

Secretary's Review

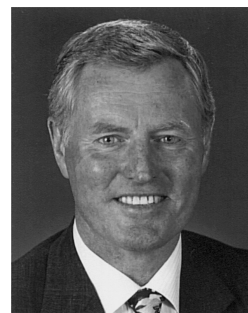
Achieving a Just & Secure Society

The centenary of the Australian Federation also marked the centenary of the Attorney-General's Department.

This Department is proud to be one of only three departments of state—along with Treasury and Defence—that have served the Commonwealth under the same name and broad charter since 1 January 1901.

100 Years – The Attorney-General's Department 1901–2001 Achieving a just and secure society, which was published this year, illustrates the extent of the Department's involvement in some of the most significant events in Commonwealth history.

This report adds to those achievements.



Sydney 2000 Olympics

The Protective Security Coordination Centre (PSCC), the Information and Security Law Division, the Australian Protective Service, the Public Affairs Unit and the Information and Knowledge Services Group played important roles in the Commonwealth–New South Wales security arrangements for the Sydney 2000 Olympics and Paralympics.

In preparation for the Olympics, the Department was heavily involved in the passage of the *Defence Legislation Amendment (Aid to Civilian Authorities) Act 2000*. The new Act clearly defines the powers of the Australian Defence Force if it is called out to deal with threats to national security.

Lindsay Hansch from the PSCC received a Public Service Medal on Australia Day 2001 for outstanding public service in security planning for the Sydney 2000 Olympic Games.

CHOGM

The same areas of the Department are also key participants in the planning and preparation for the Commonwealth Heads of Government Meeting in Brisbane in October 2001. In particular, the PSCC is providing training and technical support for the Queensland Government and the Queensland Police Service.

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 on 13–15 June 2001. This exercise was part of the Standing Advisory Committee on Commonwealth–State Cooperation for Protection against Violence (SAC-PAV) national training and exercise program in preparation for CHOGM.

Protective Security Manual

The promulgation of the new Commonwealth Protective Security Manual in December 2000 was an important achievement in the Department's protective security role, through the PSCC.

Referral of corporations and securities powers

High Court decisions in *Re Wakim* and *Hughes* brought the effectiveness of Australia's system of corporate regulation into question and caused great uncertainty for business and investors.

Departmental officers were key members of the team that assisted Ministers negotiate a referral of States powers on corporations and securities to the Commonwealth. The new Commonwealth *Corporations Act 2001* came into operation on 15 July 2001.

HIH failure

The Department provided advice to the Government in relation to the failure of the HIH Insurance Group and setting up the HIH Royal Commission.

Federal Magistrates Service

The new Federal Magistrates Service (FMS) 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 FMS aims to provide a quicker, more user-friendly forum for the resolution of less complex family and federal law matters. Its success has been greatly assisted by the cooperative efforts of the FMS, the Federal Court of Australia, the Family Court of Australia and the Department.

Administrative Review Tribunal

The Administrative Review Tribunal (Consequential Provisions) Bill 2000 was introduced into the House of Representatives on 12 October 2000. It was debated with the Administrative Review Tribunal Bill 2000, which had been introduced on 28 June 2000.

The Consequential Provisions Bill contained more than 2000 amendments to 200 Acts of Parliament. It is, at 416 pages, believed to be the biggest consequential and transitional provisions Bill introduced into the Commonwealth Parliament. All Commonwealth departments were involved in the preparation of the Bill.

The legislation would have established the Administrative Review Tribunal in place of the Administrative Appeals Tribunal, the Social Security Appeals Tribunal, the Migration Review Tribunal and the Refugee Review Tribunal. The two Bills passed the House of Representatives on 8 December 2000 but were rejected by the Senate on 26 February 2001.

Judicial education

In *Managing Justice Report No 89 – A review of the federal civil justice system*, the Australian Law Reform Commission recommended that the Attorney-General facilitate the establishment of an Australian judicial college.

The Standing Committee of Attorneys-General established a working group in October 2000 to explore options for such a college and subsequently adopted its recommendation to establish the National Judicial College of Australia.

New funding model for family law legal aid assignments

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

Electronic transactions

Regulations were made to limit exemptions under the *Electronic Transactions Act 1999* in anticipation of the Act applying to all Commonwealth laws from 1 July 2001. The regulations were prepared after extensive consultation with all portfolio departments.

A national legal framework for electronic transactions is now almost complete. All jurisdictions except Western Australia have enacted the uniform Electronic Transactions Bill.

Aboriginal Justice Plans

The Department, in conjunction with the National Aboriginal Justice Advisory Committee, contributed to the development of Justice Plans to coordinate Commonwealth, State and Territory funding and services for indigenous programs 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.

NT diversionary programs and Aboriginal Interpreter Service

There was considerable debate during the year about mandatory sentencing laws in the Northern Territory and, to a lesser extent, Western Australia.

The Government considers that sentencing policy is a matter to be decided locally by State and Territory governments.

However, the Commonwealth allocated \$20 million over 4 years to establish juvenile diversionary schemes and a jointly funded Aboriginal Interpreter Service in the Northern Territory to reduce the impact of the Territory's mandatory sentencing law. The program is administered by the Department.

Native title

The Native Title Division advised the Attorney-General in relation to three determinations relating to exploration activities under the Queensland *Mineral Resources Act 1989*, made under s.26A of the *Native Title Act 1993* (NTA), and four determinations relating to mining under that Queensland Act, made under s.43 of the NTA. The determinations came into effect on publication in the *Commonwealth Gazette* on 18 September 2000.

The Department is managing the Commonwealth's participation in more than 200 native title cases to ensure that the NTA is interpreted in a way that is consistent with the Parliament's intention.

A number of those applications are before the Federal Court for determination. The remainder have been referred to the National Native Title Tribunal for mediation.

The Department is also involved in litigation in some native title cases where the Commonwealth has specific property interests.

Resolution of native title applications provides greater certainty for native title holders, State and Territory governments and the mining, pastoral and other rural industries. The Government hopes to resolve applications more speedily through the determination of alternative State regimes and the provision of extra funding for the Commonwealth native title system.

Pregnancy and work

The Department coordinated the development of the Government's response to the Human Rights and Equal Opportunity Commission's report 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 advice to the Sex Discrimination Commissioner to assist in the development of guidelines relating to pregnancy and work that were 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.

Family law primary dispute resolution

The Department has been active in developing a program to improve dispute management practice by lawyers and mediators. A discussion paper on the quality and standards for counsellors and mediators under the *Family Law Act 1975* will be released in the second half of 2001.

Under the Business Partnership Agreement with the Department of Family and Community Services, funding is provided to around 66 community organisations for family and child counselling, family and child mediation, children's contact services and a contact orders pilot.

In addition, 39 projects in 33 high need regional areas have been commenced to provide local primary dispute resolution services. Also, seven community organisations were contracted to deliver conciliation services in the major metropolitan areas to replace the 'pre-filing counselling' previously provided by the Family Court in those locations.

Seven projects have been contracted to enhance partnership arrangements in local communities for the promotion and usage of primary dispute resolution in family law.

In addition, primary dispute resolution services provided by legal aid commissions have been enhanced and a national strategy for primary dispute resolution in legal aid commissions developed.

Australian Law Online

On 21 June 2001, the Attorney-General launched Australian Law Online, consisting of the Family Law Hotline—a new freecall service from call centres in two regional locations—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, based on measures announced in the 1998–99 and 1999–2000 Budgets.

Splitting superannuation

It is Government 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 step in implementing that policy, received Royal Assent on 28 June 2001. The substantive provisions of the Act, which provide for superannuation payments to be split pursuant to either an agreement between the parties or a court order, will come into operation in the second half of 2002.

Privacy

The *Privacy Amendment (Private Sector) Act 2000* recognises the importance individuals attach to the protection of personal information. The Act was developed in close consultation with business and consumer interests.

That consultation took account of a range of public interests. These included the need for a free flow of information to the Australian public through the media, the right of business and government to achieve their objectives in an efficient way and the requirements of law enforcement agencies.

From 21 December 2001, individuals will have some control over the collection, use and disclosure of information by private sector organisations for the first time. That control will include the right to access and correct their personal details.

Copyright

The *Copyright Amendment (Moral Rights) Act 2000* was passed and came into operation in 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 gives them rights to take action against false attribution of their works and films and to object to derogatory treatment of their works and films that prejudices their reputation.

The *Copyright Amendment (Digital Agenda) Act 2000* commenced on 4 March 2001. These amendments provide greater copyright protection to works and other protected subject matter online. The amendments are consistent with the World Intellectual Property Organization's Copyright Treaty and the Performances and Phonograms Treaty.

They include a new right of communication to copyright owners, but provide exceptions to ensure appropriate access to copyright material through new communications technologies. These exceptions deal, in particular, with the needs of libraries and archives, while preserving the rights of creators to take full advantage of online markets.

Legal cooperation with Indonesia

The Department negotiated a Memorandum of Understanding on Legal Cooperation between Australia and Indonesia. The Attorney-General and the Indonesian Minister for Justice and Human Rights signed the memorandum in Canberra on 25 October 2000.

Alternative dispute resolution with Indonesia

A departmental initiative on alternative dispute resolution with Indonesia was implemented in 2000–01. This was a two-stage project funded by the Australian Agency for International Development (AusAID) under the APEC Support Program.

The project 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, a study tour and to undertake mediation training.

Legal aid

New legal aid agreements were signed with all States and Territories other than Victoria and the ACT. Negotiations with those two jurisdictions were continuing at the end of June 2001 and agreements were subsequently finalised with both of them.

The new agreements operate on a purchaser-provider basis with an increased focus on outputs. They provide for an improved performance information framework incorporating financial, quantity and quality information.

International law

The Office of International Law worked closely with the Department of Foreign Affairs and Trade on World Trade Organization litigation about measures taken by Korea in relation to imported Australian beef and measures taken by the United States in relation to imported Australian lamb. The *Korea-Beef* and the *United States-Lamb* cases were resolved in Australia's favour.

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 Timor Sea Arrangement relating to the exploration and exploitation of the Joint Petroleum Development Area pending a final delimitation of the seabed between Australia and East Timor.

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.

Although the tribunal found that it lacked jurisdiction over the case, the litigation and the judgment of the tribunal were significant contributing factors to the satisfactory settlement subsequently achieved with Japan.

Legislative drafting

A number of clients expressed their satisfaction with the work of the Office of Legislative Drafting during the year.

Three hundred and ninety Statutory Rules were made during the year. Only one was fully disallowed and only two were partially disallowed by the Senate. None of them contravened the scrutiny principles of the Senate Standing Committee on Regulations and Ordinances.

Criminal justice system

The Criminal Justice Division contributed to the enhancement of the criminal justice system through its work on the implementation of the Model Criminal Code and the Model Forensic Procedures Bill.

The *Criminal Code Amendment (Theft Fraud Bribery and Related Offences) Act 2000* commenced on 24 May 2001. It 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.

The Cybercrime Bill 2001 was introduced in the House of Representatives on 27 June 2001. The Bill contains offences based on the *Model Criminal Code Damage and Computer Offences Report* released by the Standing Committee of Attorneys-General in February 2001. At the time of reporting, the Bill is awaiting debate in the House of Representatives.

The commencement of the *Crimes at Sea Act 2000* on 1 April 2001 was another important achievement. This new national scheme followed ten years work to simplify offshore 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 in which local law will apply.

Substantial work was also done on the National Crime Authority Legislation Amendment Bill 2000 (introduced into Parliament on 7 December 2000), and the Measures to Combat Serious and Organised Crime Bill 2001 (introduced into Parliament on 4 April 2001).

The Criminal Justice Division participated in the negotiations for the *Convention Against Transnational Organised Crime*. Australia signed the Convention in December 2000. The Division continued to expand the network of bilateral treaties and arrangements on extradition and mutual assistance in criminal matters, as well as handling several high profile cases under these arrangements.

Proceeds of crime – civil forfeiture

The Department developed a proposal for a new Proceeds of Crime Bill during the year.

The proposal will, if it proceeds, result in legislation establishing a civil forfeiture regime to confiscate assets derived from relevant criminal activity without the need for a conviction.

Australian Protective Service

The Australian Protective Service provided extensive operational support to Sydney 2000 Olympics security at airports, the Olympic village and at other sensitive locations and through diplomatic protection units.

The Australian Protective Service continued to provide emergency support to the Department of Immigration and Multicultural Affairs' detention centres at Woomera, Villawood, Port Hedland and Curtin.

The Australian Protective Service won the Australian Security Industry Association award for *Best Aviation Security Provider 2000*.

Certified Agreement

A new Certified Agreement was developed, approved and implemented during 2000–01.

The *Attorney-General's Department Agreement 2000* is a comprehensive agreement which entirely displaces the *Australian Public Service Award 1998*. The Agreement, which received the approval of 80 per cent of the staff who voted on it, commenced on 6 December 2000.

Organisation changes

The Department market tested a range of financial, human resource and systems services during the year. After consideration of the offers in terms of the savings, risks and uncertainties identified in both proposals, it was decided to retain the provision of financial, human resource, and systems services in-house.

As a result of that decision the Department is now proceeding to centralise recruitment, accounts and purchasing processing activities. That consolidation of functions is expected to result in better service and record keeping at a reduced cost.

New computers and telephones

During the year the Information and Knowledge Services Group undertook the replacement of all remaining Macintosh systems in the Department with IBM compatible systems. This involved the replacement of approximately 400 desktop systems and the training of Department staff in the use of the new computers and programs. The move significantly simplifies the support of the Department's computer facilities and will provide a cohesive base for more powerful business support systems in the future.

The Information and Knowledge Services Group also implemented a new telephone system based on a Nortel Meridian PABX, replacing approximately 600 handsets and introducing voice mail within the Department. A new telephone cost accounting system (TIMS) was introduced as part of this work to enable the Department to manage its telephone call costs more effectively in the future.

ITSA and CrimTrac

The Insolvency and Trustee Service, Australia became a Prescribed Agency under the *Financial Management and Accountability Act 1997* from 1 July 2000. CrimTrac became an Executive Agency under the *Public Service Act 1999* on 1 July 2000. The Department continues to provide strategic direction to CrimTrac through the CrimTrac Board of Management, which is chaired by a departmental representative.

Thanks

These achievements are a tribute to the dedication, competence and hard work of the Department's staff. I thank each officer for his or her contribution to all of the Department's activities over the course of the year.



ROBERT CORNALL
Secretary
Attorney-General's Department