



NATIONAL  
JUDICIAL  
COLLEGE  
*of Australia*

Annual Report  
2006–07



**NATIONAL  
JUDICIAL  
COLLEGE**  
*of Australia*

30 June 2007

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 2006-2007.

This is the College's fifth annual report.

Yours sincerely

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



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## Foreword by the Chair of the NJCA Council

On 30 June 2007 my term of office as Chair of the NJCA Council will come to an end. Chief Justice Underwood AO of the Supreme Court of Tasmania will assume the office of Chair. I am grateful to him for accepting the appointment, and I am sure that he will provide excellent leadership.

I have enjoyed my time as Chair of the NJCA Council. It has been a pleasure to work with the various members of the Council over that time. The Australian judiciary is indebted to each of them, in particular to those who come from outside the judiciary. Each of them has made a substantial contribution to the work of the College.

Over the last five years the NJCA has achieved a good deal. It now offers a good range of programs that are well received by the Australian judiciary. These are outlined in the balance of the report. It is pleasing to see the Commonwealth and all States and Territories, except Victoria, are jurisdictions participating in the NJCA.

The College is continuing to review existing programs, and to develop new programs. It has established a Program Advisory Committee, which I have agreed to chair, for that purpose. That committee has been established to free the Council from some of this work.

Two other significant committees have been established recently. The first is an

Indigenous Justice Committee, chaired by Justice Robert French of the Federal Court of Australia. That committee will develop programs dealing with indigenous justice issues, and will advise the Council of the College in dealing with a grant made by the Commonwealth Government for such programs.

The College has also established a Gender Justice Committee, chaired by Justice Marcia Neave of the Court of Appeal of the Supreme Court of Victoria. This committee will review existing programs, and provide advice on whether and how the programs can deal more effectively with issues relating to gender. It will also consider possible new programs.

My time as chair of the NJCA has brought home to me the importance of professional development for members of Australia's judiciary. We all need to work at maintaining our knowledge of the law and our practical skills. Many of us, from time to time, need to be refreshed and revived. Most of us can benefit from programs that help us to be aware of, and to adjust to, changes in society that affect the way in which we discharge the judicial role, just as much as we need to be kept up to date with legislative change.

A steady trend towards specialisation in legal practice means that not all judicial officers, on appointment, have practical experience of all aspects of the work that they will carry out as judicial officers. We also need to provide programs to help judicial officers deal with work of a kind with which they are not familiar.



The health of judicial officers is also a matter that warrants consideration. The hours are long and the work is often stressful. Programs which help and encourage judicial officers to maintain fitness and to care for their own health are in the interests of the individual, and in the interests of the society that they serve.

The NJCA has achieved a good deal, and will continue to make a substantial contribution to Australia's judiciary, through the provision of professional development programs. The same can be said of the work of the Judicial Commission of New South Wales, the Judicial College of Victoria, the Australasian Institute of Judicial Administration and the various court committees that provide programs for their courts. But the time has come for Australia's Governments to recognise the importance of, and need for, good quality professional development programs. They can do so by ensuring that funding is available for the provision of such programs. From the point of view of the Australian community such programs are a sound investment, because they will help Australia's judiciary maintain a high standard in the administration of justice.

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

30 June 2007



## College Professional Development Programs 2006/2007

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

As explained in attachment D to this report, the College has adopted best practice for adult professional learning. The College mainly uses 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.

The College has also presented suitable topics to larger groups in the traditional conference style. It has also organised some large conferences. However, the main emphasis is on small groups of judicial officers.

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 participants in its programs. The responses continue to indicate that participants have been very satisfied with the programs. The College develops new programs on the basis of proposals made by judicial officers when evaluating programs they attend, by program planning committees, by government agencies and by the NJCA Consultative Committee. The College Council has established a Programs Advisory Committee to advise on and develop new programs and to review existing programs.

### Travelling Judicial Professional Development Program

A Travelling Judicial Professional Development Program was presented in Darwin in August 2006. As in previous presentations (in Adelaide in 2003, Hobart in 2004 and Brisbane in 2005) the program was presented over two days. It comprised four modules, each half a day in length, on court craft (communication in the court room), the Commonwealth Criminal Code, The Uniform Evidence Acts and on identifying indications of deception by a witness. Feedback from the 28 judicial participants indicated the program was well received.



## Phoenix Magistrates Program

The Phoenix Magistrates Program was presented in August 2006 in Broadbeach, Queensland. This was the fourth year the program has been presented. Twenty seven participants attended from all Australian jurisdictions (except New South Wales) and the Solomon Islands. 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, Children as witnesses, Court craft, Sentencing, Cultural awareness and diversity, physical and mental health. The program was enthusiastically received by the participants.

## National Judicial Orientation Program

Because of the number of appointments of judges, two National Judicial Orientation Programs were presented in 2006/2007. The first in Sydney in October 2006 was attended by 21 judges from state courts, federal courts, the High Court of the Solomon Islands and from the National Court of Papua New Guinea. The second program in

Melbourne in May 2007 was attended by 19 judges from state courts, from federal courts and from the National Court of Papua New Guinea.

The Program is a joint offering by the College, the Judicial Commission of New South Wales and the Australasian Institute of Judicial Administration. The program covers topics including judicial conduct and ethics, assessing the credibility of witnesses, psychological and physical health, judgment writing, court craft, interpreters, contempt, litigants in person, sentencing and expert evidence. 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 two programs were successful in meeting these objectives.

## Judgment Writing Program

The College presented a three day Judgment Writing Program in Adelaide in September 2006. Participants bring a recently prepared and published judgment for discussion and review during the program. The aim of the Program is for participants to improve their judgment writing. They do this by rewriting and then discussing their judgment in small groups with the assistance of comments from professional writers, senior judges and other participants. The program was attended by 12 judicial officers from federal and state courts. Feedback from participants indicates the program was very successful.



## National conference on science, experts and the courts

In November 2006 the College presented a one day conference on 'Science, Experts and the Courts' in Sydney. The seventy five participants were a mix of judicial officers, legal practitioners, government officers, health professionals and academics.

The Conference dealt with issues that are often raised in legal proceedings in Australia:

- ADHD, Asperger's Syndrome and Autistic Spectrum Disorders
- Courts assessing evidence by children
- The links between psychostimulants and crime
- Health professionals giving expert evidence

Participants comments indicated that the Conference was effective in providing sessions of practical benefit to the judiciary and others working in the legal system.

## National conference on confidence in the courts

The College and the Australian National University organised a national conference on 'Confidence in the Courts' in Canberra from 9 to 11 February 2007. The objective was to provide a forum for discussion involving the judiciary, legal practitioners, government agencies, academics and persons with relevant expertise on the

topic of the importance of community confidence in our courts, and what effects that confidence. Topics included whether the public has confidence in the courts, the role of the media, judicial appointments, judicial behaviour, and how the courts treat litigants, expert witnesses and victims of crime. 144 people participated in the Conference and the 27 speakers included the Chief Justice of the High Court the Hon A M Gleeson AC, the Chief Justice of Victoria the Hon M Warren AC, and the Commonwealth Attorney-General the Hon Philip Ruddock MP.



Chief Justice Murray Gleeson AC speaks at the Confidence in the Courts Conference in February 2007





## Judicial Leadership Program

A Judicial Leadership Program organised by the College in Hobart in April 2007 was attended by Chief Justices, Chief Judges and Chief Magistrates from Australia, New Zealand and Papua New Guinea.

The aims of the program were:

- (1) to identify the qualities of a good judicial leader.
- (2) to discuss how to improve leadership abilities.
- (3) to exchange information on how best to discharge the leadership role and to enable participants to benefit from the experience of others.
- (4) to encourage participants to reflect on their role and how they might improve their performance.

The topics covered during the Program included identifying and applying leadership qualities, the importance of good communication within a court, dealing with the media and wining resources for the Court. The program involved group discussion rather than formal presentations and was structured to emphasise the sharing of views and experience by participants. Based on the participants' evaluation comments, the program was successful in meeting these aims. The participants agreed that a further program should be held in 3 years time.

## Aboriginal Cultural Consciousness Workshop

The College assisted in the organisation of a Workshop in May 2007 for the Magistrates Court of Western Australia on Aboriginal Cultural Consciousness. The topics addressed in the Workshop were:

- Aboriginal diversity, culture and history;
- Aboriginal language;
- Customary law in the family violence context;
- Aboriginal Court Liaison Officers.

Nineteen magistrates participated in the program. Participants evaluated the program as good to excellent.

## Facilitation of court conference sessions

During 2006/2007 the College helped organise professional development sessions for court conferences. The NJCA arranged the inclusion of a session in the WA Magistrates annual conference in November 2006 on identification of psychological indications of witness deception. In conjunction with the organising committee of the South Australian Judicial Education Conference, it organised a half day module on querulous litigants in May 2007.



## Technology based distance education programs

In 2006/2007 the College continued work 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. The College is still learning how to make best use of this means of providing professional development programs.

During the year the Australian National University College of Law acted as a consultant to the College in the development and delivery of a pilot distance education program for the judiciary on judicial conduct and ethics.

Using a grant by the Commonwealth Attorney-General, the College is developing a number of distance based judicial professional development programs on Commonwealth law topics. The topics for the programs are likely to include family law, evidence laws, gender and cultural awareness, sentencing of Commonwealth offenders, the Commonwealth criminal code and disability discrimination.

## Social awareness programs

Litigants can find it difficult to deal with courts for reasons attributable to their cultural background. Judicial officers need to be aware of this, need to have the ability to recognise when this is the case and need to have the ability to help such litigants to the extent that they properly can.

The College includes half day modules in its Phoenix Magistrates Program on cultural awareness and diversity. In these sessions participants discuss questions of cultural and racial difference which may arise in the course of court proceeding, how to recognise them, and how to deal with them.

The College has also established Committees to advise it on judicial professional development programs dealing with gender justice issues and indigenous justice issues.

The Commonwealth Attorney-General has made a grant to the College to enable it to develop indigenous cultural awareness programs. The grant of \$500,000 over four years will assist the College, working with court education committees and other judicial education bodies, to develop programs to assist judges and magistrates to better understand indigenous cultural practices and to apply the law appropriately in indigenous communities.



## Plans for professional development programs 2007/2008

The College is well advanced in its planning for professional development programs in 2007/2008.

The Phoenix Magistrates Program will be held again in August 2007 at Broadbeach Queensland. This will be the fifth year the program has been presented. Participants will come from most States and Territories. The program aims to have experienced judicial officers transfer the benefit of their experience to recently appointed judicial officers. The program is based on discussion led by members of the group. The program covers a range of topics including Judicial Conduct and Ethics, Decision making and giving judgement, Children as witnesses, Court craft, Sentencing, Cultural awareness and diversity, mental and physical health.

The College is organising a three day Judgment Writing Program for the Federal Magistrates Court in August 2007. Around fifty federal magistrates are expected to attend.

Another three day Judgment Writing Program will be offered by the College in Adelaide in September 2007. Judges and magistrates from federal, state and territory courts are expected to attend.

The National Judicial Orientation Program will be offered in Sydney in October 2007.

The College is presenting a one day conference in Sydney in November 2007 on 'Communication in the court room'. The Conference will be of interest to the judiciary, legal practitioners, professionals involved in court proceedings and academics. Sessions will be delivered on the skills judges use to communicate in court, communication in court with emotionally disturbed persons, communication with juries and explaining a court's sentence in terms understood by the offender, the victim, the media and the public.

Building on the success of the Sentencing Conference in February 2006, the College is working with the ANU College of Law to organise a national conference on sentencing in Canberra in February 2008. The conference will explore sentence indication and discounts, suspended sentences, Crown appeals against sentence and double jeopardy, national consistency in sentencing, sentencing in magistrate' courts, and sentencing of offenders such as children and the mentally ill.

The Phoenix Judges Program will be offered again in 2008. The objective of the program is 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.

In April 2008 the College hopes to offer a program for judges and magistrates working in isolated and remote localities.



The program will give these judicial officers an opportunity for discussion and exchange of experience on strategies to deal with issues that arise from day to day because of their isolation. The topics to be considered include the impact of isolation on the judicial officer and his or her family, judicial conduct and ethical issues and loss of interaction with other judicial officers.

Through its Committee on Indigenous Justice, the College will work with court education committees and other judicial education bodies to develop programs to assist judges and magistrates to better understand indigenous cultural practices and to appropriately apply the law in indigenous communities.

During 2007/2008 the College will again offer to provide professional development modules for court conferences. The College will provide a module on querulous litigants for the annual conference of the Magistrates Court of Western Australia in November 2007. In July and October 2007 the South Australian Magistrates Court will be conducting judicial professional development sessions, based on sessions from College programs and conferences, on court craft and hindsight bias in the preparation of expert reports.

## College Projects 2006/2007

The College has undertaken a number of projects relevant to judicial professional development.

### National Standards for Judicial Professional Development

In consultation with judicial officers and other judicial education bodies in Australia, the College has prepared a statement of the amount of time that judicial officers should commit to their professional development and that should be made available by courts to them for professional development. This will indicate the funding that should be provided on an annual basis for professional development for judicial officers.

The statement is intended 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 obligation to commit time to professional development.

In 2006/2007 the standard was endorsed by Chief Justices, Chief Judges, Chief Magistrates and judicial education bodies. The standard was noted by the Standing Committee of Attorneys-General in



November 2007. A copy of the standard is available on the College's website [www.njca.com.au](http://www.njca.com.au)

## Judicial Professional Development Curriculum

In 2006/2007 the College finalised a curriculum for professional development for judicial officers. It was assisted in this work by a grant from the Commonwealth Attorney-General.

The curriculum is a framework to support the development of a comprehensive and integrated range of programs of professional development, provided from different sources. It covers the full range of offerings that should be provided to judicial officers in Australian courts. Following consultation with judicial officers, heads of jurisdiction and other judicial education bodies, the curriculum was finalised in late 2006. A copy of the curriculum is available on the College's website [www.njca.com.au](http://www.njca.com.au).

## Commonwealth Sentencing Database

The College received a grant from the Commonwealth Government to develop an electronic database with information about sentencing for Commonwealth offences.

During 2006/2007 the statistics component of the database was completed. It will 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. That component has been developed in conjunction with the Judicial Commission of New South Wales and the Office of the Commonwealth Director of Public Prosecutions.

The Australian National University College of Law is developing a second component which will contain concise commentary on sentencing principles for Commonwealth criminal offences. The College hopes the database will be launched in early 2008.

## NJCA website

The College website [www.njca.com.au](http://www.njca.com.au) provides details about the College, its publications and contact details for inquiries. It also provides a calendar, based on information provided by Courts and other bodies around Australia, giving the dates and other information about all judicial professional development events around Australia.

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 professional development topics and train the trainer materials for presenters in College programs.



## Querulous Litigants project

Courts are finding that a small number of persistent litigants are occupying large amounts of the time of their staff and of judicial officers. Some of these are querulous and vexatious – people who exhibit habitual unreasonable, vexatious or querulent behaviours. Dr Grant Lester of the Victorian Institute of Forensic Mental Health is conducting research on factors which may be contributing to the disorder such as underlying personality, mental state issues and environmental factors. The College is assisting Dr Lester to conduct focus group meetings with judicial officers around Australia with a view to helping the judiciary to deal fairly and appropriately with such litigants.



## College Administration 2006/2007

### NJCA Council

The College's 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. 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 four occasions during the year.

### Regional Convenors

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.



*NJCA Council members May 2007.*

*Back: Chief Magistrate Ron Cahill, Chief Magistrate Steven Heath, Justice Terry Connolly, Mr Robert Cornall, Senior Judge Tony Skoien,*

*Front: Justice Linda Dessau, Chief Justice John Doyle, Judge Margaret Sidis*



## 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 fifth meeting of the NJCA Consultative Committee (including Council members, Council alternates and regional convenors) was held in the Canberra on in February 2007.

The matters discussed were:

1. the NJCA's role in educating the judiciary on indigenous cultural awareness issues;
2. the role of the National Centre for State Courts (USA) and its work in distance judicial education;
3. the NJCA's draft business plan for 2007;
4. the Committee's views on proposals for a Programs Advisory Committee, for a possible role for the NJCA in overseas judicial education and for a system for the identification of future presenters;
5. the implementation of the Committee's previous recommendations for the development of a national standard

on judicial professional development and a national curriculum;

6. the Committee members' approval of an amendment to the NJCA Constitution.

## The College and the Australian National University

The College is hosted by the Australian National University College of Law. The Dean of the ANU College of Law, Professor Michael Coper, is a member of the NJCA Consultative Committee. In February 2007 the NJCA joined the ANU College of Law in organising a successful national conference on Confidence in the Courts. Both organisations will build on this success by offering a national conference on Sentencing in Canberra in February 2008.



*At the Confidence in the Courts Conference in February 2007 the keynote speaker Chief Justice Murray Gleeson AC (centre) was welcomed by Chief Justice John Doyle AC (left) on behalf of the NJCA and by Professor Michael Coper (right) Dean of the ANU College of Law.*





## NJCA funding

The College's operating costs are met by annual contributions totalling \$415,736 in 2006/2007 from the Commonwealth Government and the Governments of New South Wales, Queensland, Western Australia, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory. In addition the Commonwealth made a further grant of \$65000 to the College to assist with its operating expenses. During the course of the year the Attorney-General for Western Australia agreed to that State becoming a jurisdiction participating in the College.

Because government 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 the number of presenters involved. In 2006/2007 the College received \$328,488 in fees and spent \$335,939 in meeting the costs of programs (including venue and equipment hire, presenter travel and catering).

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.

## College Secretariat

The College has a small secretariat comprising three permanent 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 other College Committees), maintains the College's financial and other systems and deals with correspondence and liaison with courts, government agencies and members of the public.

## Communication with the College

Inquiries can be directed to:

The Director  
National Judicial College of Australia  
PO Box 8102 ANU A.C.T. 2601

Telephone: (02) 6125 6655

Facsimile: (02) 6125 6651

Email: [ea@njca.anu.edu.au](mailto:ea@njca.anu.edu.au)

Website: [www.njca.anu.edu.au](http://www.njca.anu.edu.au)





## Attachments

### *A NJCA Council members, Council alternates, Regional Convenors, Consultative committee members and Secretariat members as at 30 June 2007*

## The Council

The Council members as at 30 June 2007 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 Linda Dessau Family 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 Steven Heath Magistrates Court of the Western Australia	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
Vacant	Nominee of the Attorneys General of the participating States and Territories



## Council Alternates

The alternate members of the Council as 30 June 2007 were:

Justice Terry Connolly Supreme Court of the ACT	Nominee of the Chief Justices of the State or Territory Supreme Courts
Justice Susan Kenny Federal Court of Australia	Nominee of the Chief Justices of the Federal and Family Court
Judge Margaret Sidis District Court of New South Wales	Nominee of the Chief Judges of the District or County Courts
Chief Magistrate Ronald Cahill OAM 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
Vacant	Nominee of the Attorneys General of the participating States and Territories

## Regional Convenors

The following are NJCA regional convenors as at 30 June 2007:

Australian Capital Territory	Justice Terry Connolly Supreme Court of the ACT
New South Wales	Magistrate George Zdenkowski Local Court New South Wales
Northern Territory	Justice Trevor Riley 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	Chief Justice Peter Underwood AO Supreme Court Tasmania
Victoria	Deputy Chief Magistrate Jelena Popovic Magistrates Court of Victoria
Western Australia	Judge Julie Wager District Court of Western Australia

## The Consultative Committee

As at 30 June 2007 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 Ross Ray QC	Nominee of the Law Council of Australia
Justice David Lloyd Land and Environment Court NSW	Nominee of the Judicial Conference of Australia
Professor Murray Raff, University of Canberra	Nominee of the Council of Law Deans
Professor Michael Coper Australian National University	Nominee of the NJCA's host institution
Ms Karen Curtis Commonwealth Privacy Commissioner	Nominees of the Attorneys General of the Commonwealth and participating States and Territories
Mr Phillip French Disability Studies and Research Institute	



## The College Secretariat

The administrative staff of the College as at 30 June 2007 are:

Mr John Mc Guinness	Director
Ms Wendy Forster	Conference Co-ordinator
Ms Jane Avent	Executive Assistant
Ms Kath Preston	Casual Administrative Assistant
Mr Nathan Hall	Casual Administrative Assistant
Ms Wendy Kukulies Smith	Research Assistant

## B *Members of Program Planning Committees*

The members of planning committees for College Programs during 2006/2007 were

### Phoenix Magistrates Program Planning Committee

Chief Magistrate Steven Heath (chair)	Magistrates Court Western Australia
Chief Magistrate Marshall Irwin	Magistrates Court Queensland
Chief Magistrate Elizabeth Bolton	Magistrates Court of South Australia
Mr John Mc Guinness	National Judicial College of Australia

### Phoenix Judges Program Planning Committee

Justice Terry Connolly	Supreme Court ACT
Justice Philip Cummins	Supreme Court Victoria
Chief Justice John Doyle AC	Supreme Court South Australia
Justice Murray Kellam AO (chair)	Supreme Court Victoria
Deputy Chief Justice John Faulks	Family Court of Australia
Judge Wendy Wilmoth	County Court Victoria
Mr John Mc Guinness	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
Justice David Lloyd (chair)	Land & Environment Court of NSW
Justice Chris Maxwell	Court of Appeal Victoria
Judge Geoff Muecke	District Court of South Australia
Justice Paul Stein AM	Supreme Court of NSW
Judge Thomas Wodak	County Court of Victoria
Professor Greg Reinhardt	AIJA
Mr Ernest Schmatt PSM	Judicial Commission of NSW
Ms Ruth Windeler	Judicial Commission of NSW
Mr John McGinness	National Judicial College of Australia

## Science Experts & the Courts Conference

Judge Margaret Sidis	District Court New South Wales
Senior Judge Tony Skoien (chair)	District Court of Queensland
Magistrate George Zdenkowski	Local Court New South Wales
Mr John Mc Ginness	National Judicial College of Australia

## Travelling Judicial Professional Development Program

Magistrate David Bamber	Magistrates Court of the Northern Territory
Magistrate Jenny Blokland	Magistrates Court of the Northern Territory
Justice Linda Dessau (chair)	Family Court of Australia
Justice Trevor Riley	Supreme Court of the Northern Territory
Mr John McGinness	National Judicial College of Australia



## Confidence in the Courts Conference

Professor Simon Bronitt	ANU College of Law
Ms Christine Debono	ANU College of Law
Ms Miriam Gani	ANU College of Law
Dr Mark Nolan	Director of Public Prosecutions ACT
Mr Richard.Refsauge	ANU College of Law
Mr Hugh Selby	ANU College of Law
Mr Gregor Urbas	National Judicial College of Australia
Mr John Mc Guinness	

## Judicial Leadership Program

Chief Justice John Doyle AC (chair)	Supreme Court South Australia
Chief Judge Tony Randerson	High Court NZ
Chief Justice Peter Underwood AO	Supreme Court Tasmania
Mr John Mc Guinness	National Judicial College of Australia

## Judgment Writing Program

Judge Brian Gilchrist	Industrial Court SA
Justice Brian Tamberlin	Federal Court of Australia
Justice Bernard Warnick	Family Court of Australia
Mr John Mc Guinness	National Judicial College of Australia

## Communication in the Court Room Conference

Magistrate Hugh Dillon	Local Court NSW
Judge John Nicholson	District Court NSW
Judge Margaret Sidis	District Court NSW
Magistrate George Zdenkowski (chair)	Local Court NSW
Mr John Mc Guinness	National Judicial College of Australia





## Program for Judicial Officers in Remote Locations

Magistrate Elaine Campione

Magistrate Paul Cloran

Magistrate Ray Rinaudo

Mr John McGinness

Magistrates Court Western Australia

Local Court New South Wales

Magistrates Court Queensland

National Judicial College of Australia

## *C Members of Policy Committees*

The members of policy committees for the College during 2006/2007 were:

### Indigenous Justice Committee

Magistrate Kate Auty

Judge Sarah Bradley

Justice Geoff Eames

Justice Robert French (chair)

Judge Mary-Ann Yeats

Judge Stephen Norrish

District Court NSW

Ms Anne Wallace

Mr John Mc Ginness

Magistrates' Court WA

District Court QLD

Supreme Court VIC

Federal Court of Australia

District Court WA

District Court NSW

University of Canberra

National Judicial College of Australia

### Gender Justice Committee

Justice John Basten

Justice Linda Dessau

Magistrate Martin Flynn

Magistrate Ron Kilner

Justice Robyn Layton

Professor Kathy Mack

Justice Marcia Neave AO (chair)

Dr Mark Nolan

Mr John Mc Ginness

Court of Appeal NSW

Family Court of Australia

Magistrates Court WA

Magistrates Court Qld

Supreme Court SA

Flinders University SA

Court of Appeal Victoria

Australian National University

National Judicial College of Australia



## Programs Advisory Committee

Justice Terry Connolly

Magistrate Hugh Dillon

Chief Justice John Doyle AC (chair)

Justice John Dowsett

Justice Murray Kellam AO

Judge Tom Wodak

Mr John McGinness

Supreme Court ACT

Local Court NSW

Supreme Court SA

Federal Court of Australia

Court of Appeal VIC

County Court VIC

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. Programs 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 ANU College of Law.

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.