing, and advice on and management of public education campaigns.**

All externally set deadlines were met in the reporting period in relation to corporate communications and media issues. Media releases were drafted for the Attorney-General and the Minister for Justice and Customs in collaboration with policy areas. These are prepared in accordance with the departmental Media Management Guidelines, and to quality requirements and to deadline. Speech drafts were prepared for the Attorney-General and the Minister for Justice and Customs in accordance with the agreed speechwriting guidelines.

Pro bono law conference

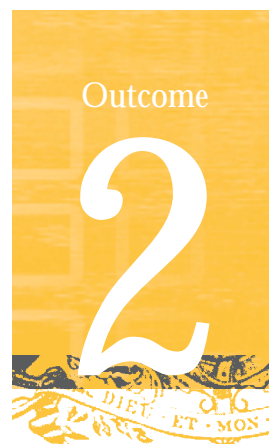
Public Affairs, in partnership with the Family Law and Legal Assistance Division, developed and implemented the communications strategy supporting the first national conference on pro bono law hosted by the Attorney-General in Canberra in August 2000. All communications targets were met, assisting to achieve strong support for the initiative across the legal profession and legal media nationally.

Olympics

Public Affairs, in partnership with the Department of the Prime Minister and Cabinet and the New South Wales Police Service, developed and implemented a security media strategy in support of the Sydney 2000 Games. The strategy and communications protocols allowed issues to be professionally managed, servicing media inquiries without breaching security arrangements. This work contributed greatly to the accurate public perception of the Games as being safe as well as successful.

Coordinated security, crime prevention and law enforcement arrangements

Achieving a Just & Secure Society



RESOURCE SUMMARY

	(1) Budget ¹ 2000–2001 \$'000	(2) Actual ² expenses 2000–2001 \$'000	(3) Variation (column 2 minus column 1)	(4) Budget ³ 2001–2002 \$'000
Administered Expenses (including third party outputs)	16 453	10 761	(5 692)	13 595
Total Administered Expenses	16 453	10 761	(5 692)	13 595
Price of Departmental Outputs				
Output 2.1: Maintenance and development of the federal system of criminal justice, development and implementation of law enforcement and national security frameworks and a counter-terrorism capability and the prevention of violence and crime within the Australian community				
	52 624	33 528	(19 096)	58 108
Output 2.2: Development and promotion of protective security policy, advice and common standards and practices, and the coordination of protective security services				
	10 830	8 989	(1 841)	10 306
Output 2.3: Provision of diplomatic and consular guarding services				
	19 718	13 808	(5 910)	18 039
Output 2.4: Provision of protective security services				
	55 523	57 505	1 982	54 439
Output 2.5: Facilitation of the delivery of high quality national policing information services				
	36 874	23 245	(13 629)	30 753
Total Price of Outputs	175 569	137 075	(38 494)	171 645
Revenue from Government (Appropriation) for Departmental Outputs				
	80 619	52 466	(28 036)	82 594
Revenue from other Sources				
	94 950	86 052	(9 015)	89 051
Total Departmental Revenue	175 569	138 518	(37 051)	171 645
TOTAL FOR OUTCOME 2 (Total Price of Outputs and Administered Expenses)				
	192 022	147 836	(44 186)	185 240
			2000–2001	2001–2002
Average Staffing Level			893.9	858.5

¹ Full-year budget, including additional estimates and internal restructure between outputs.

² Actual expenses includes the capital use charge.

³ Budget prior to additional estimates.

PERFORMANCE REPORT – Administered items

International bodies – membership contributions

Performance measure: Grants made in accordance with agreed rates of contribution.

The expenditure covers Australia's annual contribution for 2001 of \$A22 340 to the budget for the Secretariat of the Financial Action Task Force on Money Laundering.

Standing Advisory Committee on Commonwealth–State Cooperation for Protection against Violence – operating expenses

Performance measure: Expenditure in accordance with Government decision and as approved by the Standing Advisory Committee.

A Commonwealth administered appropriation provides funding to the SAC-PAV program to develop a nation-wide counter-terrorism (CT) capability. The SAC-PAV program includes the development of national plans; State–Commonwealth policy and operational seminars, forums and workshops; a training and exercise program; the purchase of specialist equipment for police and other operational agencies; and the servicing of a national network of agencies. The annual SAC-PAV budget is normally around \$3.5 million, of which about 60 per cent is spent on specialist equipment and about 40 per cent on training, exercises and development. The budget for 2000–01 was \$6.663 million, which included additional funding of \$3.38 million for the migration of State and Territory Police Services video and microwave communications to 3.1GHz frequency. The SAC-PAV training, exercise, development and equipment program objectives for 2000–01 were met.

Business rationalisation and redundancy costs (for payment to the Australian Protective Service)

Performance measure: Expenditure in accordance with terms of Government decision.

A special appropriation of \$742 000 was received and utilised during the 2000–01 financial year for the purpose of rationalisation/implementation and redundancy.

Overdraft facility (for payment to the Australian Protective Service)

Performance measure: Funds managed in accordance with agreed arrangements.

The Australian Protective Service did not draw down funds during the reporting period.

National Firearms Program Implementation Act 1996

Performance measure: **Expenditure in accordance with the objectives of the Program.**

The expenditure of \$276 491 covers administration costs associated with a nation-wide system of firearms registration and licensing and restriction of firearm ownership, put in place after the Port Arthur shootings in April 1996.

Diversionsary program for juveniles in the Northern Territory

Performance measure: **Expenditure in accordance with Government decision and agreed arrangements.**

The Agreement between the Commonwealth and Northern Territory Governments was signed on 27 July 2000 and came into effect on 1 September 2000. Under the terms of the Agreement, the Commonwealth will provide total annual funding of \$5 million for a period of four years for a pre-court diversionary program for juvenile offenders and a jointly funded Aboriginal Interpreter Service to improve access to the justice system for indigenous persons. The first program year is 1 September 2000 to 31 August 2001. There will be a review of the progress in achieving the purpose of the Agreement twelve months from the date of the commencement of diversionary programs; a review of the Agreement will be undertaken not less than six months prior to the expiration of the Agreement.

PERFORMANCE REPORT – Departmental outputs

Output 2.1 **Maintenance and development of the federal system of criminal justice, development and implementation of law enforcement and national security frameworks and a counter-terrorism capability and the prevention of violence and crime within the Australian community**

Performance measure: Relevant, sound and timely policy advice provided and development, administration and review of policies and related legislation in accordance with government objectives.

Law enforcement

Criminal Justice Division supports the Attorney-General and the Minister for Justice and Customs and the portfolio law enforcement agencies in furthering the Commonwealth's and national law enforcement interests. The Division also provides policy advice and support to the Secretary of the Attorney-General's Department in relation to his role as Chair of the Heads of Commonwealth Operational Law Enforcement Agencies (HOCOLEA).

The Division contributed to the further development and implementation of illicit drug supply reduction strategies initiated under the National Illicit Drugs Strategy (NIDS) and as a result of the Special Meeting of the Council of Australian Governments (COAG) on 9 April 1999.

The Division coordinated and ensured that the views of Commonwealth law enforcement agencies across a range of briefing activities were taken into account in policy decisions. As part of its coordination role, the Division contributed to the design of monitoring and evaluation mechanisms for the NIDS and COAG packages. The Division is represented on the Steering Committee which is coordinated by the Department of Finance and Administration to oversee the evaluation of the COAG package of initiatives.

In partnership with the Departments of Health and Aged Care, and Education, Training and Youth Affairs, and other Commonwealth agencies, the Department promoted discussion of drug issues in a range of forums, including the Ministerial Council on Drug Strategy, the Inter-governmental Committee on Drugs, the Australasian Police Ministers' Council (APMC) and the Corrective Services Ministers Conference (CPMC).

The Australian Institute of Criminology was commissioned to undertake further research into the links between drug use and crime, through the Drug Use Careers of Offenders project and an extension of the Drug Use Monitoring in Australia project.

Criminal Justice Division participated in and provided secretariat support to the Interdepartmental Coordination Group on the Financial Action Task Force/Asia-Pacific Group on Money Laundering, and contributed to the review of the Financial Action Task Force's 40 recommendations, which are widely accepted as the leading international standard for anti-money laundering efforts.

The Division supported the Minister for Justice and Customs in a range of discussions with international ministers and officials on drug law enforcement and related transnational crime issues.

Criminal Justice Division provided secretariat and support services to the Australian Federal Police Monitoring Committee. The Committee monitors the implementation of reforms to improve the capabilities of the Australian Federal Police (AFP). It reports regularly to both the Minister for Finance and Administration and the Minister for Justice and Customs.

Criminal Justice Division supported the participation of the Minister for Justice and Customs in a number of domestic and international forums to promote the role and maximise the contribution of women in law enforcement organisations.

Secretariat Services were provided to the Ministerial Council on the Administration of Justice (MCAJ) which comprises the APMC, the Inter-Governmental Committee of the National Crime Authority (IGC-NCA) and the CSMC and their Standing Committees of Senior Officials. During the reporting period there were two meetings of the APMC, the IGC-NCA and the Senior Officials, and one of the CSMC. Briefing and advice was provided to the Chairpersons by the MCAJ Secretariat and briefing for the Commonwealth minister was coordinated by the Division. NCA references were issued through the IGC-NCA. These references are a prerequisite for the NCA using its special powers of investigation. Appointments of statutory office holders in the portfolio were also finalised, including those of Deputy Commissioner and Commissioner of the AFP. The Department is responsible for implementation and further development of the Commonwealth's fraud control policy. As part of the ongoing revision process for the Commonwealth's fraud control policy, a Consultation Draft No. 2 was circulated for comment to Commonwealth departments, agencies subject to the *Financial Management and Accountability Act 1997* and relevant authorities and companies subject to the *Commonwealth Authorities and Companies Act 1997*. A copy of Consultation Draft No. 2 was also made available on the Department's website.

The AFP and the Department are currently revising the Commonwealth Fraud Investigation Standards in consultation with Commonwealth agencies. Other activities include continuing evaluation of Commonwealth agency fraud risk assessments and fraud control plans, the provision of advice to agencies on implementation of the fraud control policy, and contribution to the development of a national approach to fraud under the auspices of the APMC.

National Firearms Buyback Program

Since the commencement of the National Firearms Buyback Program, the Commonwealth has provided States and Territories with \$398 million for Buyback compensation and \$63 million for costs of administering the Buyback. As at 30 June 2001, \$388 million provided for compensation, and \$62 million of Buyback administration funding, had been acquitted. Closure of the Buyback process is contingent upon finalisation of a small number of outstanding dealer compensation claims and resolution of outstanding litigation in a number of jurisdictions including one action against the Commonwealth.

Three Act of Grace payments in relation to claims under the National Firearms Buyback Program were approved by The Hon. Peter Slipper MP, Parliamentary Secretary to the Minister for Finance and Administration, amounting to \$6 861 646 and paid from the Department's Appropriation Bill No.1 Outcome 2 allocation.

Eighty-eight requests to the Minister for Justice and Customs were processed relating to the importation of firearms and related parts and accessories, which would otherwise be prohibited under the Customs (Prohibited Imports) Regulations 1956.

Criminal Justice Division provided a timely and relevant response to information which became available in mid-2000 highlighting the use of handguns in crime. Amendments to the Customs (Prohibited Imports) Regulations 1956 were implemented in August 2000 and further refined in April 2001 to more effectively control the importation of handguns and to close loopholes through which handguns may have been diverted to the blackmarket.

Complementary policy initiatives in States and Territories were facilitated through involvement in the APMC and the chairing of an APMC Handgun Working Group which resulted in a number of strategies to reduce the use of handguns in crime.

A minimum national standard for firearms safety training prepared by the Firearms Unit was endorsed by the APMC and consultations for a national firearms safety code were completed.

Legislation

Updated and consistent legislation is important to improve criminal justice system efficiency and to address emerging threats to the Australian community. In the field of the criminal law, an important component of the Government's effort to maintain and develop the federal system of justice, and to ensure Commonwealth laws appropriately interact with State and Territory laws, is the implementation of the Model Criminal Code and the Model Forensic Procedures Bill. Key steps in that process have been the enactment of the *Criminal Code Amendment (Theft Fraud Bribery and Related Offences) Act 2000* and the *Crimes Amendment (Forensic Procedures) Act 2001* and the introduction of the Cybercrime Bill 2001 in the Senate on 27 June 2000. The latter is currently being examined by the Senate Legal and Constitutional Affairs Legislation Committee, scheduled to report on 21 August 2001. The Cybercrime Bill 2001 deals with offences based on those in the Model Criminal Code Damage and Computer Offences report, released by the Standing Committee of Attorneys-General in February 2001. Implementation of the report has also been given priority by State and Territory Attorneys-General.

The *Criminal Code Amendment (Theft Fraud Bribery and Related Offences) Act 2000*, which commenced on 24 May 2001, enacted much clearer and simpler offences for theft, fraud, bribery and corruption, with increased penalties to combat crimes against the Commonwealth and by Commonwealth officials. The Act also enabled the repeal of over 250 offences.

The *Crimes Amendment (Forensic Procedures) Act 2001* facilitates the establishment of a national DNA database system as part of CrimTrac. Similar legislation has or is been enacted by the States and Territories.

Implementation of the general principles chapter of the Criminal Code will be complete with the application of the principles to all Commonwealth offences on 15 December 2001. During the year the Department provided advice to all portfolios on changes they needed to make to harmonise existing offences with the Criminal Code.

At the end of the Winter Sittings 2001 seven portfolios, including Attorney-General's, had legislation enacted, four portfolios had introduced legislation and the remaining seven were well advanced in the preparation of legislation to be introduced during the Spring Sittings 2001. It is expected all offences will be harmonised by 15 December 2001.

The commencement of the *Crimes at Sea Act 2000* on 1 April 2001 was another important achievement. The new national scheme followed ten years work to simplify off-shore criminal law enforcement. The previous very complex rules and tests have been replaced with a clear 'zone' system out to 200 nautical miles from a State's coastline where local law will apply.

The *National Crime Authority Amendment Act 2000* was enacted and commenced on 24 November 2000. It addresses the implications of the High Court decision in *R v Hughes* (to minimise the risk of constitutional problems arising from the Commonwealth-State legislative scheme governing the Authority). The Department has also assisted with the development of related State and Territory amendments and with the reformulation of NCA references consequential on the legislative changes.

The *Crimes Amendment (Age Determination) Act 2001* commenced on 4 June 2001. It provides a basis for bone scans to determine age, of particular relevance for those involved in illegal fishing and people smuggling offences whose age is difficult to verify. The Act will assist in determining whether those accused of such offences should be dealt with as children or adults. There are significant investigative and custodial procedures which apply where the person is a child.

The *Australian Federal Police Amendment Act 2000* commenced on 2 July 2000 to provide more flexible and efficient workplace arrangements, greater accountability (including drug testing of employees and financial probity declarations) and a framework for implementation of the Ayers Review.

Another initiative which was developed during this period and is still before the Parliament is the National Crime Authority Legislation Amendment Bill 2000 which was introduced into Parliament on 7 December 2000. The Bill provides for a substantial overhaul of the existing Act. The amendments are designed to increase the capacity of the Authority to investigate organised crime and to provide an independent mechanism for dealing with complaints against the Authority. The Bill implements *The 3rd Evaluation of the Authority by the Parliamentary Joint Committee on the National Crime Authority* and addresses a number of outstanding administrative and operational matters. The Bill was the subject of a report of the Parliamentary Joint Committee in March 2001.

There is also the Measures to Combat Serious and Organised Crime Bill 2001 which was introduced into Parliament on 4 April 2001. It contains changes to controlled operations and assumed identities procedures which are of significant importance in improving the capacity of law enforcement to properly carry out investigations. The Bill also includes *Financial Transaction Reports Act 1988* amendments, and amendments in relation to investigative procedures and child witnesses. The Bill was the subject of a report of the Senate Constitutional and Legal Affairs Legislation Committee.

Proceeds of crime

A new Proceeds of Crime Bill was developed during this period. The Bill has since been released as an exposure draft. The Bill would introduce a civil forfeiture regime for confiscating assets that a court declares have been derived from relevant criminal activity, without the need for a conviction; amend money laundering provisions; improve the existing conviction-based scheme; adopt a regime of confiscating literary proceeds; and amend related legislation dealing with confiscation of proceeds of crime.

The Minister for Justice and Customs authorised, under s.19(1) of the *Proceeds of Crime Act 1987*, the donation of various counterfeit items of clothing—shorts, T-shirts, singlets and caps—for charitable purposes in East Timor. There was also briefing in relation to the making of decisions in two matters under s.30(3)(c) of the *Proceeds of Crime Act* to authorise the Commonwealth to be registered as the owner of real property that had been forfeited under s.30 of the Act. Further the Minister made a determination that \$4.2 million in the Confiscated Assets Reserve could be transferred to the Consolidated Revenue Fund under s.34D of the *Proceeds of Crime Act*.

Federal offenders

The Department provides advice in relation to a range of matters concerning federal offenders. This includes briefing for the Corrective Services Administrators Conference and the Corrective Services Ministers Conference. The advice also concerned whether an offender should be granted parole, or early release on licence because of exceptional circumstances, interstate transfer for trial or on welfare grounds, permission to travel overseas while on parole or licence, and on the grant of pardons, remission of sentences and fines and referrals to State Courts of Criminal Appeal. Decisions were made in relation to over 229 matters during 2000–01. There were approximately 805 full-time federal prisoners in custody as at 30 June 2001. Another 34 were serving terms of periodic detention and eight were serving home detention. This is an increase of more than 250 since 1996.

Witness protection

The Department provides advice on matters arising under the *Witness Protection Act 1994*. There were several more complex cases which required advice from the Department. These were resolved to the satisfaction of the AFP and other relevant authorities. The Department monitors and provides advice on developments in State and Territory legislation. This year Queensland enacted new legislation.

Commonwealth criminal law

During this period, the Department continued to provide assistance to the Minister for Justice and Customs to ensure that criminal offences, civil penalties, and enforcement powers in Commonwealth legislation comply with criminal law policy. This has included extensive work with a number of departments including Treasury (in relation to changes to the Corporation Laws), Department of Transport and Regional Services (in relation to changes to the civil aviation legislation and related matters) and the Department of Immigration and Multicultural Affairs (in relation to detention centre issues). During this period over 145 individual pieces of legislation or legislative proposals were reviewed to ensure the maintenance of a consistent approach to Commonwealth criminal law.

The Minister for Justice and Customs was briefed in relation to authorising the Director of Public Prosecutions, under s.16 of the *Crimes (Superannuation Benefits) Act 1989*, to apply for a superannuation order in respect of ten people. A court may order a superannuation order following the conviction of a Commonwealth officer for an offence involving corruption; the order cancels all of the employer-funded superannuation benefits paid by the Commonwealth.

National security

As reported last year, the Government's national security policy-setting framework includes the National Security Committee of Cabinet and the Secretaries Committee on National Security. The Attorney-General and the Secretary are members respectively of these committees. The committees consider matters relevant to national security, including defence and intelligence matters. The Information and Security Law Division supports the Attorney-General by preparing relevant briefings and Cabinet submissions in a timely manner, and by preparing relevant briefings for the Secretary in a timely manner. Most of the matters considered by the Cabinet committee are first considered by the Secretaries Committee.

As reported last year, the Division has continued to assist Australian Security Intelligence Organisation (ASIO) and the Australian Protective Service to carry out their national security and protective service functions by providing legal and policy advice. In accordance with the Government's objectives, the Division promoted consistency in Commonwealth secrecy provisions by scrutinising proposed secrecy provisions for compliance with Commonwealth policy.

The *Defence Legislation Amendment (Aid to Civilian Authorities) Act 2000* was passed by Parliament on 7 September 2000 and commenced on 12 September 2000, in accordance with the Government's desire for the legislation to be in place for the Olympics. It amends Part IIIAAA of the *Defence Act 1903* to detail the emergency circumstances when the Australian Defence Force (ADF) can be 'called out' to assist law enforcement authorities. The Defence Act is administered by the Minister for Defence, but the Division had considerable involvement in the development of the amendments and has ongoing involvement in this area. The legislation meets the Government's objectives in that it provides a clear legal basis for 'calling out' the ADF.

The Division has also assisted the Government in developing reforms in the area of espionage, in accordance with the Government's objectives announced by the Attorney-General on 27 June 2001. The Attorney-General announced that:

- the maximum penalty for espionage will be increased from 7 to 25 years jail;
- the espionage offence will be strengthened to include conduct that is not currently prohibited but has the potential to seriously damage national security; and
- the issue of bail in espionage cases will have to be determined by a judge of a State or Territory Supreme Court.

Together with the Australian Secret Intelligence Service (ASIS), the Defence Signals Directorate (DSD) and the ASIO, the Division has been involved in the development of the Intelligence Services Bill 2001 and the Intelligence Services (Consequential Provisions) Bill 2001, which were introduced into the House of Representatives on 27 June 2001. The Intelligence Services Bill furthers the Government's objective of achieving an appropriate balance between transparency and secrecy in relation to intelligence agencies. Among other things, the Intelligence Services Bill lists the functions of ASIS and DSD and establishes the Parliamentary Joint Committee on ASIO and ASIS. The Bills were referred to the Joint Select Committee on the Intelligence Services for inquiry and report.

Performance measure: Government policies are effectively explained, implemented and applied.

Model Criminal Code

The Department continues to participate in the Model Criminal Code project. During the period the Model Criminal Code Officers Committee prepared an extensive report on Damage and Computer Offences which was released in February 2001. The Commonwealth took the lead role in preparing the report, using the services of a consultant and departmental officers. The model offences were endorsed by the Standing Committee of Attorneys-General. Attorneys-General are giving priority to implementation. The model draft offences have already been enacted in New South Wales, introduced as part of the Cybercrime Bill in the Federal Parliament and is under active consideration in other State and Territory jurisdictions.

Departmental officers have addressed numerous seminars and conferences concerning criminal law issues. In some cases they have also explained to the media proposals and new legislation on a range of topics: the new theft fraud offences, the use of false identities, the use of civil and administrative penalties, cybercrime, the bribery of foreign public officials and forensic procedures. Feedback from the seminars and conferences has been very positive and those with an interest in the initiatives have been positive about the input.

Telecommunications

The head of the Information and Security Law Division undertakes the function of the Agency Coordinator, a statutory office established under the *Telecommunications Act 1997*. The Agency Coordinator provides a point of contact and advice for carriers and carriage service providers seeking to meet obligations under the Telecommunications Act. The Agency Coordinator has in this reporting year undertaken major negotiations with industry on developments in technology, which have an impact on interception obligations. These negotiations have highlighted to industry and agencies the relevant telecommunications policies and laws administered by the portfolio. This role has also provided the Department with a valuable perspective on the relevance of policies and associated legislation in a changing technological environment.

As part of its role in administering the *Telecommunications (Interception) Act 1979*, the Information and Security Law Division of the Department developed a program to assist in the effective implementation of amendments to the Act effected in 1999 and 2000. The Division developed and disseminated guidelines for law enforcement agencies on the operation of the amendments. The Division also instituted a visits program to provide briefing to both agencies and Administrative Appeals Tribunal members nominated to issue warrants. The visits provided an opportunity to discuss the implementation and application of the amendments and associated policy. The development of guidelines and personal briefings were instrumental in securing uniform understanding and application of the new legislative provisions. The effectiveness of the visits program and guidelines in the implementation and application of government policy in relation to telecommunications interception has been evidenced by the trouble free take-up of the new forms of warrants and resource sharing arrangements put in place by the amendments.

Call out powers

Together with the Protective Security Coordination Centre and the Australian Defence Force, and through the Standing Advisory Committee on Commonwealth–State Cooperation for Protection Against Violence (SAC-PAV) framework, the Information and Security Law Division has presented a series of lectures and discussion exercises on the operation of the ‘call out’ powers in Part IIIAAA of the Defence Act to State and Territory police. These are ongoing. The lectures and discussion exercises have been held in three jurisdictions, and presentations are planned in four more jurisdictions.

Performance measure: Effective nation-wide counter-terrorism capability and protective security coordination.

National Information Infrastructure

The Department received supplementary funding during the reporting period to continue its work to protect Australia’s National Information Infrastructure (NII). The NII comprises information systems that support the telecommunications, transport, distribution, energy, utilities, banking and finance industries as well as critical government services including defence and emergency services.

The Department chairs the Critical Infrastructure Protection Group (CIPG), which is tasked with identifying and providing advice on the protection of Australia’s information infrastructure where the consequences of a security incident are defined as critical. During the reporting period, the CIPG undertook threat and vulnerability assessments of key participants in the telecommunications, finance and electricity sectors, and air traffic control. The Commonwealth is indebted to those corporations and associations that gave their assistance and cooperation in this important work. The results of this work will be included in a report to Government in the later part of 2001.

With the understanding that the majority of the NII is in private hands, the Department implemented the Government’s strategy by:

- commencing work on a national campaign to raise the level of e-security awareness amongst the owners and other stakeholders of the NII;
- developing options for incident reporting arrangements for both the public and private sectors;
- reviewing the legislative framework to ensure its readiness to deal with current and emerging e-security issues; and
- actively participating in international forums to promote international infrastructure protection.

Counter-terrorism

The Department, through the Protective Security Coordination Centre (PSCC), effectively coordinated the continuing development and implementation of the nation-wide counter-terrorism capability through the SAC-PAV program and the Special Interdepartmental Committee for Protection Against Violence (SIDC-PAV). The capability was significantly enhanced through security preparations for the Sydney 2000 Olympic Games and in preparation for the Commonwealth Heads of Government Meeting (CHOGM) in 2001. While no terrorist incidents occurred during the Games to test the adequacy of the

counter-terrorism arrangements, stakeholders, clients and post-Olympic reports have all expressed a very high level of satisfaction at the high level of preparedness of the counter-terrorism capability and at the coordination of protective security.

The highlights for the year in counter-terrorism preparedness included:

- conduct of 29 significant policy, training and validation activities such as courses, forums and exercises, including the major national level exercise Noble Act in Brisbane in preparation for CHOGM in which a number of Federal and State Ministers participated;
- provision of extensive additional training and technical support to the Queensland Police Service and State Government in preparation for CHOGM;
- conduct of a SAC-PAV sponsored workshop to derive the key Olympic lessons learnt to assist Queensland's preparations for CHOGM and other agencies hosting a major event;
- facilitation of 21 significant meetings of key Commonwealth and State/Territory security and law enforcement agencies;
- coordination of the work of a Commonwealth–State project group developing a capability to respond to potential incidents involving chemical, biological or radiological material, including more effective integration between security and emergency service agencies;
- increased preparedness of the PSCC Watch Office as a crisis management tool through the Olympic Games experience and exercise Noble Act;
- coordination of the development of revised procedures and exercises for the implementation of the new legislation for Defence Force Aid to Civilian Authorities;
- purchase of specialist equipment for police services, including new equipment for the shift of the radio frequency band for microwave video links; and
- continuation of standing cooperative framework arrangements within the Commonwealth and with the States/Territories.

The counter-terrorism capability is at a high level, because of the effective planning, commitment by all staff and the significant additional training activities that were conducted prior to the Olympic Games and in preparation for CHOGM.

Performance measure: Effective coordination of investigation and intelligence issues through cooperative relationships between governments and law enforcement and justice agencies within and outside of Australia.

Commonwealth law enforcement activity

The Office of Strategic Crime Assessments (OSCA) facilitates and supports the activities of the Commonwealth Law Enforcement Intelligence Consultative Committee (CLEICC). The Committee reports to HOCOLEA. It is chaired by the head of the Department's Criminal Justice Division, of which OSCA is a part. The Committee finalised the development of National Competency Standards for Intelligence Analysts, which were endorsed by HOCOLEA, and held a workshop to develop a new CLEICC Strategic Plan of activity for the period 2001–03. HOCOLEA endorsed the plan of action arising from this workshop in April 2001. Work has commenced on projects in the plan of action including: improving links between intelligence analysis and policy development; better management of legislative/privacy issues and other constraints affecting intelligence

processes; expanding the use of electronic tools in intelligence sharing and management; developing a performance framework for measuring intelligence contributions; and maximising the benefits arising from international networks. Many 'best practice' issues are common challenges across the law enforcement intelligence community.

As part of its secretariat role for CLEICC, OSCA maintains a Summary of Strategic Assessment and Related Activity—updated on a quarterly basis—informing agencies about analysis being undertaken across all Commonwealth law enforcement agencies. A new initiative is the preparation of a complementary summary about emerging strategic policy issues within agencies, to provide greater forewarning of areas in which future intelligence effort may contribute to the policy development process. OSCA ensures that CLEICC information and reports are available online. The Summary of Strategic Assessment and Related Activity assists with increasing the awareness across the law enforcement intelligence community of analytical effort on a subject by subject basis. This reduces the risk of duplication and fosters cooperative effort between agencies. The summary of policy issues mapped against analytical effort will assist in determining whether effort matches emerging information needs.

The Open Source Information Special Interest Group (OSI-SIG), a sub-group of CLEICC, reviewed the operation of its gateway website (LEONIE) and commenced a staged upgrade of its functionality to facilitate better-organised and informed access by law enforcement intelligence analysts to useful Internet resources. OSI-SIG facilitates more effective and efficient management of open source information across the law enforcement intelligence community. Its activities assist with the achievement of economies of scale through collaborative effort.

Performance measure: Establishment of a National Crime Information System in accordance with the agreed phased program.

This measure was associated with the previous CrimTrac project. It has been superseded with the establishment of CrimTrac as a separate Executive Agency and the creation of a new Output 2.5.

Performance measure: Development of appropriate strategies for violence and crime prevention.

The National Crime Prevention (NCP) program, which commenced in 1999–2000, is a strategic initiative to fund and promote policies to prevent and reduce crime and fear of crime in Australian communities. Priority themes include early intervention and young people; violent crime in indigenous communities; and the prevention of residential burglary, domestic and family violence. The pilot projects are evaluated for their efficiency and effectiveness in the prevention of crime and violence in specific settings as well as for their transferability to similar or different settings nationally. The reach and effectiveness of communication materials are subject to focus testing and qualitative evaluation.

Key achievements in the past year include:

- The release of the *Violence in Indigenous Communities* report in January 2001. The report links research and policy implementation regarding the prevention of violence in indigenous communities, based on an extensive review of literature and a series of consultations with key stakeholders.

- The *Prisoners and their Families* program builds on the success of the Risdon Prison pilot program. It is a national scheme to provide practical assistance to the children and families of prisoners, and parenting training to the prisoners themselves. Subject to State and Territory interest, the program will be implemented in two sites per jurisdiction. In 2000–01 arrangements were finalised for Risdon Prison, Tasmania, and Mobilong Prison and Adelaide Women's Prison in South Australia.
- The release of pamphlets *Burglary is Everybody's Problem* in December 2000 as part of the residential burglary theme. Pilot projects were conducted in Queensland and South Australia with a specific focus on preventing repeat victimisation.
- Capacity building projects were developed in all States and Territories and are at varying stages of implementation, with projects in the Australian Capital Territory, New South Wales, Tasmania, Western Australia and Queensland underway by 30 June 2001. Capacity building projects aim to identify and support crime prevention initiatives at the local community level.
- An evaluation of bullying programs and the development of resource material for parents and carers has commenced. This project aims to build on successful strategies that have been employed in Australia and internationally to prevent and reduce the incidence of bullying in pre-schools and primary schools.
- A joint funding arrangement with the Aboriginal and Torres Strait Islander Commission has provided support for a national profile of night patrol services in indigenous communities.

The Department's Crime Prevention Branch, which administers the NCP programs, also manages the Northern Territory Agreement on behalf of the Commonwealth. This Agreement, signed in July 2000, provides \$20 million over four years for the implementation of pre-court juvenile diversion programs in the Territory and joint funding of an Aboriginal Interpreter Service to improve access to the justice system for Aboriginal people in the Territory.

The Department also provides advice to Government on a range of policy issues and a coordinated approach to crime prevention activity across federal departments and nationally.

Performance measure: Informed strategic decision-making by government on law enforcement matters through providing insights into the emerging criminal environment.

During the year, the Office of Strategic Crime Assessments (OSCA) undertook a range of strategic assessment activity, including work contributing to a range of parliamentary and law enforcement agency requirements. The OSCA Tasking Directive is the menu of topics that is the focus of OSCA's analytical effort. The topics are expressed as a research question and a background statement. OSCA's assessment work included: coordinating and producing a Justice and Customs portfolio submission to the Parliamentary Joint Committee on the National Crime Authority on the law enforcement implications of new technology; a paper on the Commonwealth law enforcement strategic context; a related scoping paper for HOCOLEA on emerging law enforcement and regulatory opportunities and challenges; development of a model for assessing illegal immigration threats and a related global assessment of sources of immigration malpractice. In addition, OSCA developed and implemented an indicator and warning program to facilitate the provision

of early warning advice to clients of emerging strategic law enforcement trends. Briefings and supplementary work were also undertaken in respect of OSCA's assessment from the previous financial year on the criminal exploitation of identity.

Evaluations

Review of forensic procedures

An independent review of Part 1D (forensic procedures) of the *Crimes Act 1914*, is to be undertaken by a panel of persons including nominees of the Attorney-General, Australian Federal Police Commissioner, Commonwealth Director of Public Prosecutions and the Ombudsman. The review was a requirement of s.23YV of the Crimes Act, and was to be undertaken as soon as possible after the second anniversary of the commencement of Part 1D (23 January 2001). However, in view of the extensive review of forensic procedures at the national level through the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General (released in February 2000) and the review of amendments to Part 1D by the Senate Legal and Constitutional Legislation Committee which reported on 5 December 2000, s.23YV was amended by the *Crimes Amendment (Forensic Procedures) Act 2001* so that the review does not need to be carried out until June 2002.

Witness protection arrangements

The Report of the Parliamentary Joint Committee on the National Crime Authority *Witnesses for the Prosecution* was tabled on 6 September 2000. The report examined the efficiency and effectiveness of the National Crime Authority's witness protection arrangements. It made no recommendations and found that the National Witness Protection Program, which provides witness protection services for the NCA, was well run and that there were only a small number of areas in its administration in need of attention.

National anti-terrorist exercise

The national anti-terrorist exercise, Noble Act, was conducted jointly by the Attorney-General's Department, the Queensland Police Service and the Queensland Premier's Department over the period 13–15 June 2001. The exercise was part of the Standing Advisory Committee on Commonwealth–State Cooperation for Protection Against Violence national training and exercise program.

The exercise was conducted as part of the security preparations for the Commonwealth Heads of Government Meeting (CHOGM). The aim of the exercise was to practise and validate the National Anti-Terrorist Plan management arrangements in the context of CHOGM. Objectives included testing national plans and arrangements, 'call out' of the Australian Defence Force, secure communications and intelligence flow, media management and strategic level decision making. Commonwealth and State Ministers participated in the exercise.

Experienced personnel from the police services, State Government, the Australian Defence Force, and other Commonwealth departments and agencies, independently evaluated the exercise. A detailed report is being compiled at the operational and strategic level addressing the specific exercise objectives and lessons learnt. Extensive oral debriefs involving all participants were conducted following the exercise to ensure that lessons

learnt relevant to CHOGM security preparations were implemented well before CHOGM. Overall, the exercise was a success and Commonwealth and State security agencies are well placed to handle any potential security incident during CHOGM.

Review of administrative arrangements for e-security

Following the creation of the National Office for the Information Economy (NOIE) as an Executive Agency within the Communications, Information Technology and the Arts portfolio, the Secretaries Committee on National Security conducted a review in November 2000 of the administrative arrangements, within the Commonwealth, for the protection of Australia's electronic operating environment. As a result of this review, the previous inter-departmental committee on the National Information Infrastructure (NII) was renamed the E-Security Coordination Group (ESCG) and the chairmanship was transferred from the Attorney General's Department to NOIE, along with the responsibility for coordinating the existing Consultative Industry Forum.

It was also recommended that a new group, the Critical Infrastructure Protection Group (CIPG), should be created and that it should be chaired by the Attorney General's Department. These changes were implemented in December 2000. While the ESCG addresses e-security issues affecting the broader economy and community, the CIPG concentrates on issues relating to the impact of critical incidents on the NII.

Output 2.2 **Development and promotion of protective security policy, advice and common standards and practices, and the coordination of protective security services**

Performance measure: Security education and awareness meets clients' needs and reflects standards as set out in the Protective Security Manual.

Protective security

The principal role of the Protective Security Coordination Centre (PSCC) Training Centre is to disseminate the Government's protective security policy and procedures as defined in the *Protective Security Manual*. In 2000–01 PSCC conducted 52 courses for 562 participants and 16 seminars for 640 participants. These participants came from 89 different agencies and organisations.

Courses run by the PSCC Training Centre cover all aspects of protective security policy, including personnel vetting, physical security, information security, information technology security, administrative investigations, security management, risk management and security awareness training. Information technology security courses were conducted in conjunction with the Defence Signals Directorate, which is responsible for developing and administering security policy on information systems.

The Centre conducted continuous evaluation of its training programs. Formal responses by participants were overwhelmingly favourable in relation to course aims, quality of instruction and relevance of course content. Informal comments from Agency Security Advisers and ongoing contact with agency protective security staff, together with a strong enquiry and participation rate, indicated substantial and continuing support for the current training program.

Performance measure: Security clearance investigations conducted in accordance with standards specified in the Protective Security Manual in line with Memoranda of Understanding with client agencies.

Australian Security Vetting Service

The Australian Security Vetting Service (ASVS) has been in operation since 1996. Its mission is to provide high-quality personnel security clearance services to Government agencies and private sector contractors engaged on work for the Commonwealth. All work conducted by the ASVS is carried out to the standard required by the *Protective Security Manual*.

In 2000–01 the ASVS concluded 2257 security clearances on behalf of over 80 agencies. In consultation with client agencies, work on a further 861 clearances was not concluded. This was generally due to the need for the clearance changing, particularly for contractors undertaking work for the agency. In consultation with client agencies the revised Protective Security Manual was implemented by the ASVS in early 2001.

The ASVS has entered into Memoranda of Understanding for the provision of security vetting services with many of its client agencies. The agreements set out the roles and responsibilities of both parties and any requirements specific to the client, such as particular procedures or standards.

With the increasing number of agencies utilising the ASVS and the administration of a larger number of similar MOUs, a review of the MOUs has commenced with a view to establishing a more standardised document.

Performance measure: Effective management and coordination of security arrangements for Australian office holders, visiting dignitaries and diplomatic and consular personnel.

The PSCC continued to coordinate and review protective security arrangements for Commonwealth holders of high office. This included disseminating official programs to State and Territory police services, seeking national threat assessments, coordinating security measures, providing security briefings to office holders, their families and staff, tasking the Australian Protective Service to provide guarding services and implementing physical security improvements at offices, private residences and official establishments.

Protective security for office holders travelling overseas was coordinated by the PSCC.

The PSCC coordinated protective security arrangements for visits by foreign dignitaries. Many of these dignitaries timed their visits to coincide with the Sydney 2000 Olympic Games.

The PSCC worked closely with Commonwealth and State, particularly New South Wales, agencies to ensure appropriate protective security arrangements were provided for international dignitaries visiting Australia during the Olympic and Paralympic Games. Significant resources, including several staff located in Sydney, were allocated to assist in this function. The PSCC also assisted in the coordination of security arrangements for the World Economic Forum held in Melbourne prior to the opening of the Sydney Olympics.

The PSCC, in conjunction with the CHOGM Task Force, undertook a leading role throughout the year in planning dignitary protection arrangements for the large number of foreign dignitaries, Commonwealth holders of high office and diplomatic and consular personnel expected to visit Australia in October 2001 for CHOGM and associated events.

The PSCC continued to coordinate protective security arrangements for the diplomatic and consular community in Australia.

The PSCC continues to develop and maintain close working relationships with key Commonwealth and State protective security agencies.

The effectiveness of the arrangements coordinated and implemented by the PSCC throughout 2000–01 is evidenced through the absence of any major security failing.

Minor security incidents that have occurred have been resolved through existing procedures, thereby demonstrating their effectiveness. The PSCC continues to review these standing arrangements in an effort to ensure the best possible response to a security incident.

Performance measure: Effective protective security practices, procedures and standards for Commonwealth departments and agencies.

The PSCC contributed to effective protective security practices, procedures and standards in the Commonwealth in three ways: providing specific advice on current policy and practices to agencies on request; conducting information sessions and conferences;

disseminating policy standards through the work of the PSCC Training Centre, issuing Protective Security Bulletins and finalising the revision of the Commonwealth Protective Security Manual 2000.

There were two significant developments in 2000–01 in this regard. The Commonwealth Protective Security Manual 2000 (PSM 2000) was approved by the Protective Security Policy Committee—chaired by the PSCC—and endorsed by Government in September 2000. The PSM 2000 became available to departments and agencies from early December 2000. The PSM 2000 has been widely promoted, with ten presentations to Agency Security Advisers in five capital cities. The Security in Government Conference and related activities in April 2001 were an outstanding success. A record number of delegates from across Australia attended the conference. The conference enjoyed strong industry support for the associated trade exhibition. The Security in Government Conference was focused on the revised mandatory protective security requirements in the PSM 2000.

Output 2.3: Provision of diplomatic and consular guarding services

Performance measure: No security failure on the part of Protective Security Coordination Centre.

While a number of international events had significant security implications for various diplomatic and consular interests in Australia, during 2000–01 there were no security failures attributable to the PSCC.

This is due in large part to effective mechanisms through which the PSCC coordinates security requirements with relevant Commonwealth, State and Territory agencies, including police services. The mechanisms include the convening of regular and extraordinary meetings of the Special Inter-departmental Committee for Protection Against Violence (SIDC-PAV) and ad hoc security coordination meetings to consider specific issues, and the Commonwealth–State duty officer network, which facilitates out-of-hours contact. The regular and timely contact minimises the risk of security incidents occurring and facilitates quick and effective operational responses.

Performance measure: Level of guarding is commensurate with the level of threat and risk.

The Australian Government has specific legal obligations under international conventions to protect diplomatic and consular staff and premises. The need for such guarding is extremely difficult to predict due to the volatility of the international security environment. As a result, PSCC has negotiated a resource agreement with the Department of Finance and Administration, which provides the PSCC with access to additional funding that can be used in the event of an unforeseen increase in the assessed level of threat. This funding enables the PSCC to task the Australian Protective Service to provide additional short-term or temporary guarding.

The PSCC continued to ensure that the level of guarding at diplomatic premises was commensurate with the level of threat and risk. This was achieved through a variety of consultative forums, including meetings dedicated to the review of guarding levels for specified diplomatic and consular interests in Australia as well as regular monthly meetings of Commonwealth security agencies.

Output 2.4: Provision of protective security services

Performance measure: Positive feedback received from Minister and Secretary.

Positive feedback was again received from the Secretaries of the Department of Immigration and Multicultural Affairs (DIMA), the Department of the Prime Minister and Cabinet and the Attorney-General's Department for the Australian Protective Service's ability to meet the emergency situations at DIMAs' Immigration Detention Centres at Woomera. This involved approximately 100 Australian Protective Service officers being deployed at two locations within a 24-hour period. The Australian Protective Service also received letters of thanks from the Chief Executive Officers of Brisbane and Sydney Airports and the Australian Nuclear Science and Technology Organisation (ANSTO) for assistance provided by the Service's officers during the Olympic period. A letter of thanks was forwarded by the Governor-General thanking the Australian Protective Service for their service to him during his period as Governor-General.

Performance measure: Achievement of Business Plan targets, including retention of existing and achievement of new business

All major existing clients were retained and additional business was achieved with 'core clients'.

An arrangement to provide diplomatic courier assistance services for the Department of Foreign Affairs and Trade was agreed. A large number of security escort services were provided for several major Commonwealth indemnified art exhibitions. A continuous on-site Australian Protective Service presence was provided for a major, high-risk indemnified exhibition.

New South Wales fire alarm monitoring services grew substantially, as clients migrated from the New South Wales Fire Brigade's monitoring service prior to its closure.

Nine Certificate II/III (Security Guarding) courses have been provided to Federal Parliamentary security officers. This is a continuation of service since 1999. All training and assessment is conducted by Australian Protective Service certified trainers.

The Australian Protective Service won a major tender to provide aggression management and personal safety training to approximately 800 Workcover NSW staff.

Security consultancy business substantially increased; repeat business was provided to some previous clients and several significant new clients were obtained.

A strategic relationship was formally established with the Canberra Institute of Technology to pursue training-business opportunities. Several proposals to deliver security training and consultancy services were submitted to overseas organisations in response to requests for such services.

Performance measure: Satisfactory Annual Rate of Return to Government.

The Australian Protective Service achieved an 11.4 per cent rate of return for the financial year 2000–01, which was 3.4 per cent better than the required rate (8 per cent) and 9.8 per cent better than the budgeted outcome. The net profit after dividend and corporate tax was \$986 245.

Earnings before Interest and Corporate Tax (EBIT) were \$2 817 844 against a budgeted outcome of \$335 859. The result can be attributed to:

- an increase in extraneous revenue related to the Sydney Olympics, PSCC and DIMA detention centres;
- an increase in client requirements at several airports, resulting from the entry of new carriers; and
- the recovery of doubtful debts from the 1999–2000 financial year.

Performance measure: Implementation of client management plan and positive response from annual customer surveys.

A large-scale client survey was completed, with substantial positive feedback being received. In particular, an increased number of clients rated the Australian Protective Service as a 'value-for-money provider', and very strong working relationships were generally reported.

The client survey also found significant increases in positive responses and significant decreases in negative responses compared with the previous survey in 1999. A similar survey, conducted solely at Sydney Airport, found that 97 per cent of clients were satisfied with the Australian Protective Service.

The Australian Protective Service's computer-based client management database was substantially re-configured to enhance its functionality and application.

Performance measure: Resolution of industrial issues through certification of workplace agreements.

One-third of the Australian Protective Service workforce is on Australian Workplace Agreements and Certified Agreements made under s.170LK of the *Workplace Relations Act 1996*. Three Australian Protective Service station s.170LK Certified Agreements have been certified by the Australian Industrial Relations Commission.

During the 12-month period the Australian Industrial Relations Commission (AIRC) terminated the bargaining period following an application by the Community and Public Sector Union (CPSU) in May 2000 in accordance with s.170MW (1) of the Workplace Relations Act. As a result a Full Bench of the AIRC, following further unsuccessful conciliations, commenced hearings for an Award under s.170MX (3) to be arbitrated. In the first half of 2001 the CPSU and the Australian Protective Service with the assistance of the Department of Employment, Workplace Relations and Small Business, appeared before the Full Bench and provided detailed written submissions. Appearances and submissions were concluded by the end of August 2001. An award under s.170MX (3) is expected to be brought down in late 2001.

Performance measure: Award of International Standards Organization Quality rating.

The Australian Protective Service remains a Quality Accredited organisation following the triennial review of this accreditation on 17 November 2000. The Australian Protective Service is accredited until 30 November 2003.

Evaluations

Review of organisational structure and operational procedures

This review is ongoing and is being conducted by an internal team from the National Headquarters. Representatives from the Finance, Human Resources and Operations sections are progressively reviewing all 20 stations of the Australian Protective Service with a view to appraising structures and operational procedures such as rostering, work procedures, safety and stores control. The results are reported to the Director, Australian Protective Service. The review has resulted in a considerable increase in efficiency and productivity at most stations.

Review of financial processes and pricing structure.

This involved an extensive internal review to obtain a clearer picture of the components of Australian Protective Service costs and revenue to ensure consistency between service providers and to provide clients with transparency of costing. The review resulted in a much clearer and more client-acceptable presentation of costs and in some improvement in work and rostering practices.

In a complementary strategy, a strategic level review of the Australian Protective Service financial situation was conducted by an external agent who provided a report to the Secretary Attorney-General's Department and to the Director Australian Protective Service. The review involved a round of discussions with senior staff from the Australian Protective Service and the Attorney-General's Department and with operational staff of the Australian Protective Service. The report focused on revenue trends, cost structures, employee costs, margins, industrial relations issues and the impact of various Government policies and agreements. The report has provided a strategic level framework for future development of Australian Protective Service corporate support services and systems.

Output 2.5 Facilitation of the delivery of high quality national policing information services

This output was added to the Department's outcomes and outputs framework and published in the Attorney-General's Portfolio Additional Estimates Statements 2000–01. Output 2.5 covers the work of CrimTrac, which became an Executive Agency under the *Public Service Act 1999* on 1 July 2000. Although CrimTrac is producing its own annual report on its operations for the 2000–01 reporting period, CrimTrac's financial statements prepared under the *Financial Management and Accountability Act 1997* appear at page 307 of this report.