



**NATIONAL
JUDICIAL
COLLEGE**
of Australia

NATIONAL JUDICIAL COLLEGE OF AUSTRALIA

ANNUAL REPORT 2004 - 2005



**NATIONAL
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COLLEGE**
of Australia

30 August 2005

To: The Council of Chief Justices of Australia and New Zealand
The Standing Committee of Attorneys General

I am pleased to send to you, in accordance with clause 17 of the Constitution of the National Judicial College of Australia, a report by the Council of the College on the operations of the College during the financial year 2004-2005.

This is the College's third annual report.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'J Doyle'.

The Honourable John Doyle AC
Chief Justice of South Australia
Chair of the NJCA Council

Contents	Page
Foreword by the Chair of the NJCA Council	4
College Professional Development Programs 2004/2005	5
Phoenix Magistrates Program	5
Phoenix Judges Program	6
National Judicial Orientation Program	6
Federal Magistrates Court Orientation day	6
Judicial Conduct and Ethics module	7
Criminal Code Workshop	7
Evidence Acts Workshop	7
Facilitation of court conference sessions	7
Technology based distance education programs	8
Social and cultural awareness issues	8
Plans for professional development programs 2005/2006	9
College Projects 2004/2005	
National Standards for Judicial Professional Development	10
Judicial Professional Development Curriculum	10
Commonwealth Sentencing Database	11
NJCA website	11
College Administration 2004/2005	12
NJCA Council	12
Regional Convenors	12
Consultative Committee	13
College Secretariat	14
The College and the Australian National University	14
NJCA funding	14
Communication with the College	15
Attachments	
A List of members of the Council, Regional Convenors the Consultative Committee and the College Secretariat	16
B Members of Program Planning Committees	19
C The History and Policies of the College	20
D Strategic Plan	23

FOREWORD BY THE CHAIR OF THE NJCA COUNCIL

The report that follows is intended to inform the reader about the work of the National Judicial College of Australia during the year ended 30 June 2005, about the people and groups that contribute to the work of the College, and about the policies that guide the College in the provision of professional development programs for the Australian Judiciary.

The year has been a busy one. The Council believes that it has been a successful year, due to the contribution made by members of the judiciary, by our staff and by others who have, in various ways, helped us develop a framework for our activities, and who have helped us present programs.

The number of programs presented to members of the judiciary has increased. Programs have been presented in most of the States and Territories. A feature of our programs, regularly commented on by participants, is the way in which they enable judicial officers from different locations and from different courts to share experiences and to learn from each other.

Our focus continues to be programs for groups of about 20 judicial officers, with an emphasis on inter-active presentation involving the group. The responses from participants indicate that they welcome this approach. Our aim is to ensure that in all programs the participants share with each other the benefits of their experience.

We have been gratified by the responses of participants in our programs. Criticisms and constructive comments are given careful consideration, and we continue to refine programs that are repeated.

The College is developing two distance education programs. One is a program on judgment writing, the other a program on disability awareness. Progress has been relatively slow, but this was expected. Using distance education programs, delivered electronically, is a new approach for the College and, by and large, for Australia's judiciary. Careful thought is required in developing the programs. Testing is necessary to ensure that presenting programs in this way is acceptable to the judiciary, and that such programs are helpful. The College is making a substantial investment in the first two programs, recognising that this method of providing professional development has potentially significant benefits for Australia's judiciary. That the potential will be realised only if care is taken in the development and delivery of such programs.

During the year the College began work on two projects that are dealt with in the report, but which warrant a brief mention here.

The first is the development, in conjunction with the Judicial Conference of Australia and the Australian Institute of Judicial Administration, of national standards for professional development for the judiciary. The aim is to identify a benchmark for the time and funding that should be made available to members of the Australian judiciary for professional development. Our aim is to obtain a commitment to the implementation of this standard, over time, by Australian Governments, by courts and by the judiciary as a whole. We believe that this will be in the public interest. The achievement of a benchmark will make a real contribution to the work of the Australian judiciary.

The second project is the development of a national curriculum for professional development programs for the Australian judiciary. Developing such a curriculum will make the College, and others who provide professional development programs, think carefully about the range and content of programs that should be available to the Australian judiciary. The curriculum will also provide a basis, the Council believes, by reference to which we and others involved in the area can organise our work so as to cover as much material as possible, while avoiding duplication of effort.

While on this topic I mention the College's Strategic Plan, which appears as Attachment D to the report. In that Plan the Council has set out the principles by reference to which it operates, its objectives and how it will achieve them.

I record the substantial contribution to the work of the College made by the Regional Convenors and by our Consultative Committee. These two groups, the Consultative Committee including members from outside the judiciary, continue to provide the Council with valuable comments and advice. The same is true of the committees that manage the various programs. The membership of these groups is set out in Attachment A and in Attachment B.

I record the Council's gratitude for the strong support that it receives from the Council of Chief Justices, from other heads of jurisdiction and from the Australian judiciary generally. The work of the College is demanding, and the encouragement and support that we received are important. I also record the Council's gratitude to the Judicial Commission of New South Wales, the Judicial College of Victoria, the Australian Institute of Judicial Administration, the Australian Association of Magistrates and the Judicial Conference of Australia for their support and co-operation during the year.

I also record the Council's gratitude to the Attorneys-General for the Commonwealth, for New South Wales, South Australia, Tasmania, Northern Territory and the Australian Capital Territory for their continued commitment to fund the College. Without that funding, the College would not have come into existence, and could not continue to operate. The Council believes that, over time, the College will make a real contribution to the quality of Australia's Judiciary. It is able to do so only because of the support that it has received. It is appropriate also to record the Council's gratitude to the Commonwealth Attorney-General for the additional support that he has provided to the College through grants for specific projects.

So far the Council has not exploited to the full its contacts with like bodies in other countries. These bodies have valuable experience, from which we can and in due course will learn. So far we have concentrated our efforts on the delivery of programs in Australia, believing it to be essential that we demonstrate the value of the College to Australia's judiciary and to those who fund it. As soon as we can find the time to develop our contacts with like organisations in other countries, we will do so.

The Council welcomes inquiries and comments about the work of the College. These can be addressed through its secretariat as explained on page 16 of the Report.

The Honourable John Doyle AC
Chief Justice of South Australia
Chair of the NJCA Council
30 August 2005

COLLEGE PROFESSIONAL DEVELOPMENT PROGRAMS 2004/2005

The College continues to develop and present judicial professional development programs around Australia.

As explained in attachment C to this report, the College has adopted best practice for adult professional learning. The College has not followed the approach of organising large conferences with formal lectures. Rather the College favours structured discussion of practical problems and other forms of active learning (for example self-teaching in small discussion groups based on well-planned practical problems). This focus on discussion rather than lectures means that most College programs are for groups of no more than 25 to 30 participants. The use of structured, interactive learning techniques involves presenters and College staff in considerably more work than would be involved in organising a series of lectures. However the Council of the College remains convinced that presenting a small number of high quality programs of long term educational value remains the best use of the College's resources.

Judges and magistrates from all courts in Australia are eligible to attend College programs. Some programs are limited to particular categories of the judiciary (for example orientation programs are limited to recent appointees).

The Council of the College, and individual planning committees for programs, routinely review and revise College programs in the light of feedback from participants. The College seeks written feedback from judicial participants in its programs. The responses indicate that participants have been very satisfied with the programs. The College develops new programs on the basis of proposals made by judicial officers in evaluating programs they attend and based on responses to a survey of the judiciary conducted in 2003. The proposed national curriculum for judicial education currently being developed by the College will form the basis for future decisions about the development of College Programs.

Phoenix Magistrates Program

The Phoenix Magistrates Program was presented in May 2005 in Joondalup, Western Australia. This was the third year the program has been presented. Forty two participants attended from most States and Territories and two magistrates from Papua New Guinea. It is a five-day program which has two aims. The first is for experienced judicial officers to transfer the benefit of their hard won experience to recently appointed judicial officers. The second aim is to do this through a program that also helps the experienced judicial officers improve the manner in which they perform their work. A substantial part of the program is based on group discussion led by members of the group, both newly appointed and experienced. The program covers a diverse range of topics including Judicial Conduct and Ethics, Decision making and giving judgement, Judicial Independence, Children as witnesses, Court craft, Time Management, Sentencing, Cultural awareness and diversity, Lifestyle and Stress Management. The program was enthusiastically received by the participants.

Phoenix Judges Program

Building on the concept successfully presented in the Phoenix Magistrates Program, the College for the first time offered a Phoenix Program for judges in May 2005 in Canberra. The first objective of the program was to provide a refresher program for experienced judges, exposing them to new ideas and new approaches from more recently appointed judicial officers and challenging them to think afresh about their judicial work. The second object was to give recently appointed judges (no more than two or three years on the bench) an opportunity to work with experienced judges, and to learn from their experience.

On the basis of the participants' and the Planning Committee's evaluation the Council is satisfied that the Program was successful in achieving these objectives. There were twenty judge participants drawn from most States and from federal courts. Participants commented that they benefited particularly from interacting with judicial officers from other jurisdictions, enabling them to compare experience and views from a wider variety of backgrounds. The contribution of participants from specialist courts was a notably successful aspect of the Program (eg. Family Court judges speaking about strategies for dealing with difficult litigants in person and a judge of the NSW Land and Environment Court speaking about expert evidence).

The program covered a range of issues including pre-trial issue identification, management of proceedings, judgment writing, the media and the courts, new technology, sentencing, cultural, diversity and cultural change, interpreters, alternative dispute resolution, expert evidence, colleagues assisting an 'impaired professional' affected by personal problems, dealing with judicial stress and maintaining good health.

National Judicial Orientation Program

The eleventh annual National Judicial Orientation Program was co-presented in Sydney in October 2004 by the College, the Judicial Commission of New South Wales and the Australian Institute of Judicial Administration. The main educational objective for the program is to assist newly appointed judicial officers with the transition to judicial office, with a particular focus on skills required of a trial judge. Based on the participants' evaluation comments and observations by members of the Steering Committee, the 2004 program was successful in meeting its objectives. There were twenty four participants. The program covers topics including judicial conduct and ethics, assessing the credibility of witnesses, using technology, psychological and physical health, judgment writing, court craft, interpreters, evidence, litigants in person, sentencing and alternative dispute resolution.

Federal Magistrates Court Orientation Day

The College organised a one day orientation day for newly appointed federal magistrates in Melbourne in October 2004. The program covered judicial conduct and ethics, legal and practical issues in dealing with litigants in person and strategies for dealing with abnormal and querulous litigants.

Judicial Conduct and Ethics module

The College worked with the organising committee of the South Australian Courts' Judicial Education Conference to include in that Conference a half day module on 'Judicial Conduct and Ethics' in Adelaide on 25 February 2005. Fifty judicial officers participated from South Australia, Western Australia, Queensland, New South Wales and Federal courts. Participants evaluated the module as being very worthwhile.

Criminal Code Workshop

Fifteen judicial officers from courts of the Australian Capital Territory attended a half day workshop organised by the College in April 2005 on the Commonwealth Criminal Code. The workshop focussed on Chapter 2 of the Model Criminal Code "General principles of criminal responsibility", particularly the fault and physical elements that go to make a criminal offence and the manner in which an offence-creating provision should be construed.

Evidence Acts Workshop

On 30 April 2005 the College co-presented a one day workshop for the judiciary in Sydney on the Evidence Act 1995 (Cth) and the Evidence Act 1995 (NSW). The workshop was an opportunity for the judiciary to explore issues relating to the Acts and to enable the Australian Law Reform Commission and the NSW Law Reform Commission to obtain the views of the judiciary for the purpose of their current reviews of the Acts. Fifty judges attended from New South Wales, the Federal Court and the Family Court. The College joined in organising the event with the Australian Law Reform Commission, the NSW Law Reform Commission and the Judicial Commission of New South Wales.

Facilitation of court conference sessions

Much judicial professional development in Australia continues to be organised and delivered by education committees within Australian courts. The College does what it can to facilitate the inclusion of modules and sessions in court conferences. During the year the College sponsored a half day module on identification evidence in the annual conference of the Magistrates Court of Western Australia (November 2004). It also worked with the education committee of the South Australian Magistrates Court to facilitate the presentation of a half day module on the Commonwealth Criminal Code in a Continuing Legal Education Day for the Court (August 2004). The College help to organise a session on court craft in the annual conference of the Magistrates Court of the Northern Territory (August 2004).

Technology based distance education programs

In 2004/2005 the College continued work on two pilot programs to test technology based distance education programs for the judiciary. Using information technology to deliver distance education programs will enable the College to reach far more judicial officers than it would otherwise be able to reach. The development of high quality programs is time consuming and expensive. It requires presenters to develop new skills in the preparation and presentation of programs and in the use of the information technology.

Monash University acted as consultants to the College in the development and delivery of a pilot distance education program for the judiciary on disability awareness. The project is funded by a generous grant from the of the Supreme and Federal Court conference organising committee. The College acknowledges the contribution made by Attorney-General's Department of New South Wales which made available the services of Ms Julia Haraksin (Disability Co-ordinator for that Department) as the presenter in the program. Ms Haraksin has successfully presented face to face programs on the subject for the College and for courts around Australia. The distance program was successfully piloted with two test groups of judicial officers in March and May 2005. One of the benefits of an online education program is that, provided a judicial officer has a computer with Internet access, he or she can perform the program activities at the time and place of his or her choosing - before or after court, at home or at work, in a block of time or when he or she has time to spare. The trial program activities included reading material on a website, answering questions from the presenter, contributing to discussions with other judicial officers on the website discussion forum, and viewing a short video on a Compact Disc that was be posted to participants. A formal evaluation of the pilot is being prepared with a view to the program being offered to the judiciary around Australia in 2005/2006.

The Australian National University is acting as consultant to the College in the development and delivery of a pilot distance education program for the judiciary on judgment writing. The first iteration of the pilot program took place in April 2005 when two judicial presenters (Justice Dessau of the Family Court of Australia and Judge Wodak of the County Court of Victoria) led a half day distance 'Judgment Writing Masterclass'. This involved judges and magistrates, who had previously participated in a face to face program on judgment writing, reading articles to revise the principles learned in the face to face program), reviewing and critiquing samples of each others' judgment writing and participating in a structured discussion by teleconference of the judgements. A second iteration involving the use of Internet based activities, is being developed. A formal evaluation of the pilot will then be prepared.

Social and cultural awareness issues

The public has come to expect that the judiciary will be aware of cultural diversity within the community, and that many litigants confront cultural difficulties in dealing with the courts.

The subject of future social and cultural awareness programs for the judiciary was discussed at the annual meeting of the College's consultative Committee in February 2005. A majority of participants agreed that the NJCA should be active in providing programs that deal with

social and cultural awareness issues. In residential programs, these issues should be raised in the course of other sessions if they were not to be the subject of separate sessions. Subsequently the College has been discussing with the Human Rights and Equal Opportunity Commission ways in which gender and cultural issues can be included in College programs.

The College continues to include half day modules in its Phoenix Judges Program and Phoenix Magistrates Program on cultural awareness and diversity. In these sessions participants review questions of cultural and racial difference which may arise in the course of court proceedings.

During the year the College worked, with Monash University as consultants, on the development of a distance education program for the judiciary on disability awareness. (See above)

Plans for professional development programs 2005/2006

The College is well advanced in its planning for professional development programs in 2005/2006.

A two and a half day Judgment Writing Program will be offered by the College in Adelaide in September 2005. Judicial officers rarely have the opportunity to reflect on their approaches to writing judgments. The opportunity for obtaining feedback from colleagues and others is limited. This program is designed to allow participants to learn from interaction with other judicial officers as well as with professional writers.

A Travelling Judicial Education Program will be presented in Brisbane in September 2005. In previous presentations (in Adelaide in 2003 and Hobart in 2004) the program was presented over one and a half days. It usually comprises three modules, each half a day in length. These were well attended and enthusiastically received by judicial officers. The Brisbane Program will include modules on Oral judgments, Court Craft and Sentencing.

The College is organising a national conference on “Children & the Courts” in Sydney in November 2005.

Because of the demand for places in the National Judicial Orientation Program, the Council of the College has agreed that two Programs be offered – in Sydney in October 2005 and in Melbourne in May 2006.

The Phoenix Judges Program will be offered again in Canberra in March 2005 and the Phoenix Magistrates Program in April 2006.

The College is working with the Australian National University to organise a national conference on ‘Sentencing: principles, perspectives and possibilities’ in Canberra from 10 to 12 February 2006. The conference is designed for the judiciary, legal practitioners, victim specialists, corrective services management, and academics with an interest in sentencing and its aftermath. It will focus in particular on the changes in the sentencing environment in the last 15 years, the very strong public and media interest in sentencing issues, the responses of legislatures, the involvement of victims and alternative approaches to dealing with offenders.

During 2005/2006 the College will again offer to provide professional development programs for court conferences around Australia. In conjunction with the education committee of the South Australian Magistrates Court, it will present half day modules on judgment writing (July 2005), children's evidence and identification evidence (October 2005). The College will also provide modules on identification evidence and stress management in the annual conference of the Magistrates Court of the Northern Territory (August 2005).

COLLEGE PROJECTS 2004/2005

The College is undertaking a number of significant projects relevant to judicial professional development.

National Standards for Judicial Professional Development

As reported in last year's annual report, the College has invited the Judicial Conference of Australia (JCA) and the Australian Institute of Administration (AIJA) to develop a written statement of the amount of time that judicial officers should commit to their professional development and the time that should be made available each year by courts to a member of the judiciary for professional development. The statement is also intended to indicate the amount of funding that should be provided on an annual basis for professional development for judicial officers. "Benchmark statements" along these lines have been prepared in other countries. The statement will be developed in consultation with heads of jurisdiction, members of the judiciary, and other bodies involved in providing professional development for the judiciary.

The statement is intended to be a benchmark to encourage Australian governments to make an appropriate commitment to professional development for Australia's judiciary. It is also intended to encourage heads of jurisdiction to enable each judicial officer to be released from ordinary duties for the required amount of time each year. It will encourage individual judicial officers to recognise their own obligation to commit time to professional development, including some of their own time.

The Standard is expected to be finalised in 2006.

Judicial Professional Development Curriculum

Following discussions at the annual meeting of the College's Consultative Committee in February 2005, the Council decided to develop a national curriculum for professional development for Australian judicial officers. The curriculum will be a framework to support the development of a comprehensive and integrated range of programs of professional development, provided from different sources. It is intended to be a guide for the College and for other Australian bodies (court education committees, State judicial education bodies) providing professional development programs for judicial officers. It will cover the full range of offerings that should be provided to judicial officers in Australian courts. A consultant, Mr Chris Roper, has been retained by the College to prepare a draft of the curriculum. The College hopes the curriculum can be developed on a collaborative basis with other Australian bodies providing professional development programs

Commonwealth Sentencing Database

During the year the College received an additional grant of funding from the Commonwealth to develop an electronic database with information about sentencing for Commonwealth offences. The Commonwealth Sentencing Database will:

- (a) include a sentencing statistics component to:
 - (i) provide users with online access to statistical information in the form of graphs and tables on the range and frequency of penalties imposed by courts for Commonwealth criminal offences;
 - (ii) enable users to obtain comparative sentencing information (including information on the "going rate" or "tariff" for a Commonwealth offence) by searching statistical information on the database by reference to certain criteria;
- (b) provide users with online access to the full text of Commonwealth Acts and Regulations relating to sentencing.
- (c) include a Commonwealth Sentencing Principles and Practice component which will:
 - (i) contain concise commentary on sentencing principles for Commonwealth criminal offences (including key passages from judgments in leading cases);
 - (ii) include links to the full text of cited judgments from the High Court database and other publicly available databases;
 - (iii) include links to the Commonwealth legislation component.
- (d) include a Commonwealth Case Summaries component which will summarise significant cases concerning sentencing for Commonwealth criminal offences decided by the State and Territory Supreme Courts and the High Court of Australia.

The College is working with the Judicial Commission of NSW and other relevant agencies to develop the database.

NJCA website

During the year the College developed a revised website which is available to Internet users at www.njca.com.au

The public pages of the website provide details about the College, its publications and contact details for inquiries. They also provide a Calendar, based on information provided by Courts and judicial education bodies around Australia, giving the dates and other information about all judicial professional development events around Australia.

A password protected section of the website includes documents and information for Council members, Regional Convenors and Consultative Committee members and Program Planning Committees.

Work is continuing on development of additional features of the College website including webpages to facilitate the College's distance education programs, links to the proposed Commonwealth Sentencing Database, an electronic library of unpublished articles on judicial education topics and train the trainer materials for presenters in College programs,

COLLEGE ADMINISTRATION 2004/2005

NJCA Council

In the course of the development of proposals for the College it was agreed that the independence of the judicial arm of government required that a body devoted to judicial education be under the control of the judiciary. That is reflected in the Constitution of the College which provides for control by the judiciary with outside representation. The Council is comprised of four judicial members, a member nominated by the Commonwealth Attorney General, and a member nominated by participating State and Territory Attorneys General. The Constitution of the College also provides for each member of the Council to appoint an alternate to exercise some or all of the powers of that Council Member as required from time to time. Members of the Council and their alternates are listed in Attachment A.

In accordance with the College's Constitution the Council monitors the College's financial position, approves proposals in relation to programs and projects and makes decisions on all policy and major operational issues. The Council met on five occasions during the year in August and November 2004 and in February (by teleconference), March and May 2005.

Following a recommendation by the College's Consultative Committee, the Council has adopted a strategic plan for the College (Attachment D to this report).

Regional Convenors

The College's Constitution provides for the Council to appoint, after consultation with the relevant Chief Justice or Chief Justices, a Regional Convenor for each State and Territory:

- (a) to provide liaison between the College and his/her region;
- (b) to advise as to appropriate subject matter for the College's programmes and methods of delivery;
- (c) to provide feedback concerning the College's programmes previously conducted;
- (d) to assist in the organisation of the College's programmes to be conducted within his/her region, including arrangement of appropriate facilities;
- (e) to stimulate interest amongst judicial officers in his/her region concerning the College's programmes and attendance thereat;
- (f) to recruit judicial officers to assist in the preparation and conduct of the College's programmes;

- (g) where appropriate, to co-ordinate the activities of all members of the Consultative Committee based within his/her region;
- (h) if practicable, in consultation with the Council, to organise a local chapter of the College in his/her region.

Regional Convenors (listed in Attachment A) contributed significantly to the work of the College during the year by participation in Program Planning Committees for events taking place in their States, advertising college programs to the judiciary and advising on College plans, policies and projects. Regional Convenors met by teleconference on four occasions during the year in August and November 2004 and in March and June 2005.

Consultative Committee

The College's Constitution provides for a Consultative Committee to:

- (a) advise the Council as to how the College should meet the professional development needs of judicial officers;
- (b) advise the Council as to the perceived quality and value of the College's programmes previously conducted; and
- (c) facilitate good communications between the College and judicial officers.

The members of the Committee are listed in Attachment A.

The third meeting of the NJCA Consultative Committee (including Council members, Council alternates and regional convenors) was held in the Adelaide on 24 February 2005. The objectives of the meeting were:

1. To enable the Council to hear the Committee's views on the College's plan for 2005/2006, including future programs and development of its policies.
2. For an expert in adult learning to lead a discussion on how the NJCA could implement its policy favouring interactive learning sessions.
3. To discuss the NJCA's role in professional development for the judiciary on social and cultural awareness issues.
4. To discuss the selection of presenters and the development of curricula for judicial education.
5. To enable Council and Consultative Committee members to develop the working relationships developed at the Consultative Committee's first two meetings in February 2003 and March 2004.

The conclusions of the meeting in summary were:

- the College's draft Strategic and other plans are appropriate;
- the College should begin work on a national judicial professional development committee as a matter of priority;

- judicial education on social and cultural awareness issues should be incorporated within sessions in College programs;
- the College's policy favouring interactive learning sessions is correct but scope should remain for the use of exceptional presenters who have the personality and skills to engage participants without using interactive techniques;
- the adoption of pre-determined rules on the selection of presenters is inappropriate; pragmatic decisions should be made on a case by case basis having regard to relevant criteria including ability to effectively facilitate learning by judicial officers of the content of the curriculum;
- alternative means of imparting presentation skills to presenters need to be developed by the College.

College Secretariat

The College has a small secretariat comprising three staff located in offices at the Australian National University in Canberra. The secretariat is primarily involved in the day to day planning, delivery and co-ordination of College programs and projects. It also services College meetings (of the Council, Regional Convenors, Consultative Committee and Program Planning Committees), maintains the College's financial and other systems and deals with correspondence and liaison with courts, government agencies and members of the public.

The College and the Australian National University

The College is hosted by the Law Faculty of the Australian National University. The Council has developed a good working relationship with the Dean of Law, Professor Coper, and with other members of the Faculty. We are pleased with the relationship that has developed, and are grateful to the Dean and to the faculty for their support.

As part of its judicial education schedule for 2005/2006, the College is joining the Law Faculty in organising a national conference on 'Sentencing: principles, perspectives and possibilities' in Canberra from 10 to 12 February 2006. The conference is designed for the judiciary, legal practitioners, victim specialists, corrective services management, and academics with an interest in sentencing and its aftermath. It will focus in particular on the changes in the sentencing environment in the last 15 years, the very strong public and media interest in sentencing issues, the responses of legislatures, the involvement of victims and alternative approaches to dealing with offenders.

NJCA funding

The College's operating costs are met by annual contributions totalling \$333,739 in 2004/2005 from the Commonwealth Government and the Governments of New South Wales, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory. Because that funding does not cover the cost of delivering programs, the College charges registration fees for the attendance by judicial officers at some of its programs. The fee varies according to the length of a program, the venue and number of presenters involved. In 2004/2005 the College received \$240,982 in fees and spent \$224,737 in meeting the costs of programs (including venue and equipment hire, presenter travel and catering). During the year the College also received grants from the Commonwealth of operational expenses and for the development of a Commonwealth Sentencing database.

The College's accounts are prepared by its accountants KPMG Australia and audited annually by Deloitte Touche Tohmatsu. In accordance with the Corporations Act, the College's annual financial statements are filed with the Australian Securities and Investments Commission.

COMMUNICATION WITH THE COLLEGE

Inquiries can be directed to:

The Director
National Judicial College of Australia
PO Box 8102 ANU A.C.T. 2601
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Email: ea@njca.anu.edu.au
Website: www.njca.anu.edu.au

**NJCA Council members, Council alternates, Regional Convenors,
Consultative committee members and Secretariat members
as at 30 June 2005**

THE COUNCIL

The Council members as at 30 June 2005 were:

Chief Justice John Doyle AC Supreme Court of South Australia	Nominee of the Chief Justices of the State or Territory Supreme Courts and chair appointed by the Chief Justice of the High Court
Justice John Dowsett Federal Court of Australia	Nominee of the Chief Justice of the Federal Court and the Family Court
Senior Judge Tony Skoien District Court of Queensland	Nominee of the Chief Judges of the District or County Courts
Chief Magistrate Hugh Bradley* Magistrates Court of the Northern Territory	Nominee of the Chief Magistrates of the Federal Magistrates' Court and Magistrates' or Local Courts
Mr Robert Cornall Secretary, Commonwealth Attorney General's Department	Nominee of the Attorney General of the Commonwealth
Mr Laurie Glanfield AM Director-General, New South Wales Attorney General's Department	Nominee of the Attorneys General of the participating States and Territories

*Chief Magistrate Steven Heath (Magistrates Court WA) replaces Chief Magistrate Hugh Bradley as from 1 July 2005.

COUNCIL ALTERNATES

The alternate members of the Council as 30 June 2005 were:

Justice Geoffrey Miller Supreme Court of Western Australia	Nominee of the Chief Justices of the State or Territory Supreme Courts
Justice Sally Brown Family Court of Australia	Nominee of the Chief Justices of the Federal and Family Court
Vacant	Nominee of the Chief Judges of the District or County Courts
Chief Magistrate Ronald Cahill Magistrates Court of the Australian Capital Territory	Nominee of the Chief Magistrates of the Federal Magistrates' Court and Magistrates' or Local Courts

Ms Kathy Leigh
Commonwealth Attorney General's
Department

Nominee of the Attorney General of the
Commonwealth

Mr Timothy Keady
Secretary of the Department of Justice and
Community Safety, Australian Capital
Territory

Nominee of the Attorneys General of the
participating States and Territories

REGIONAL COVENORS

The following are NJCA regional convenors as at 30 June 2005:

Australian Capital Territory

Justice Terry Connolly
Supreme Court of the ACT

New South Wales

Magistrate George Zdenkowski
Magistrates' Court New South Wales

Northern Territory

Justice Sally Thomas
Supreme Court of the Northern Territory

Queensland

Judge John Robertson
District Court of Queensland

South Australia

Judge Brian Gilchrist
Industrial Relations Court of South Australia

Tasmania

Magistrate Peter Dixon
Magistrates' Court Tasmania

Victoria

Judge Wendy Wilmoth
County Court of Victoria

Western Australia

Justice Geoffrey Miller
Supreme Court of Western Australia

THE CONSULTATIVE COMMITTEE

The members of the Consultative Committee are the eight regional convenors and the following additional members:

Magistrate Robert Lawrence
Magistrates Court of Western Australia

Nominee of the Australian Association of
Magistrates

Deputy Chief Magistrate Andrew Cannon
Magistrates Court of South Australia

Nominee of the Australian Institute of
Judicial Administration

Mr Tony Abbott
Piper Alderman Solicitors, Sydney

Nominee of the Law Council of Australia

Justice David Lloyd
Land and Environment Court NSW

Nominee of the Judicial Conference of
Australia

Professor Michael Coper
University of Canberra

Nominee of the Council of Law Deans

Professor Larissa Behrendt
University of Technology Sydney

Nominees of the Attorneys General of the
Commonwealth and participating States
and Territories

Ms Karen Curtis
Commonwealth Privacy Commissioner

Mr Phillip French
Disability Studies and Research Institute

THE COLLEGE SECRETARIAT

The administrative staff of the College as at 30 June 2005 are:

Mr John Mc Ginness	Director
Ms Wendy Forster	Conference Co-ordinator
Ms Jane Avent	Executive Assistant

MEMBERS OF PROGRAM PLANNING COMMITTEES

The members of planning committees for College Programs are

Phoenix Magistrates Program Planning Committee

Chief Magistrate Hugh Bradley (chair)	Magistrates Court Northern Territory
Chief Magistrate Steven Heath	Magistrates Court Western Australia
Chief Magistrate Marshall Irwin	Magistrates Court Queensland
Justice Geoffrey Miller	Supreme Court Western Australia
Magistrate Julie Wager	Magistrates Court Western Australia

Phoenix Judges Program Planning Committee

Justice Terry Connolly	Supreme Court ACT
Justice Philip Cummins	Supreme Court Victoria
Chief Justice John Doyle	Supreme Court South Australia
Justice Murray Kellam (chair)	Supreme Court Victoria
Deputy Chief Justice John Faulks	Family Court of Australia
Judge Wendy Wilmoth	County Court Victoria
Mr John Mc Ginness	National Judicial College of Australia

National Judicial Orientation Program*

Justice Terry Buddin	Supreme Court of NSW
Justice John Byrne	Supreme Court of Queensland
Justice Linda Dessau	Family Court of Australia
Judge David Lloyd (chair)	Land & Environment Court of NSW
Justice Paul Stein AM	Supreme Court of NSW
Judge Thomas Wodak	County Court of Victoria
Professor Greg Reinhardt	Australian Institute of Judicial Administration
Mr Ernest Schmatt PSM	Judicial Commission of NSW
Ms Ruth Windeler	Judicial Commission of NSW
Mr John McGinness	National Judicial College of Australia

**Program jointly presented by the National Judicial College, the Australian Institute of Judicial Administration and the Judicial Commission of News South Wales*

Judgment Writing Program

Judge Brian Gilchrist	Industrial Relations Court South Australia
Justice Peter Heerey (chair)	Federal Court of Australia
Justice Bernard Warnick	Family Court of Australia
Mr John McGinness	National Judicial College of Australia

THE HISTORY AND POLICIES OF THE NATIONAL JUDICIAL COLLEGE OF AUSTRALIA

History

In the early 1990s calls were made for the establishment of a body dedicated to providing judicial education for the whole Australian judiciary. In 2000 the Australian Law Reform Commission's Report number 89 'Managing Justice' canvassed the issues and recommended the establishment of an Australian Judicial College. It proposed that the College be under the governance of judges and have responsibility for orientation training of new judicial appointees and continuing professional development of existing judicial officers.

In March 2000 the Standing Committee of Attorneys General (SCAG) formed a working group to consider the establishment of a National Judicial College. The working group found that there was a high level of support from the judiciary and other interested persons for the establishment of a national college. The working group report in May 2001 stated the case for a National Judicial College as follows:

"Currently judicial officers in Australia attend a diverse range of judicial education programmes but the availability varies greatly between jurisdictions. A national approach to judicial education would address the needs of judicial officers throughout Australia. A national college would ensure that education for judicial officers was planned and coordinated at a national level, both increasing quality and avoiding duplication. Judicial officers from across jurisdictions and from different geographical regions would have the opportunity to exchange information and experiences. This would maximize the benefit derived by judicial officers and the community from professional development programmes. The establishment of a national judicial college would bring Australia into line with developments in other common law jurisdictions in relation to the provision of judicial education."

The working group's report was accepted in principle by SCAG in July 2001 and the working group was asked to implement the proposals in its report.

The National Judicial College of Australia was established in May 2002 as an independent entity, incorporated as a company limited by guarantee. It is funded by contributions from the Commonwealth and some State and Territory governments. The College will report annually to the Council of Chief Justices and to the Standing Committee of Attorneys General. The College will provide professional development programs to judicial officers in Australia and, on occasion, will conduct courses for non-judicial officers, such as senior court administrators and tribunal members.

At the official launch of the College in August 2002, the first chair of the Council of the College, Chief Justice John Doyle of South Australia, said the following about the need for judicial education in Australia:

"I believe that the case for a National Judicial College for judicial education is self-evident. However, it is worth restating it very briefly. The work of the judiciary is demanding. Judges and Magistrates are expected to have professional legal skills of a high order. They should also have a wide range of practical judicial skills to enable them to carry out judicial work properly. Some of these practical skills are peculiar to the judicial role, some are skills that are also required in other professions.

The administration of justice involves much more than professional and practical competence. There is a qualitative aspect to the administration of justice which calls for judicial officers to

have a real enthusiasm for their work, a strong belief in the importance of justice, and a commitment to the administration of justice in the fullest sense of the word. While these attitudes and beliefs are instilled in us in our professional life, experience tells us that over time judicial officers can become cynical and can suffer what is generally called "burn out". Experience tells us that most judicial officers can benefit from programmes of professional development that help them avoid this phenomenon.

Finally, judicial officers tend to occupy judicial office for fairly lengthy periods. This is in the public interest. It takes time to develop fully the skills required of a judicial officer, and it is in the public interest that those who have fully developed those skills put them to the public benefit for as long as possible. The fact that judicial officers hold office for substantial periods of time mean that they are likely to benefit from programmes of professional development that reinvigorate, refresh and enthuse.

Thus, the members of the Australian judiciary can benefit from programmes of professional development that focus on their legal skills, their practical judicial skills, and their approach to their work and which help them to maintain fitness and enthusiasm for the work. The scope for programmes for professional development is substantial. In the past it was assumed that, somehow or other, in the course of a judicial career, a judge or magistrate would receive the stimulus for self-improvement, and the refreshment and re-invigoration that we know we need. We now know that this assumption is too optimistic. There is a real need for organised programmes of professional development. The judiciary, as a profession, has come to understand this, as have the other professions."

Policies

In considering the development of the College's programs, the Council of the College has identified some policies it intends to pursue. These policies have been formed as a result of the Working Group's consultations with judicial officers and other interested persons in 2001/2002, thorough discussions in meetings of the Council and again at the first meeting of the College's Consultative Committee in Canberra in February 2003. The policies are summarised below.

The role of the College is to assist judges in their professional development. Programmes should be developed to meet real needs. They must be delivered in ways which maximize the benefit to be derived by judicial officers and the community and take account of the particular sensitivities incidental to activities concerning judicial officers.

In developing programs the emphasis should be on matters not adequately covered by readily available sources such as text books and journals. In particular, emphasis should be on practical skills, a large aspect of judicial work. The College appreciates the importance of providing programs on social and cultural awareness issues including issues relating to disability awareness, persons from non English speaking and indigenous backgrounds and the protection of children. Other important matters include recent legal developments; legal, and programs concerning judicial physical and mental health. In general the College would not expect programs to focus upon substantive law. That area will usually be better addressed in other forums or by private study.

In Australia there are a large number of judicial officers with different responsibilities. Needs may be quite specialized. Although there are some common aspects to all judicial work, the College will not assume that one program will be suitable for all, or even most judges. This may lead to our offering specialized courses to small groups. The College must identify and try to satisfy the real needs of the judiciary and of the community.

Judicial officers are a group of people who, by reason of talent, experience, education and training, have been identified as suitable to receive the authority of the state to resolve

disputes between citizens and between the state and citizens. They will be busy people who are themselves regularly asked to participate in programs as speakers and teachers. Any program developed by the College must be worthy of the time which participants will be asked to invest in it.

The College should adopt best practices for adult professional learning. The emphasis should not be on formal lectures. Rather the College will use structured discussion of practical problems and other similar forms of active learning, for example self-teaching in small discussion groups, based on well-planned, practical problems.

The focus on discussion rather than lectures means that most programs will be suitable for groups of no more than 25 to 30 participants.

The College's programs will be participant focussed rather than "teacher focussed". Judicial officers collectively will often bring more to college programs than any one presenter or group of presenters and the emphasis should be on sharing and building upon the experience of participants; presenters should guide discussion and encourage participation, but should not be seen as a faculty separate from the participants.

The College's role is not to standardize judicial approaches to problems or issues or to label any acceptable approach as "right" or "wrong", nor should there be any public comment upon the extent to which any judge, in his or her work, has complied with, or failed to comply with approaches suggested in the course of any program.

The Council believes that those who are carrying out judicial work are usually best placed to lead professional development programs, bearing in mind that almost always this involves a mix of technical and practical skills. The accumulated experience and skill of the judiciary are valuable national assets. The College should harness and enhance them in ways which are more appropriate to their true value. Thus most of the educational programs of the College will be led by experienced and respected judicial officers. However, the College will also draw on academic lawyers and members of other professions who have appropriate expertise and experience. In particular, the College hopes to build a fruitful relationship with the members of the Faculty of Law at the ANU.

As far as possible, the College will take its programs to the Australian judiciary, rather than bring them to Canberra to attend courses. There is a place for both approaches, but the emphasis should be on providing programs to the Australian judiciary in their home towns. The College's programs must be designed to be easily conducted at various places around the country and allow for different presenters to present the same program in different cities. To the extent that it is practical, we will develop "template programs" that can be readily repeated, with or without changes. Presenters should change regularly to maximize input from the whole judiciary and to avoid the institutionalization of the views of a small group.

One of the objectives of nationally organised professional development activities is that judicial officers from across jurisdictions and from different geographical regions will have the opportunity to exchange information and experiences. This would maximize the benefit derived by judicial officers and the community from professional development programmes. The College aims as much as possible to increase opportunities for the exchange of experience between jurisdictions.

NATIONAL JUDICIAL COLLEGE OF AUSTRALIA

STRATEGIC PLAN

Objectives of the College

- 1 The objectives of the College are to provide to the Australian judiciary:

Professional development programs that will help them to acquire and improve the skills, understanding and practical knowledge that will enable them to better perform their work.

Professional development programs that will foster public confidence in the judiciary.

How the College will achieve its Objectives

- 2 The College will ascertain the needs of judicial officers for professional development.

Strategies are set out in the Part A of the schedule.
- 3 The College will assemble the resources necessary to meet those needs, including professional development programs that can be delivered face to face and electronically by distance education; information and materials of assistance to program presenters and to judicial officers; a pool of persons capable of preparing or presenting good quality professional development programs; information technology and other aids for use in presenting professional development programs.

Strategies are set out in the Part B of the schedule.
- 4 The College programs will aim to help judicial officers improve how they perform their work.

Strategies are set out in Part C of the schedule.
- 5 The College will develop expertise in the preparation and delivery of programs. It will draw on the knowledge and expertise of judicial officers. It will aim to provide good quality programs.
- 6 The College will draw on the experiences and expertise of bodies in Australia and outside Australia that provide professional development for the judiciary.
- 7 The College will develop links with the academic community, and in particular with Australia's law schools. It will draw on the expertise of the academic community, and will encourage dialogue between the academic community and the judiciary.

Strategies are set out in Part D of the schedule.

- 8 The College will provide professional development programs on a national basis, while attempting to meet the needs of particular courts and jurisdictions. The programs will enable judicial officers from different courts and from different jurisdictions to share information and experiences on topics of common interest.
- 9 The College will aim to provide face-to-face programs in each State and Territory as far as practicable, and at the College's base in the Australian National University.

Strategies are set out in Part E of the schedule

- 10 The programs will include extended and short programs; will mainly be based on seminar or workshop approaches; will involve the provision of print and other material; and will draw on best practice in the use of online learning for distance education.

Strategies are set out in Part F of the schedule.

- 11 The College will aim to avoid duplication of effort and waste of resources. Through its Regional Convenors and secretariat the College will aim to maintain a good level of communication with other publicly funded bodies involved in professional development for the judiciary, working with them on a cooperative basis
- 12 The College will offer to assist such bodies by making available its programs for inclusion in their programs, or by giving them access to its resources.

Strategies are set out in Part G of the schedule.

- 13 The College will inform governments and the Australian public about the needs of the Australian judiciary for professional development, and about the importance of professional development. The College will inform governments and the Australian public about the objectives and content of its programs.

Strategies are set out in Part H of the schedule

The College's educational philosophy

- 14 The Australian judiciary has within its numbers a wealth of accumulated skill and experience. The College will draw on that skill and experience, and through its programs will ensure that judicial officers benefit from it. Most programs will be led by experienced and respected judicial officers.
- 15 The College will use presenters from outside the judiciary who have appropriate skills, experience and knowledge.
- 16 The College aims to present high quality programs. It will select presenters who are skilled as presenters. It will help judicial officers develop skills as presenters.
- 17 Programs will focus mainly on the practical skills involved in the work of a judicial officer, and on assisting judicial officers to discharge their duties efficiently, fairly, and in a manner that will enhance the administration of justice.

- 18 The College aims to provide programs that will encourage judicial officers to learn from the experience of other judicial officers, and to reflect on their own approach to their work.
- 19 The College aims to provide programs that will help judicial officers remain healthy and to maintain their commitment to the administration of justice.
- 20 The College's programs will include programs on social and cultural awareness, and on the particular needs of people who come before the court, such as children.
- 21 The College aims to present programs that will help judicial officers understand the consequences of diversity in our society, and how to administer justice in a manner that allows for that diversity.
- 22 The College's programs will adopt best practice for adult professional learning. Programs will emphasise self-learning in small to medium sized groups, using well planned, practical problems. Presenters will be encouraged and expected to involve all participants in the exchange of information and experience. The focus of programs will be on discussion rather than lecturing, on sharing knowledge rather than teaching.
- 23 The College's programs will be designed to encourage individual and continuing learning.
- 24 The College's programs will recognise that in most situations there is no uniquely right way to perform the work of a judicial officer. Programs will not usually provide standard or template techniques and practices.
- 25 The College will review the work of presenters and the contents of its programs, with a view to ensuring that they are of a high standard. The College will encourage comment from participants on the presentation and content of its programs.

Strategies are set out in Part I of the schedule.

- 26 Participation in College programs will be voluntary. The College aims to provide programs that are attractive to judicial officers because of their content, and because of the interesting and stimulating manner in which they are presented.
- 27 As far as practicable College programs will refresh and enthuse the participants, and will assist the development of informal links between judicial officers that will encourage the continuing exchange of experience.

Strategic Plan - Schedule of Strategies

Part A – Ascertain the professional development needs of judicial officers.

Strategies

- 1 Consult the judiciary by means of surveys.
- 2 Use links established by NJCA regional convenors with court education committees.

- 3 Invite participants in all programs to provide an evaluation of the program, and to indicate needs that are not being met.

Part B – Assemble sufficient resources to enable the NJCA to provide professional development to the Australian judiciary.

Strategies:

- 1 In conjunction with the Judicial Conference of Australia and the Australian Institute of Judicial Administration the NJCA will develop a benchmark statement identifying the amount of court time and personal time that each judicial officer should be permitted and encouraged to commit to professional development, and the amount of funding that should be provided to Australian courts to enable their judicial officers to participate in professional development programs.
- 2 Encourage courts and Australian governments to meet the benchmark standards that it develops.
- 3 Encourage governments to provide to the NJCA the funds that will enable it to meet the need of the Australian judiciary for professional development.
- 4 Encourage governments to provide to the courts the funds that will enable them to meet the need of the Australian judiciary for professional development by encouraging heads of jurisdiction to make budget proposals to governments for funding for judicial education.
- 5 Provide NJCA programs on the basis of a payment by participants or their courts to cover the NJCA's costs and provide a modest additional return to the NJCA

Part C – Improving how judicial officers perform their work

Strategies:

- 1 Encourage continuing learning, by ensuring that the content and mode of presentation of programs is aimed at improving perform their work.

Part D – Preparation of good quality professional development programs.

Strategies

- 1 Develop information and materials of assistance to presenters
- 2 Develop a pool of persons capable of preparing or presenting good quality professional development programs.
- 3 Adopt best practice for adult professional learning.
- 4 Develop programs having regard to the following objectives:
 - establishing committees to take responsibility for particular programs,
 - offering extended and short programs;
 - using seminar or workshop approaches;
 - providing useful print and other material;
 - providing programs in each State and Territory;
 - using the knowledge and expertise of judicial officers;
 - meeting the different needs of particular courts and jurisdictions;
 - enabling judicial officers from different courts and from different jurisdictions to exchange information and experiences on topics of common interest;
 - encouraging interesting and stimulating manner of presentation;

- drawing on the expertise of the academic community.
- 5 Develop electronic programs by drawing on best practice in the use of online learning for distance education.

Part E – Presentation of quality professional development programs.

Strategies:

- 1 Present the Phoenix, Travelling Judicial Education and National Judicial Orientation Programs each year.
- 2 Present electronic programs.
- 3 Assist courts by offering its programs as part of their programs, through links between regional convenors and heads of jurisdiction or court education committees.
- 4 Inform judicial officers about the availability and content of NJCA programs by maintaining an informative website, by newsletters and brochures for NJCA programs.
- 5 Present programs that enable judicial officers from different courts and from different jurisdictions to exchange information and experiences on topics of common interest.

Part F – Develop information and materials of assistance to judicial officers.

Strategies:

Identifying good quality published and unpublished material on judicial education topics;
 Where appropriate, commission the production of new material by judicial officers and others;
 Obtain permission from authors and copyright owners for the provision of copies of material to judicial officers;
 Provide relevant good quality material as reference or further reading material for programs;
 Develop a sophisticated website including an electronic library of resource material on judicial education topics for access by judicial officers.

Part G – Avoid duplication of effort and waste of resources in the field of judicial education.

Strategies:

- 1 Work closely with other bodies involved in professional development for the judiciary in Australia to avoid duplication of effort and waste of resources by:
 - the NJCA Director participating in regular meetings of administrators of judicial education bodies;
 - facilitating annual circulation of program agendas among judicial education bodies and courts;
 - publishing an Internet calendar of judicial education.
- 2 Work closely with courts to avoid duplication of effort and waste of resources by Regional Convenors establishing and maintaining links with judicial education committees;

- 3 publishing an Internet calendar of judicial education.

Part H – Foster public confidence in the judiciary.

Strategies:

- 1 Inform governments and the Australian public about the importance of professional development of the Australian judiciary.
- 2 Inform governments and the Australian public about the objectives and general content of NJCA programs.

Part I – Review programs, with a view to ensuring that presentation and content are of a high standard.

Strategies:

- 1 Council, regional convenors and program committees review the work of presenters and the contents of NJCA programs, with a view to ensuring that presentation and content are of a high standard.
- 2 Encourage comment from participants on the presentation and content of NJCA programs.