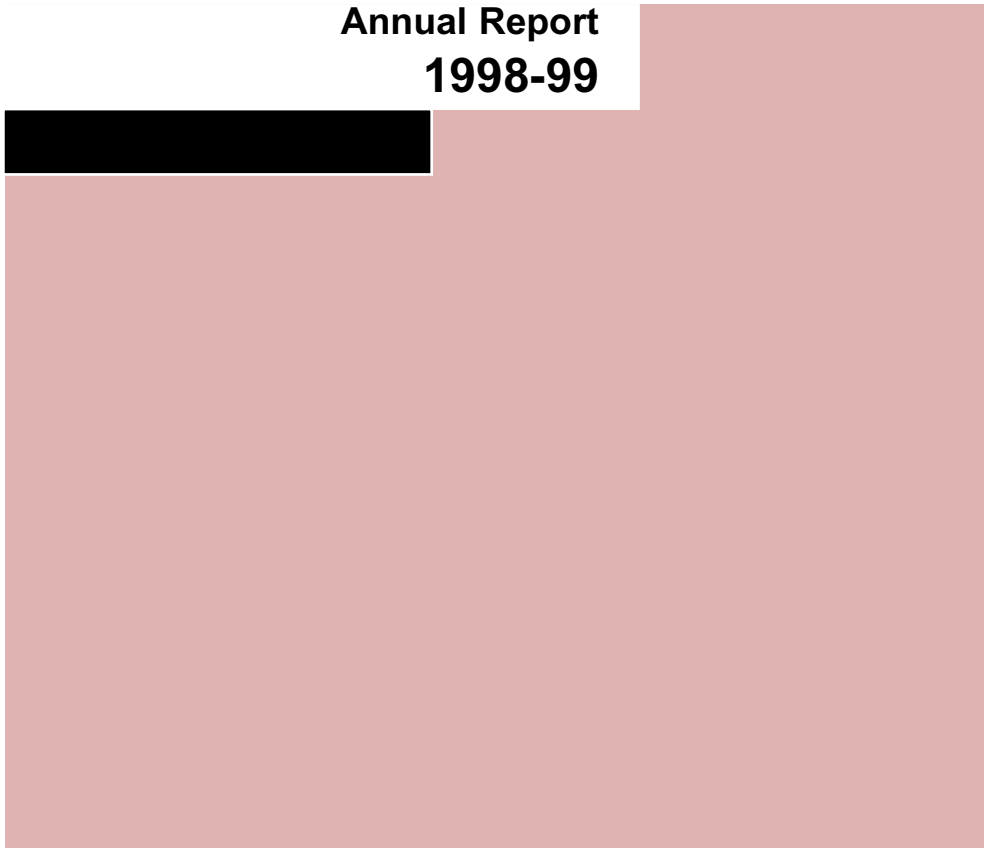




**Annual Report  
1998-99**



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For general inquiries about the Annual Report contact the Director, Corporate Performance and Coordination, on (02) 6250 6162.



Secretary

18 October 1999

Attorney-General

ATTORNEY-GENERAL'S DEPARTMENT ANNUAL REPORT 1998-99

In accordance with sub-section 25(6) of the *Public Service Act 1922*, I submit the Annual Report of the Attorney-General's Department and certify that this report complies with the requirements referred to in sub-section 25(7). Appendix 1 of the report indicates where material specifically covered by the requirements can be found in the report.

Under current arrangements, annual reports must be tabled by 31 October 1999. Sub-section 25(8) of the Public Service Act requires you to cause a copy of the report to be laid before each House of Parliament within 15 sitting days after the day on which you receive the report.

A S Blunn





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## Secretary's Overview

The year under review was significant and demanding in terms of the continuing process of redefining the objectives and role of the Department. This involved major changes, particularly flowing from the Australian Government Solicitor becoming a prescribed authority from 1 September 1998 in anticipation of it becoming a separate statutory authority with the passage of the *Judiciary Amendment Act 1999*.

As illustrated in the overview of departmental activities and detailed in the performance outcome statements, I consider the Department again achieved its major objectives. It met its commitment to support the Government in the maintenance of Australia's system of law and justice, and competently administered the programs for which the Attorney-General and Minister for Justice and Customs are responsible. It pursued Australia's international interests and enhanced its reputation in the world community.

The impact of technology, particularly in the area of electronic commerce, the growing sophistication of criminal activity, changing trends in dispute resolution and the continued internationalisation of legal activity have placed additional burdens on staff. These increased demands are imposed in an environment of increased uncertainty, pressure on resources and demands for greater transparency and accountability.

I would like to express my appreciation of the efforts of all staff in meeting the challenges of working to achieve a just and secure society.

A S Blunn

Secretary

Attorney-General's Department



## **Introduction**

The 1998–99 Annual Report of the Attorney-General’s Department details performance against performance measures approved by the Board of Management. The report is formatted in accordance with the approved portfolio program structure as it stood at 30 June 1999.

Further information about the annual report can be obtained by contacting the Director, Corporate Performance and Coordination Section, Attorney-General’s Department, Robert Garran Offices, National Circuit, Barton ACT 2600. Telephone number: (02) 6250 6162; fax number: (02) 6250 5948.

As soon as practicable after tabling in Parliament, the annual report will be accessible through *Window on the Law* at <http://law.gov.au>.

## **Portfolio Overview**

The Attorney-General's portfolio comprises the Attorney-General's Department and a number of statutory and non-statutory bodies. The Department is the central policy and coordinating element of the portfolio for which the Attorney-General and the Minister for Justice and Customs are responsible.

For the reporting period, the Department and the various portfolio agencies were grouped into six programs with the following objectives:

### **Program 1 – Legal Policy and Services to the Commonwealth**

To advance and protect the interests of the Commonwealth, its ministers and agencies by the provision of sound, constructive and timely legal policy advice.

### **Program 2 – Legal Services to the Commonwealth**

To serve and protect the interests of the Commonwealth, its ministers and agencies by the provision of sound, constructive and highly professional legal services.

### **Program 3 – Community Affairs**

To enhance and promote the rights of individuals and their reasonable access to justice.

### **Program 4 – Administration of Justice**

To promote the effective and timely adjudication of disputes and resolution of questions of law in courts and tribunals with appropriate jurisdictions.

### **Program 5 – High Court of Australia**

To interpret and uphold the Australian Constitution and to perform the functions of the ultimate appellate court in Australia.

### **Program 6 – Maintenance of Law, Order and Security**

To contribute to the maintenance of law and order, to combat crime and to respond effectively to acts of politically motivated violence; to maintain effective measures against espionage and subversive activities and against attacks directed at individuals, information and assets.

### **Changes to the portfolio program structure effected within the reporting period**

By the Administrative Arrangements Order of 21 October 1998, responsibility for customs border control, other than quarantine and immigration, was transferred to the Attorney-General's Department. The Australian Customs Service appears as sub-program 6.9 in the portfolio program structure.

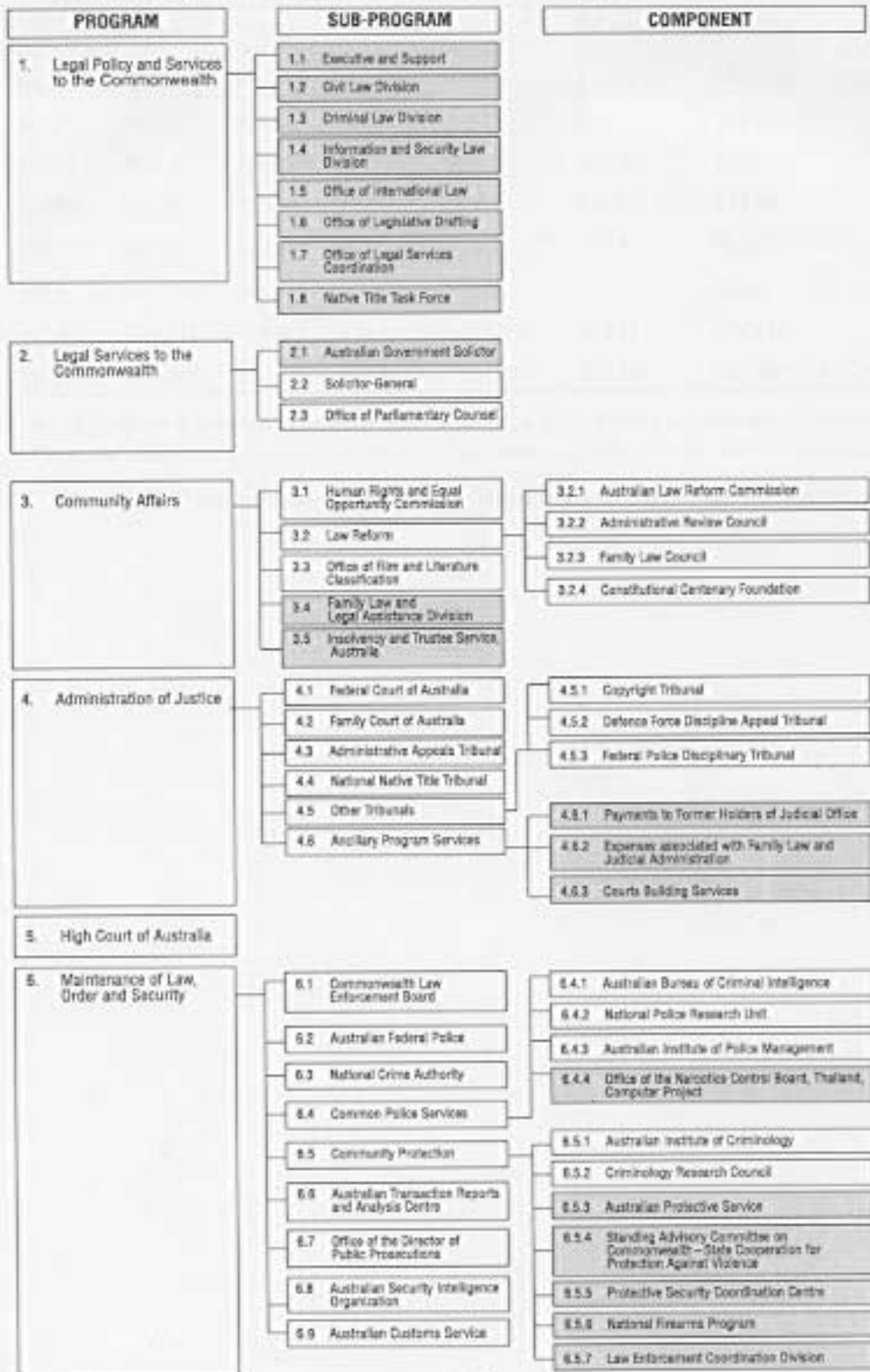
The Administrative Arrangements Order of 21 October 1998 also transferred the Native Title Task Force from the Department of the Prime Minister and Cabinet. The transfer was effected on 1 December 1998. The Native Title Task Force appears as sub-program 1.8.

### **The relationship between the program structure and the accrual based outcomes and output framework**

Appendix 17 shows the relationship between the program structure on which this report is based and the outcomes and outputs framework applying in 1999–2000.

The following chart indicates the program structure as at 30 June 1999. The shaded areas represent sub-programs and components of the Attorney-General's Department which are the subject of this report. Annual report requirements and arrangements for portfolio elements not covered by the report are set out at Appendix 16.

## Attorney-General's Portfolio Program Structure



 Elements covered by the Attorney-General's Department Annual Report

**Reconciliation of Programs and Appropriations for 1998–99 (\$'000)**

<i>Program Program Number</i>	<i>Approp Bill Nos 1 and 3</i>	<i>Approp Bill Nos 2 and 4</i>	<i>Special Approps</i>	<i>Annotated Approps*</i>	<i>Program Approps</i>	<i>Adjustments (i)</i>	<i>Outlays</i>
1	44,802	–	–	5,836	50,638	(6,178)	44,460
2	6535	8,500	–	302	15,337	(1,064)	14,273
3	98,516	104,315	607	5,533	208,971	(3,348)	205,623
4	223,668	3,178	9,601	2,420	238,867	(1,786)	237,081
5	7,667	–	1,829	–	9,496	–	9,496
6	824,372	12,820	491,572	102,193	1,430,957	(114,168)	1,316,789
<b>TOTALS</b>	<b>1,205,560</b>	<b>128,813</b>	<b>503,609</b>	<b>116,284</b>	<b>1,954,266</b>	<b>(126,544)</b>	<b>1,827,722</b>

\* Annotated Appropriations are a form of special appropriation which allow a department access to the money it earns.

(i) Adjustments to derive outlays, including receipt items classified as outlays, net movements in trust account balances etc.

These figures are expressed in cash terms. The accompanying Financial Statements are presented in accrual format.

## Summary Table of Outlays by Program Elements

<i>Program</i>	<i>Sub-Program</i>	<i>Component</i>	<i>1997-98 Actual \$(000)</i>	<i>1998-99 Estimate \$(000)</i>	<i>1998-99 Actual \$(000)</i>
1. Legal Policy and Services to the Commonwealth	1.1	Executive and Support	39,048	30,531	22,723
	1.2	Civil Law Division	6,022	6,650	5,238
	1.3	Criminal Law Division	3,490	3,830	3,924
	1.4	Information and Security Law Division	3,589	3,807	4,105
	1.5	Office of International Law	1,631	1,779	1,757
	1.6	Office of Legislative Drafting	4,067	7,871	5,162
	1.7	Office of Legal Services Coordination	346	9,391	1,551
	<b>Program total</b>			<b>58,193</b>	<b>63,859</b>
2. Legal Services to the Commonwealth	2.1	Australian Government Solicitor*	8,525	8,500	7,750
	2.2	Solicitor-General	812	526	848
	2.3	Office of Parliamentary Counsel	5,230	6,695	5,675
	<b>Program total</b>			<b>14,567</b>	<b>15,721</b>
3. Community Affairs	3.1	Human Rights and Equal Opportunity Commission	17,460	14,462	14,437
	3.2	Law Reform	4,703	4,225	4,014
	3.3	Office of Film and Literature Classification	5,438	5,832	5,502
	3.4	Legal Aid and Family Services	169,457	153,501	158,173
	3.5	Insolvency and Trustee Service, Australia	15,091	15,821	23,497
	<b>Program total</b>			<b>212,149</b>	<b>193,841</b>
4. Administration of Justice	4.1	Federal Court of Australia	49,706	56,674	53,089
	4.2	Family Court of Australia	99,625	112,460	109,707
	4.3	Administrative Appeals Tribunal	24,753	27,895	25,762
	4.4	National Native Title Tribunal	21,074	23,721	21,140
	4.5	Other Tribunals Auscript (formerly 4.6)	169	400	411
	4.6	Ancillary Program Services	1,143	-	-
	4.6	Ancillary Program Services	22,672	30,403	26,972
<b>Program total</b>			<b>219,142</b>	<b>251,553</b>	<b>237,081</b>

\* The summary excludes the trading results of the Australian Government Solicitor which are reported separately.

<i>Program</i>	<i>Sub-Program</i>	<i>Component</i>	<i>1997-98 Actual \$(000)</i>	<i>1998-99 Estimate \$(000)</i>	<i>1998-99 Actual \$(000)</i>
5. High Court of Australia	5.1 Management of High Court Business		6,808	6,584	6,760
	5.2 Corporate Services		3,839	2,970	2,736
<b>Program total</b>			<b>10,647</b>	<b>9,554</b>	<b>9,496</b>
6. Maintenance of Law, Order and Security	6.2 Australian Federal Police		183,318	232,386	206,209
	6.3 National Crime Authority		40,988	50,757	48,284
	6.4 Common Police Services	6.4.1 to 6.4.3	6,192	6,774	6,709
		6.4.4 Office of the Narcotics Control Board	180	253	235
	6.5 Community Protection and Security	6.5.1 to 6.5.2	3,027	3,568	3,568
		6.5.3 Australian Protective Service	3,864	7,075	-2,356
		6.5.4 Standing Advisory Committee on Commonwealth-State Cooperation for Protection against Violence (SAC-PAV)	3,507	3,741	3,738
		6.5.5 Protective Security Coordination Centre	19,652	25,052	24,633
		6.5.6 National Firearms Program	91,162	79,000	56,124
		6.5.7 Law Enforcement Coordination Division	6,902	13,205	8,072
	6.6 Australian Transaction Reports and Analysis Centre		8,357	7,683	7,682
	6.7 Office of the Director of Public Prosecutions		52,598	58,257	56,230
	6.8 Australian Security Intelligence Organization		51,929	72,198	63,269
	6.9 Australian Customs Service		1,796,205	867,027	834,392
<b>Program total</b>			<b>2,267,881</b>	<b>1,426,976</b>	<b>1,316,789</b>
<b>Total Portfolio</b>			<b>2,782,579</b>	<b>1,961,504</b>	<b>1,827,722</b>

## The Department

The Attorney-General's Department serves the people of Australia by providing essential expert support to the Government in the maintenance and improvement of Australia's system of law and justice.

The Department is the central policy and coordinating element of the Attorney-General's portfolio for which the Attorney-General and the Minister for Justice and Customs are responsible.

During the reporting period the Department contributed to advancing Australia's interests locally and internationally. A major achievement was the development of a proposal to establish a Federal Magistrates Service as a lower level federal court to undertake the less complex matters currently handled by the Federal Court and the Family Court. As a result, the Government announced in December 1998 that it had made a decision in principle to establish the Federal Magistrates Service. Following further work the Government announced in May 1999 that it had allocated a total of \$27.9 million over four years to do so. The Department consulted the Federal Court, the Family Court, the Law Council of Australia and other stakeholders to develop legislation to establish the new court. This was introduced by the Attorney-General into the House of Representatives on 24 June 1999.

Legislation implementing the Organisation for Economic Co-ordination and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was developed quickly and on time in cooperation with the Joint Standing Committee on Treaties. The expeditious passage of the *Criminal Code Amendment (Bribery of Foreign Public Officials) Act 1999* is an example of how the new, more consultative process for consideration of treaties is able to deal appropriately with issues of this nature in a timely manner.

Four important chapters of the Model Criminal Code were completed during 1998-99, highlighting the continued high level of cooperation between governments on this project and enabling the code to be completed in 1999.

Model domestic violence laws were developed after extensive nation-wide consultation, laying the foundations for more consistent laws. This Commonwealth, State and Territory cooperative project was completed in 1998-99.

The Department was involved in negotiations for the establishment of an International Criminal Court, one of the Government's major multilateral and human rights objectives. On 17 July 1998 an overwhelming majority of States voted for the adoption of a statute for the court at a diplomatic conference in Rome. Australia signed the statute on 9 December 1998.

The Department further developed a national legal framework that removes legal impediments to electronic commerce. The Electronic Transactions Bill 1999 was introduced into Parliament on 30 June 1999 after consultation within the Government and with State and Territory governments and the public. The Bill has received international recognition as a leading example of appropriate framework legislation for electronic commerce.

Officers of the Department lead the OECD Working Party on Information Security and Privacy and the Asia-Pacific Economic Cooperation Electronic Authentication Task Group. Both groups address policy aspects of electronic commerce as well as conducting international workshops. Their work has received wide international acceptance.

Departmental officers represented Australia at various international forums. These included the Legal Committee of the International Maritime Organisation, an intersessional meeting on Antarctic liability in The Hague, the annual session of the United Nations Commission on International Trade Law and a diplomatic conference in Geneva which adopted a new International Convention on the Arrest of Ships.

The Department continued to work closely with the Australian Fisheries Management Authority and

Agriculture, Fisheries and Forestry–Australia in developing strategies to deal with illegal, unregulated and unreported fishing in the Southern Ocean. It was also the lead agency in the conduct of dispute resolution proceedings with Japan over catch limits for southern bluefin tuna and Japan’s ‘experimental fishing program’.

Progress continued on establishing CrimTrac, a new crime information system for Australia’s police services involving the replacement of the current National Automated Fingerprint Identification System, the establishment of a national DNA criminal investigation system, the establishment of a national child sex offender system, and the provision of improved access to operational policing information.

These achievements are representative of the contribution staff of the Department have made over the past year across a range of activities.

## **Organisational Structure**

As a result of changes to administrative arrangements, responsibility for family relationships services was transferred to the Department of Family and Community Services. Internally, the Family Law and Legal Assistance Division was created to replace the office of Legal Aid and Family Services. The new division comprises the residual functions of the Family Services Branch of Legal Aid and Family Services and the Family Law Branch of the Civil Law Division, and assumed responsibility for policy in relation to family law primary dispute resolution previously with the Civil Justice Branch of the Civil Law Division. The Family Law and Legal Assistance Division retained responsibility for legal aid.

The Administrative Arrangements Order of October 1998 also transferred the Native Title Task Force from the Department of the Prime Minister and Cabinet.

The Trade Measures Review Secretariat was established within the Department in February 1999, providing an independent review mechanism for parties affected by anti-dumping decisions. An officer of the Department was appointed to the position of Trade Measures Review Officer by the Minister for Justice and Customs. The powers of the review officer are set out in Divisions 8 and 9 of Part XV B of the *Customs Act 1901*.

The organisational elements within the Department are as follows:

**Executive and Support** includes the departmental Executive, which comprises the Secretary, the two Deputy Secretaries, their support staff and the Corporate Services Division. This division provides advice and services to the Executive and portfolio Ministers and provides general support to the Department, including the management of human, financial and physical resources and information technology.

The **Civil Law Division** is responsible for legal and policy advice on laws concerning human rights and humanitarian law, administrative law, evidence, service and execution of process, legal practice and procedure, and courts and tribunals.

It is also responsible for promoting international cooperation on civil legal procedures, and coordinates departmental support for the Standing Committee of Attorneys-General.

The **Criminal Law Division** is responsible for legal and policy advice, and for the administration and improvement of legislation and international arrangements (bilateral and multilateral) relating to criminal law and the criminal justice process.

The **Information and Security Law Division** supports the Attorney-General and the Minister for Justice and Customs in developing policy and providing advice on law relating to information rights and the protection of information.

The **Office of International Law** provides legal advice and advocacy services on issues involving international law and international trade law, and assists with the development and implementation of international

law projects. The Office also undertakes international human rights report writing and complaints work, and provides the International Legal Services Advisory Council with a secretariat and with advice on international legal services.

The **Office of Legislative Drafting** is responsible for drafting legislative instruments and for giving advice about drafting and interpreting legislative instruments to the Attorney-General, to other ministers and to departments and agencies. The Office is also responsible for the consolidation of Commonwealth legislation, the management and operation of the SCALEplus and Legislative Instruments databases, the proposed Federal Register of Legislative Instruments and the Department's Internet site, *Window on the Law*.

The **Office of Legal Services Coordination** supports the Attorney-General in the performance of his First Law Officer role. This support includes providing advice on litigation policy and the rules allowing outsourcing of most of the Commonwealth's legal work. The Office is also responsible for advising the Attorney-General on constitutional policy issues.

The **Australian Government Solicitor (AGS)** provides legal and related services in support of the full range of activities of Commonwealth departments and agencies nationally. These services include the conduct of litigation and the provision of legal advice and business and commercial assistance to clients. The AGS operated on a separate administrative basis during 1998–99 in anticipation of it becoming a statutory authority from 1 September 1999. A report on the operations of the AGS appears at page 129.

The **Insolvency and Trustee Service, Australia (ITSA)** administers estates under the *Bankruptcy Act 1966*, acting as trustee of last resort, and provides trustee services under the *Proceeds of Crime Act 1987* and the *Customs Act 1901*. ITSA handles about 95 per cent of personal bankruptcies in Australia.

The **Family Law and Legal Assistance Division** is responsible for the development and implementation of Commonwealth policy on family law and legal aid, including primary dispute resolution, and for coordinating the provision of legal assistance services nationally.

The **Australian Protective Service (APS)** operates under the *Australian Protective Service Act 1987* and provides a range of services on a cost recovery basis. These include guarding buildings and establishments occupied by many Commonwealth agencies throughout Australia, including sensitive defence and scientific establishments and the residences of the Prime Minister and the Governor-General. The APS also provides diplomatic and consular security at more than 400 locations throughout Australia.

The **Protective Security Coordination Centre** supports the Minister for Justice and Customs by providing policy advice on protective security and national security matters. It coordinates protection arrangements for high-risk persons, premises and facilities, including ministers and their staff, visiting foreign dignitaries and foreign diplomats.

The **Law Enforcement Coordination Division** is responsible to the Minister for Justice and Customs for policy matters relating to the operational law enforcement agencies, the national firearms program and administration of the National Crime Prevention program (formerly the National Campaign Against Violence and Crime). It also provides secretariat support to the Ministerial Council on the Administration of Justice and support to the Commonwealth Law Enforcement Board.

The following semi-autonomous organisational elements were also within the Secretary's overall responsibility for staffing and funding during the reporting period:

The **Administrative Review Council (ARC) Secretariat** supports the ARC, which was established under the *Administrative Appeals Tribunal Act 1975* to provide advice to the Attorney-General and the Minister for Justice and Customs on strategic and operational matters relating to the Commonwealth system of administrative law. The ARC provides a separate report to Parliament.

The **Family Law Council Secretariat** supports the Family Law Council, a statutory authority, in its role of advising the Minister and making recommendations concerning the working of the *Family Law Act 1975* and matters relating to family law. The activities of the secretariat are covered by this report.

As a member of the **Joint Management Committee of the Thai Office of the Narcotics Control Board (ONCB)** since 1982, the Australian Government has provided assistance to computerise the ONCB's intelligence-gathering and related functions under the joint Thai-Australian computer project. Activities under the project are covered by this report.

## **Board of Management**

The Department, operating under its charter, and subject to the Attorney-General and the Minister for Justice and Customs, has a Board of Management comprising the Secretary, Deputy Secretaries and division and office heads. In addition, a special adviser on gender issues attends board meetings.

The Board of Management is the focal point for corporate management of the Department, involving itself in the development of overall management strategy and providing a forum for consideration of strategic issues, priorities and resource management.

## **Key management issues**

The repositioning of the Department following the separation of the AGS was the dominant management issue for the Department in 1988-99. The annual conference of senior executives of the Department, held in Bowral in April 1998, identified key issues critical to ensuring that the Department is appropriately refocused to meet the challenges ahead. Examination of these key issues, and the development of appropriate strategies, was undertaken through various working groups. These reflected a broad cross-section of staff with appropriate representation of subject matter expertise.

A considerable amount of effort has been directed towards establishing the strategic direction for the Department, with a strategic planning group set up to develop an effective planning process and to examine the strategic environment.

## **The Executive**

**Tony Blunn** AO, Secretary. Appointed 5 February 1998. LLB. Barrister of the Supreme Court of NSW.

**Richard Moss** PSM, Deputy Secretary. Appointed 25 July 1996. Barrister and Solicitor of the Supreme Courts of South Australia and the Northern Territory.

**Norman Reaburn**, Deputy Secretary. Appointed 22 June 1989. LLB (Hons) (Melb). Barrister of the Supreme Court of NSW.

The organisational chart opposite shows the structure of the Department as it stood at 30 June 1999.

**Attorney-General's Department  
Attorney-General  
The Hon. Daryl Williams AM QC MP**

