

Victorian Law
Reform Commission
Annual Report 2001–02

Inclusive

Innovative

Independent



Victorian
Law Reform
Commission

Victorians have their

say on law reform

The Honourable Rob Hulls MP
Attorney-General
55 St Andrews Place
Melbourne Victoria 3002

Dear Attorney-General,

I am pleased to present to you the Annual Report of the Victorian Law Reform Commission for the year ended 30 June 2002.

There are a number of highlights for the year, including:

- completion of two major references with publication of the Reports: *Disputes Between Co-owners* and *Criminal Liability for Workplace Death and Serious Injury in the Public Sector*;
- completion of the community law reform project and Report: *Failure to Appear in Court in Response to Bail*;
- publication of *Sexual Offences—Law and Procedure: Discussion Paper*; *Defences to Homicide: Issues Paper* and *People with Intellectual Disabilities at Risk—A Legal Framework for Compulsory Care: Discussion Paper*;
- wide-ranging consultation on our Sexual Offences and Compulsory Care references, including a program of visits to regional cities;
- development of a number of strategic partnerships with community and philanthropic organisations.

Yours sincerely,



Professor Marcia Neave
Chairperson

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Victorian
Law Reform
Commission

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Chairperson's Foreword



This is the first full year of the Victorian Law Reform Commission's operations. The Commission has been strengthened by the appointment of four part-time Commissioners: The Honourable Justice David Harper, Her Honour Judge Jennifer Coate, Professor Felicity Hampel SC and Professor Sam Ricketson. Their appointments bring an abundance of experience and legal expertise to the Commission, and I am delighted to welcome them.

During the reporting year, the Commission received four new references from the Attorney-General. Our new projects cover a varied range of legal issues, including defences to homicide, privacy, the compulsory care of people with intellectual disabilities who are at risk of harming themselves or others, and criminal liability for workplace death and serious injury in the public sector.

This has been a busy and productive year for the Commission. We have completed two major references, producing the Reports: *Disputes Between Co-owners and Criminal Liability for Workplace Death and Serious Injury in the Public Sector*. The terms of reference for the latter project required the Commission to report to the Attorney-General in just over two months from the commencement of the project. Despite the technical complexity of the legal issues which we were required to examine, the Commission met this deadline. During this period the Commission has also published issues papers and discussion papers in relation to our references on Sexual Offences, Defences to Homicide, and Compulsory Care of People with Intellectual Disabilities.

As well as reporting on matters referred by the Attorney-General, the Commission is able to initiate small-scale law reform projects which may be suggested by community organisations, individuals or the legal profession. We have investigated a number of suggestions and have completed a project on Failure to Appear in Court in Response to Bail, which has been presented to the Attorney-General to be tabled in Parliament. This project was suggested to us by the Victorian Aboriginal Legal Service.

The Commission is committed to an inclusive law reform process which engages the community in identifying problems in the operation of the law and in debating proposals for change. We aim to enhance the democratic process by fostering public understanding of the law reform process, and involving groups which have traditionally had limited opportunities to participate in public debate on matters which affect them. Over the past year, Commissioners and staff have participated in a wide range of networking and outreach activities with community groups in both metropolitan and regional areas. Consultations on our Sexual Offences reference have enabled us to identify

a number of practical problems in the application of the criminal law.

We are developing relationships with Indigenous communities and non-English speaking background communities. The Commission is also establishing co-operative partnerships with groups such as the Lance Reichstein Foundation, which provided funds to the Islamic Women's Welfare Council, Elisabeth Hoffman House and the Disability Discrimination Legal Service to undertake research with their clients and provide input into the Sexual Offences reference. I am most grateful for the support provided by the Foundation, and hope that it will be possible to forge similar co-operative partnerships with other bodies in the future.

The Commission has worked hard to build co-operative relationships with other law reform bodies. At the federal level, I am a member of the Advisory Committee to the joint Australian Law Reform Commission/National Health and Medical Research Council's Inquiry into the Protection of Human Genetic Information. I was also invited to chair a workshop organised by the Australian Health Ministers' Advisory Committee to discuss medical indemnity reform and participated in the national forum to discuss medical indemnity issues. The Commission is involved in the Queensland Law Reform Commission's project on National Succession Laws. At the state level, the Commission has discussed law reform matters with the Parliamentary Law Reform Committee, as well as with other bodies which have an interest in law reform such as the Federation of Community Legal Centres and the VicHealth Centre for Tobacco Control.

As well as fostering community participation in debate about specific law reform issues, the Commission has a responsibility to facilitate understanding and encourage debate about the nature of our legal system and governmental institutions. As part of this process, the Commission contributed to a colloquium organised by the Monash Privatisation and Public Accountability Centre on the topic of *Keeping Governments Accountable: The Role of Independent Agencies*. The colloquium involved a frank exchange of views between participants from the political arena, the public sector and academia. Discussion at the colloquium revealed a range of views about the value and meaning of 'independence' and how this should be expressed in legislation and administrative practices.

The Parliamentary Public Accounts and Estimates Committee has been considering governance structures in the public sector. In the Victorian Law Reform Commission's submission to that Committee, I commented that it would be helpful to consider how the idea of independence is reflected in the legislation establishing independent public sector bodies such as the Victorian Law Reform Commission and in the administrative arrangements governing the relationship between such bodies and their portfolio agencies.

The Commission's success in meeting our objectives is largely due to the outstanding contributions made by the research and administrative staff. This report gives me the opportunity to express my gratitude to the other Commissioners, to all members of staff and particularly to the Chief Executive Officer, Padma Raman. I am also grateful for the work of reference advisory committees and consultants.

Professor Marcia Neave AO
Chairperson

In October 2001, the Attorney-General announced the appointment of four part-time Commissioners to the Victorian Law Reform Commission: The Honourable Justice David Harper, Supreme Court of Victoria; Her Honour Judge Jennifer Coate, President of the Children's Court; Professor Felicity Hampel SC, Barrister; and Professor Sam Ricketson, University of Melbourne.

Introducing the Part-time Commissioners

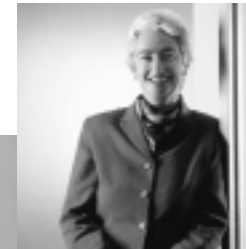
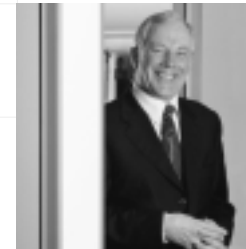
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The Honourable Justice David Harper *Supreme Court of Victoria*

Justice Harper was appointed to the Supreme Court in March 1992, after a career at the Bar which began in 1970. He was appointed a QC in Victoria in 1986. He is currently Chair of the International Humanitarian Law Advisory Committee of the Red Cross (Victorian branch) and has been a Member of the Council of Legal Education since 1992. Justice Harper has a long and active involvement with the Victorian Bar Council, including as Chairman between 1990-1. He was President of the International Commission of Jurists (Australian section, Victorian branch) from 1992-9. Since 1994, Justice Harper has been President of the Victorian Association for the Care and Resettlement of Offenders (VACRO) and since 1999, Chair of the trustees of the Northcote Trust. Justice Harper was a part-time Commissioner of the previous Law Reform Commission of Victoria in 1991-2.

Her Honour Judge Jennifer Coate *President of the Children's Court*

Judge Coate was appointed a Judge of the County Court and President of the Children's Court in June 2000. She was appointed as a Magistrate in 1992 and was promoted to the position of Deputy Chief Magistrate in 1996. Prior to that she worked as a barrister, solicitor and teacher and was actively involved in a range of groups and committees concerning social and legal policy. Judge Coate is currently the Chairperson of the Health Services for Abused Children Committee and is a member of the University of Melbourne's Criminal Justice and Forensic Psychology Advisory Board, the Family Violence Protocols Committee, and the Board and Council of the Australian Institute of Judicial Administration.



Professor Felicity Hampel SC *Barrister*

Professor Hampel joined the Victorian Bar in 1981 and has made a career in public interest advocacy and professional legal education. She was appointed a Queens Counsel in 1996, converted to Senior Counsel in 2001. Professor Hampel was a founding member and former Convenor of the Women Barristers Association and a foundation Board member of Australian Women Lawyers. She is immediate past President of Liberty Victoria, the Victorian Council for Civil Liberties. She is currently a member of the Board and Management Committee of the Australian Advocacy Institute and Adjunct Professor in the Faculty of Law, Monash University. Professor Hampel is a member of the Advisory Board of the Castan Centre for Human Rights.

Professor Sam Ricketson *University of Melbourne*

Professor Ricketson is a member of the Law Faculty of the University of Melbourne and also practises part-time at the Victorian Bar, principally in the area of intellectual property. He has written, taught and advised widely in the areas of intellectual property law, conflicts of law and corporate law and has held academic positions at the University of Melbourne (1977-91), Queen Mary College, London (1984-6), and Monash University, where he held the Sir Keith Aickin Chair of Commercial Law (1991-2000). He is currently a panel member of the World Intellectual Property Organisation's dispute resolution body in relation to domain names.

Part-time Commissioners, from left:
The Honourable Justice David Harper
Her Honour Judge Jennifer Coate
Professor Felicity Hampel SC
Professor Sam Ricketson

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Chief Executive Officer's Report



The Commission's first full year of operations has been a year of achievements. It has been an exciting, challenging and extremely productive period for Commissioners and staff. In 2001–2, the Commission completed or made significant progress towards the completion of a number of projects, in addition to establishing a range of important internal processes and procedures.

Some of the highlights:

- development and establishment of financial, administrative and human resource policies and systems;
- development and utilisation of planning processes for strategic directions, references and publications; and
- development of strategic partnerships with community organisations and other government agencies to facilitate greater community engagement in law reform.

Administrative and financial systems

The Commission values its staff highly. During the year, we developed workplace policies in co-operation with staff on flexible working arrangements, adapting the Department of Justice policies to suit the needs of staff in our organisation. The Commission also developed a *Policies and Procedures Manual* which provides a convenient guide to a range of workplace issues.

As the Commission recruited new staff in the financial year, an induction program was also developed and utilised. The Commission participated in the Youth Trainee Scheme and sought and recruited an Indigenous youth trainee, Naida Jackomos. The Commission was very impressed with Naida's progress and offered her full-time employment at the end of her traineeship.

The Commission sees itself as a learning organisation and has spent the year reviewing and improving its administrative processes and financial systems. Soon after the Commission was established, we designed and implemented a Lotus Notes-based document management system which is integrated with our contacts database. The Commission has also developed a template for the production of all our publications. We have continually refined our web site with increasing amounts of information on our projects and access to all Commission publications.

Planning

In April 2002, all Commissioners and staff were involved in a planning day to revisit our strategic plan, determine our strategic directions for the next three years and devise our annual action plan. The planning day sessions were facilitated by Commissioners and staff and provided an opportunity for the organisation to collectively reflect and critically evaluate our performance. It was an important day for the Commission as we agreed in clear strategic directions for the next three years and to performance measures for the next financial year. We also discussed criteria for our community law reform program, the role and composition of advisory committees for projects and ways to enhance the relationship between staff and Commissioners.

Law reform projects rarely fit neatly into financial year periods. Given that the Commission has no control over when we receive our references and that some projects are long-term in nature, developing planning processes has been essential. The Commission now uses a project management approach to plan our references and allocate resources.

Community engagement

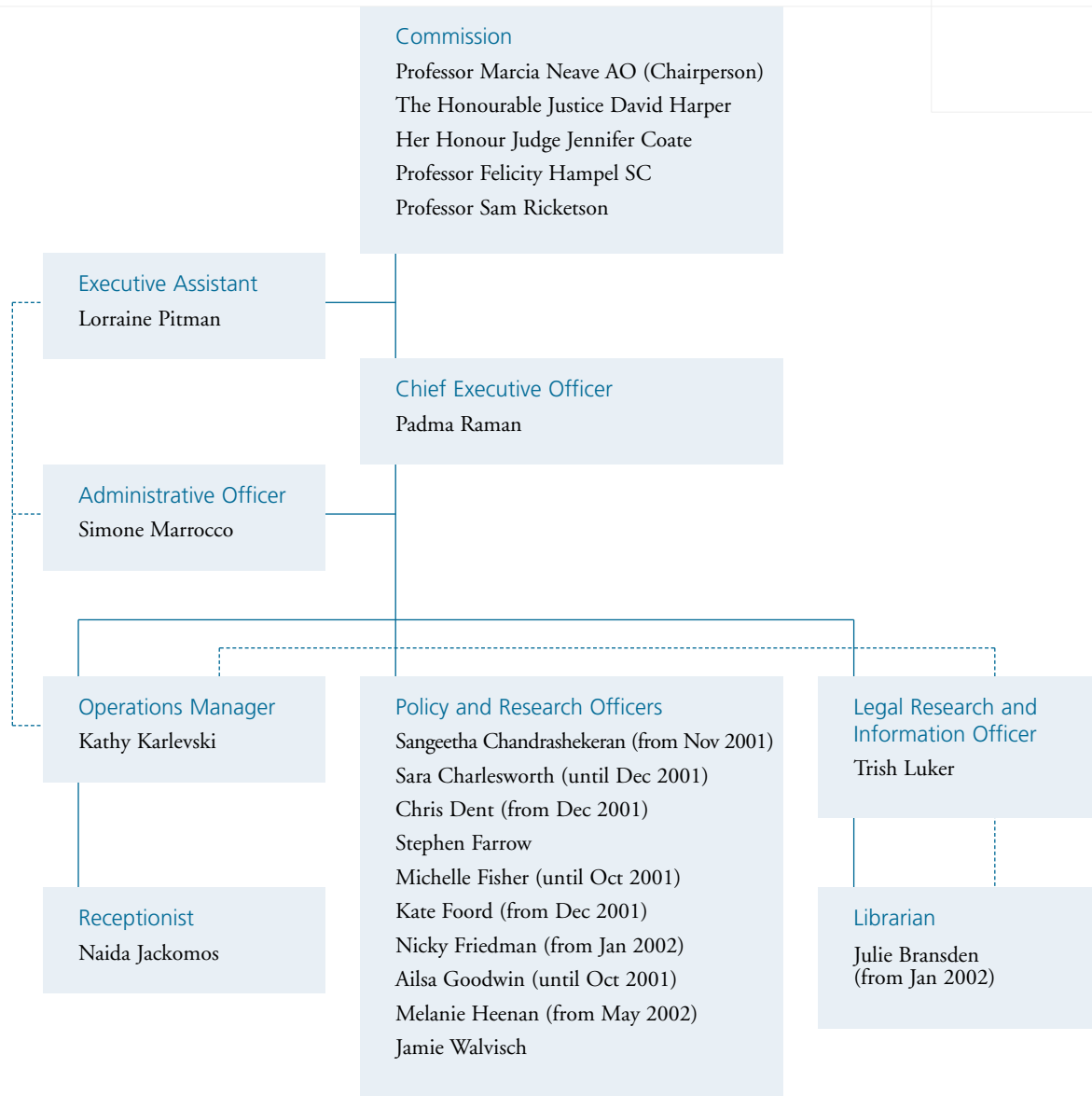
The Commission is committed to a law reform process that is inclusive. In our first full year of operation, we have worked hard to develop relationships with community groups and to publicise the functions of the Commission. As this report will outline, the Commission has travelled extensively throughout Victoria to seek community input into the law reform process. In relation to specific references, we have also tried to provide basic information on the current law and to build capacity in communities to respond to specific law reform proposals. We recognise that not all community groups or individuals have the time or resources to prepare formal submissions. The Commission has also developed a policy in relation to submissions that seeks to encourage maximum community participation.

Our reference on sexual offences seeks to make law and procedure more responsive to the needs of complainants. The Commission has consulted widely on this reference. The Commission has also developed novel partnerships to ensure community engagement. An example of such a partnership is found in the relationship the Commission has with the Disability Discrimination Legal Service to undertake research with their clients and provide input into the Sexual Offences reference. The Commission has also developed a strategic partnership with the Victorian Multicultural Commission to assist in consulting with non-English speaking background communities and to develop long-term solutions to address sexual assault in these communities.

The Commission is extremely fortunate to have a team of dedicated research and administrative staff. Their commitment, creativity and hard work has been vital in ensuring a successful first year of operation. I would like to express my sincere gratitude to all of them. I would also like to thank our inspiring Chairperson, Professor Marcia Neave, who has provided me with enormous support and encouragement.

Padma Raman
Chief Executive Officer

Organisational Chart



Our Functions

The Victorian Law Reform Commission was established under the *Victorian Law Reform Commission Act 2000* as a central agency for developing law reform in Victoria.



Staff member: Lorraine Pitman
(Executive Assistant)

The functions of the Commission are:

- to examine, report and make recommendations to the Attorney-General on any proposal or matter relating to law reform in Victoria that is referred to the Commission by the Attorney-General;
- to examine, report and make recommendations to the Attorney-General on any matter that the Commission considers raises relatively minor legal issues that are of general community concern if the Commission is satisfied that the examination of that matter will not require a significant deployment of the resources available to the Commission;
- to suggest to the Attorney-General that a proposal or matter relating to law reform in Victoria be referred to the Commission by the Attorney-General;
- to monitor and co-ordinate law reform activity in Victoria; and
- to undertake educational programs on any area of the law relevant to a reference, whether past or current.

The Victorian Law Reform Commission has committed itself to being inclusive, innovative and independent in its approach to law reform.

Our Approach

Inclusive

The law affects all members of society. It is important that everyone has an opportunity to participate in processes of legal review to ensure that recommendations for change are relevant, responsive and fair.

The Victorian Law Reform Commission will work closely with the community to identify areas of law in need of reform. When an area has been referred to the Commission by the Attorney-General, we will consult widely with people who may be affected by proposed reforms and with individuals and groups who have expertise in the area. We will seek comments on proposals before making recommendations for change.

The Commission will use flexible and creative strategies to encourage people to participate in the law reform process. Many organisations require people and individuals to make written submissions or give evidence formally. We will use approaches which allow individuals and groups to express their views in ways that suit them, including written submissions, oral discussion at public and private meetings, electronic mail and on-line discussion groups.

Members of the community are better able to participate in law reform debates effectively if the process is genuinely open. We will ensure that people from traditionally marginalised groups, including regional and remote communities, Indigenous peoples, people from non-English speaking backgrounds and people with disabilities, have the opportunity to express their views.

The Commission is able to suggest minor changes to the law in areas of general community concern. We will be asking the community to advise us on legal problems which could be overcome by small-scale changes to the law.

Innovative

The Commission is committed to progressive reform which is designed to improve, simplify and update the law. We will endeavour to make recommendations for change which are practical to implement and which make the law more accessible.

We are aware of the need for law reform to take account of local needs and circumstances as well as being consistent with national and international standards. We will work closely with community groups, the legal profession and other research bodies in addition to drawing on the initiatives and experience in other States and countries.

Unlike many other law reform agencies, we have an important role in providing legal information and education on areas which are relevant to our projects. We will work with community and legal agencies to develop strategies which are designed to enhance understanding and application of the law and legal processes.

The Commission will establish close links with law reform agencies both in Australia and internationally and will make particular use of new technologies to facilitate productive communication and exchange.

Independent

The Victorian Law Reform Commission has been established as an independent, government-funded organisation with a charter to facilitate community-wide consultation and advise Parliament on how to improve and update Victorian law. It is committed to transparent and public law reform which is independent of the political process.

The Commission has been established as the major law reform agency for Victoria. There are a number of other bodies involved in law reform in Victoria, including the Department of Justice, the Parliamentary Law Reform Committee and other reference groups. The Commission will work with these bodies to avoid unnecessary overlap and duplication and ensure a coordinated approach to law reform.

Our Vision and Objectives

Our vision is to establish the Victorian Law Reform Commission as the leading law reform agency in Australia. In all its activities, the Commission will contribute to the building of a fair, just, responsive, inclusive and accessible legal system for all Victorians.

Our Aspirations

The Commission will:

- establish a high reputation for rigorous legal research and extensive community consultation;
- produce timely, thorough and high quality law reform recommendations which provide innovative solutions to complex policy issues;
- build community trust in government and enhance the democratic process by fostering public understanding of law reform and encouraging informed community debates on key issues;
- give a voice to marginalised groups within the community;
- ensure that the Government is fully informed on law reform developments which have occurred interstate and overseas;
- provide fearless, impartial and independent advice to the government of the day and be seen to be doing so;
- build partnerships with other bodies involved in law reform to avoid inefficient duplication of effort.

Our Objectives

The objectives of the Commission during the three year period 2002–5 are:

1. to provide the Attorney-General and Parliament with high quality, timely, responsive and effective advice on law reform which is independent of government agencies and of the political process;
2. to enhance the Commission's advice to the Attorney-General and Parliament by engaging the community in law reform processes and by fostering community-wide debate on law reform proposals;
3. to promote the role of law reform and improve community understanding of law and legal processes relevant to the Commission's references;
4. to coordinate law reform in Victoria and identify areas of emerging concern; and
5. to maintain efficient and effective administrative and financial systems and provide a safe and supportive working environment to support the law reform activities of the Commission.

The major projects undertaken by the Victorian Law Reform Commission are referred to by the Attorney-General. During 2001-2, the Commission received four new references: Defences to Homicide, Intellectual Disability and Compulsory Care, Criminal Liability for Workplace Death and Serious Injury, and Privacy. Work continues on the reference on Sexual Offences. In February 2002, the Commission completed its reference on Disputes Between Co-owners.

References

12 Disputes Between Co-owners

On 27 April 2001 the Attorney-General, the Honourable Rob Hulls MP, asked the Commission to review Part IV of the *Property Law Act 1958*, with a view to introducing simpler and cheaper processes for the resolution of disputes between co-owners and the sale or physical division of co-owned property.

The Commission published a Discussion Paper in June 2001, describing the current law in the area, highlighting problems with the existing law and proposing a number of possible reforms. Submissions were sought by 1 August 2001.

The Commission received submissions from a diverse range of organisations and individuals, including the Law Institute of Victoria, the Victorian Bar and the Solicitor-General of Australia, as well as from interested practitioners and litigants.

The Commission also consulted with a number of individuals on different aspects of the reference, including members of the Land Registry, the Victorian Civil and Administrative Tribunal, the Australian Bankers' Association, the Commonwealth Bank, the Banking Ombudsman and the Law Institute of Victoria. Advice was also sought from the Honourable Justice Phillips AC, Chief Justice, Supreme Court of Victoria; His Honour Chief Judge Waldron AO, Chief Judge, County Court of Victoria; and the Honourable Mr Justice Kellam, President, Victorian Civil and Administrative Tribunal.

Report

In February 2002, the Commission completed this reference, and forwarded its Report, *Disputes Between Co-owners*, to the Attorney-General. The Report contains a number of recommendations, including:

- that co-owners be required to specify whether they are to be joint tenants or tenants in common upon registration of their interest. This may assist in preventing later disputes about the nature of co-owners' interest;
- that joint tenancies be allowed to be converted into tenancies in common ('severed') by lodging an instrument of severance at the Land Registry. This will provide a much quicker and simpler method of severance than those currently available;
- that the Victorian Civil and Administrative Tribunal (VCAT) be given jurisdiction to order the sale or physical division of co-owned land and goods. This will make the process of ending co-ownership more accessible to most co-owners.

The Report includes a draft Bill reflecting the Commission's recommendations, which was prepared with the assistance of the Office of Parliamentary Counsel.

Under the *Victorian Law Reform Commission Act 2000*, the Attorney-General is required to table all reports of the Commission within 14 parliamentary sitting days of receiving the report. The Attorney-General tabled *Disputes Between Co-Owners: Report* on 24 April 2002. The Government is now considering the Commission's recommendations.

Sexual Offences

The aim of the Commission's reference on sexual offences is to determine what legislative, administrative or procedural changes might be necessary to ensure that the criminal justice system is more responsive to the needs of complainants in sexual offences cases. The Commission will also consider the types of educational programs that might be useful to facilitate a knowledge and understanding of any existing and proposed reforms.

The reference is divided into two stages. The first stage compared Victorian laws on sexual offences with the provisions of the draft Model Criminal Code. In the second stage, the Commission is examining the wider issues raised by the implementation of the law and procedures which are relevant in responding to sexual assault. The Commission is taking this approach in recognition of the fact that formal changes to laws and procedures may not always result in effective reform in practice.

Discussion Paper

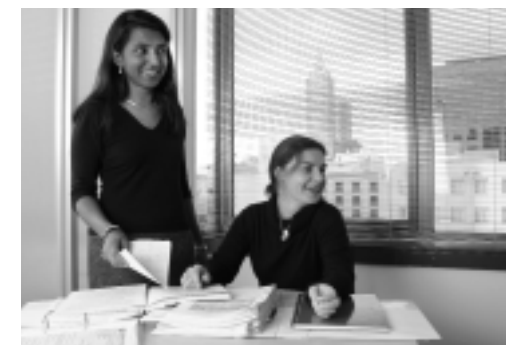
In December 2001, the Commission published a Discussion Paper, *Sexual Offences: Law and Procedure*, marking the first stage of the reference. It canvassed a number of legislative reforms and asked for responses to specific questions about possible reforms. The Discussion Paper concerned both the substantive law of sexual offences in Victoria and the laws of procedure and evidence. It also sought information about how the current provisions are working in practice.

The Commission received 26 submissions from a range of legal and non-legal agencies and individuals. Some of the issues which attracted the greatest interest included judges' directions on consent, the subpoenaing of confidential counselling notes by defence counsel, and the provisions concerning persistent sexual abuse of a child.

Consultation

The second stage of the reference commenced in December 2001, focusing on consultation. The Commission has consulted extensively with the public and with service providers and other professionals both in metropolitan Melbourne and in regional Victoria. We have met with and received written submissions from members of the public with an interest in sexual offences law, with victims/survivors (women and some men) who have not reported offences, and many who have reported and have been through the criminal justice system as complainants.

The Commission has met on several occasions with representatives of Victoria Police, particularly with members of the various Sexual Offence and Child Abuse (SOCA) units, co-ordinators and counsellor/advocates from Victoria's network of Centres Against Sexual Assault (CASAs), victims' support agencies including the staff of the Witness Assistance Service and representatives from the Victims Referral and Assistance Service, representatives of the Court Network Service, members of the judiciary, the Criminal Bar Association, the Office of Public Prosecutions, Victoria Legal Aid, the Federation of Community Legal Centres and forensic medical officers and court registrars.



Staff members, from left: Sangeetha Chandrashekeran and Melanie Heenan (Policy and Research Officers)

The Commission visited Warrnambool in March 2002 and Mildura in June 2002 to conduct consultations in relation to the Sexual Offences reference. In each location we met with victims/survivors as well as with the local Centre Against Sexual Assault (CASA), members of the Sexual Offence and Child Abuse (SOCA) Unit of Victoria Police, representatives of the Victim Assistance Program, local legal practitioners, court personnel, welfare agency representatives and school teachers and welfare workers. A community legal education forum was held in Mildura where representatives of the CASA and the SOCA unit spoke about the issue of sexual assault. These visits form an important part of our engagement with regional Victoria and assist the Commission to work towards appropriate strategies to address some of the specific difficulties involved in responding to sexual assault in these communities. Regional visits to Shepparton and Wangaratta in September 2001 and Geelong in December 2001 included consultation with CASAs and SOCA units (see page 25).

Research projects

The Commission has initiated a number of research projects as part of this reference. Further to research conducted into prosecution outcomes for rape in Victoria for the years 1997/8 to 1998/9, the Commission has now conducted research into sexual offences against young people and children, referred to as 'non-rape' offences. We have also looked at the factors influencing prosecution outcomes, such as the relationship between the victim and the offender and the location of the trial (rural/regional and metropolitan).

The research being conducted with Victoria Police focuses on the problem of low reporting rates for sexual offences. We are interested in determining trends in reporting, the factors which influence what charges are laid and general difficulties experienced by victims/survivors, police and sexual assault workers in the context of the reporting process. We are also interested in finding out how video- and audio-taped evidence (VATE) is operating, and how it is used in courts.

The Commission will also examine how judges are delivering their directions to juries, in particular what they are telling juries about the definition and meaning of 'consent' and whether there is any issue made of there having been a delay in the initial complaint. The Commission is keen to explore the broader issues of comprehensibility of judges' directions and to consider alternative ways of assisting juries with understanding and applying the law to the particular issues in the case.

The other component of this research concerns the admissibility of evidence relating to a complainant's prior sexual history. Attention will be given to whether defence barristers are observing current legislation that requires them to provide notice of their intention to question the complainant about prior sexual history. There will also be further monitoring of the extent to which sexual history evidence is ruled admissible in rape trials.

The Commission is also researching some of the issues that arise in relation to child victims of sexual offences, including the often complex multi-agency processes involved in investigating child abuse allegations. We are looking specifically at some of the particular concerns relevant to child witnesses, including tests for competence, the comprehensibility of legal language, a child's capacity to be compelled to testify against a parent, exceptions to the hearsay rule and an extension of alternative arrangements including pre-recorded cross-examination.

The Commission is also engaging a wide range of stakeholders on both substantive and procedural issues facing victims/survivors from specific target groups which have been identified as experiencing particular disadvantage when dealing with the legal system: people with 'mental impairments' (including mental illness, intellectual disability, dementia or brain injury), people from non-English speaking backgrounds and Indigenous people. Separate roundtable discussions with key stakeholders will be held for each of the groups.

An Interim Report describing the findings of some of these projects is scheduled to be released by the end of 2002.

Defences to Homicide

On 20 September 2001 the Attorney-General, the Honourable Rob Hulls MP, asked the Commission:

1. To examine the law of homicide and consider whether:

- it would be appropriate to reform, narrow or extend defences or partial excuses to homicide, including self-defence, provocation and diminished responsibility;
- any related procedural reform is necessary or appropriate to ensure that a fair trial is accorded to persons accused of murder or manslaughter, where such a defence or partial excuse may be applicable; and
- plea and sentencing practices are sufficiently flexible and fair to accommodate differences in culpability between offenders who are found guilty of, or plead guilty to, murder or manslaughter.

In reviewing these matters, the Victorian Law Reform Commission should have regard to relevant provisions of the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General's 1998 discussion paper Fatal Offences Against the Person, along with developments and proposals in other jurisdictions.



Staff member: Julie Bransden (Librarian)

2. To recommend actions, including the development of educational programs, which may be necessary to ensure the effectiveness of proposed legislative, administrative and procedural reforms.

Victorian law currently separates homicide into two main categories: murder and manslaughter. Neither of these offences is defined in legislation. They have developed over time as the result of decided cases. Consequently, many of the rules have been developed in different historical times when, for example, the mandatory penalty for murder was death, or when many homicides occurred in the context of duels between men.

This has led to a number of criticisms of the law of homicide, and in particular of the defences which are available to the offence of homicide. Many critics argue that these defences retain anachronistic notions which are not consistent with contemporary social values. It is often argued that they excuse or condone male patterns of aggression, or perpetuate stereotypes about a person's race, religion or sexual preference. It is for this reason that the Commission has been given the reference.

Issues Paper

In June 2002, the Commission completed the first stage of the project, publishing two papers. An Issues Paper, *Defences to Homicide*, outlines the current law in the area, identifies the areas that will be the focus of the reference and raises some of the issues that the Commission will be investigating throughout the course of the project.

Three main areas of law are addressed in the Issues Paper. Firstly, it examines the law of self-defence. Some of the questions raised include: what should be the precise scope of the legal test for self-defence; should it contain an objective element, or should a subjective belief in the necessity to kill in the circumstances be sufficient; how should the law treat women who kill in response to domestic violence?

Secondly, the Paper focuses on provocation. In certain situations a person who kills because they have been provoked can be convicted of manslaughter rather than murder. The defence of provocation has been the subject of much criticism and the Commission will be examining whether it should continue to exist. If it is to be retained, it will be necessary to determine the scope of the defence, looking at issues such as the use of the 'ordinary person' test in a multicultural society such as Australia. The Commission will also look at the issue of gender bias. Does provocation operate to excuse male anger and violence towards women? If so, how do we combat this bias?

Thirdly, the Issues Paper looks at the overlapping defences of mental impairment, automatism, diminished responsibility and infanticide. The main questions raised are: which of these defences should form part of our law, and how should the defences interact? In particular, we will be looking at whether diminished responsibility should be introduced into Victorian law.

The Issues Paper also contains an analysis of empirical research which has been undertaken in this area, including data available on the prosecution of offenders, and sentencing. Overall, there is a lack of data available in this area, and the Commission intends to undertake research as part of the project, in order to properly understand how the law is working in practice.

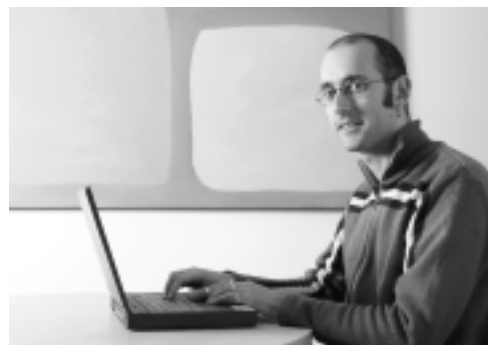
The Issues Paper also examines data drawn from a number of studies in order to give an overview of homicide as a social phenomenon. This has been done because the Commission believes that, in order for the law reform process to work most effectively, it is necessary to have a clear understanding of the social problem it is seeking to address.

Occasional Paper

The Commission commissioned Associate Professor Jenny Morgan to write an Occasional Paper published as part of this reference: *Who Kills Whom and Why: Looking Beyond Legal Categories*. This is the first in an ongoing series which is intended to encourage debate and provide an opportunity for more in-depth analysis which may not be possible in traditional law reform publications.

Who Kills Whom and Why summarises the Australian data on homicide in greater detail than in the Issues Paper and argues that social problems, rather than legal categories, best inform our thinking about law reform in this area.

The next stage in the reference is the publication of a Discussion Paper, which will include specific proposals for reform. The Commission will then engage in a consultative process, seeking feedback and submissions from the community, prior to the publication of a Report.



Staff member: Jamie Walvisch
(Policy and Research Officer)



Privacy

In August 2001, the Commission published an Information Paper, *Privacy Law: Options for Reform*, which outlined possible areas for reform. The Information Paper discusses how the law currently protects privacy and includes suggestions as to how the protection of privacy could be improved.

Two of these suggestions, dealing with workplace privacy and surveillance, were included in the terms of reference launched, on 5 March 2002, by the Attorney-General, the Honourable Rob Hulls MP:

In light of the widespread use of surveillance and other privacy-invasive technologies in workplaces and places of public resort, and the potential benefits and risks posed by these technologies, the Victorian Law Reform Commission will inquire into and report progressively upon:

(a) whether legislative or other reforms should be made to ensure that workers' privacy, including that of employees, independent contractors, outworkers and volunteers, is appropriately protected in Victoria. In the course of this inquiry, the Commission should consider activities such as:

- surveillance and monitoring of workers' communications;
- surveillance of workers by current and emerging technologies, including the use of video and audio devices on the employers' premises or in other places;
- physical and psychological testing of workers, including drug and alcohol testing, medical testing and honesty testing;
- searching of workers and their possessions; and
- collecting, using or disclosing personal information in workers' records.

(b) whether legislative or other measures are necessary to ensure that there is appropriate control of surveillance, including current and emerging methods of surveillance. As part of this examination, the Commission should consider whether any regulatory models proposed by the Commission in relation to surveillance of workers could be applied in other surveillance contexts, such as surveillance in places of public resort, to provide for a uniform approach to the regulation of surveillance.

In undertaking this reference, the Commission should have regard to:

- the interests of employers and other users of surveillance, including their interest in protecting property and assets, complying with laws and regulations, ensuring productivity and providing safe and secure places;
- the protection of the privacy, autonomy and dignity of workers and other individuals;
- the interaction between State and Commonwealth laws, and the jurisdictional limits imposed on the Victorian Parliament; and
- the desirability of building on the work of other law reform bodies.

After the launch, the Attorney-General expanded the terms to include an inquiry into the need, if any, for controls over the taking and producing of photographs in the context of current and emerging methods of surveillance.

The Commission is undertaking the workplace privacy section of the reference first and will work on issues relating to surveillance in public places at a later stage of the project.

Issues Paper

Since the publication of the Information Paper, the Commission has been undertaking further research and is focusing on an examination of the way in which workers' privacy can be protected.

An Issues Paper is scheduled to be published in October 2002. In order to further the aims of the Issues Paper, we will be engaging in a wide-ranging consultation process. We hope to consult with groups with a particular interest in workplace privacy issues, such as employer groups and trade unions, and to talk with members of the general community.

The feedback we gain from the consultation process will be very important to the later stages of the project as it will help us consider the appropriate direction for reform in this area.



Staff member: Naida Jacksonos
(Receptionist)



Intellectual Disability and Compulsory Care

On 21 December 2001 the Attorney-General, the Honourable Rob Hulls MP, asked the Commission to:

- I. Review existing provisions for the compulsory treatment and care of persons with an intellectual disability who are at risk to themselves and the community; and
- II. Make recommendations on the development of an appropriate legislative framework for that compulsory treatment and care.

The legislative framework should include, amongst other things:

- the principles and objectives under which compulsory treatment and care would occur;
- the process for approving a facility where compulsory treatment and care can occur;
- the process for admission to such a facility;
- the process for routine and independent review that results in an enforceable decision;
- the process that a person can access to initiate a review;
- the definition of restraint and seclusion, the situations in which it can be applied and relevant reporting requirements; and
- whether there is a need for community based compulsory treatment and care.

In undertaking this reference, the Commission should have regard, amongst other things, to:

- the relevance of the legislative framework to people with other cognitive impairment such as acquired brain injury and dual disability (mental illness and intellectual disability);
- the relevance of whether a court order is present or not; and
- the process of transfers within the criminal justice system and between the criminal justice system and disability services.

Over recent years there has been considerable concern about the lack of protections for the rights of people with intellectual disabilities who are at risk of harming themselves or others. These concerns were particularly expressed in the Auditor-General's report *Services to People with an Intellectual Disability* (2000) and in the review of Disability Services' Statewide Forensic Services in September 2001.

In researching the current law, it became apparent to the Commission that the lack of regulation of care and treatment for people with intellectual disabilities who are seen to be a risk to themselves or others can potentially lead to serious infringements of rights and freedoms.

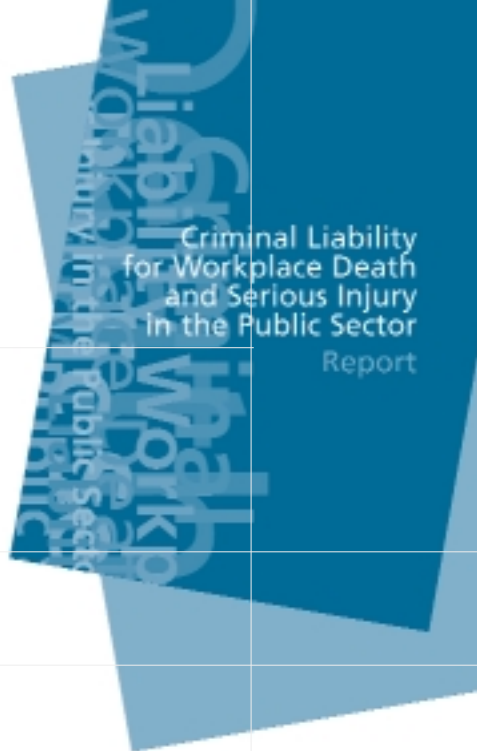
Discussion Paper

The Commission has prepared a Discussion Paper, *People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care*, outlining these concerns and exploring options for addressing them. The Discussion Paper examines the complex human rights issues that need to be balanced when considering practical ways of reforming the law in this area.

In preparing the Discussion Paper, and in planning a community consultation process around the issues raised, the Commission has worked closely with a range of stakeholders and experts, including representatives from the Department of Human Services, the Office of the Public Advocate, academics, and members of the disability advocacy and community legal centre sectors.

A Reference Group of people with intellectual disabilities has also been involved in assisting the Commission to develop an Easy English version of the Discussion Paper and with designing a consultation process that will be inclusive of people with intellectual disabilities.

The consultation process will continue throughout August and September 2002, and this will inform the development of a Report with recommendations to be made to the Attorney-General by the end of 2002.



Criminal Liability for Workplace Death and Serious Injury in the Public Sector

In December 2001 the Attorney-General, the Honourable Rob Hulls MP, gave the Commission a reference to report on:

(1) How to impose criminal liability on public sector entities, excluding bodies corporate that represent the Crown if the body corporate is established by or under an Act or is deemed or declared to be a body corporate by or under an Act, for proposed statutory offences of corporate manslaughter and negligently causing serious injury by a body corporate, with particular reference to the following questions:

(a) the imposition of criminal liability on the following entities:

(i) 'Agencies' as defined in section 4 of the Public Sector Management and Employment Act 1998;

(ii) 'Offices' as referred to in section 16(1) of the Public Sector Management and Employment Act 1998;

(iii) 'Public authorities' as defined in section 5 of the Public Sector Management and Employment Act 1998.



Staff member: Chris Dent
(Policy and Research Officer)

(b) the issues which arise where it is sought to impose criminal liability on such entities, including:

(i) the way in which, and the basis upon which, such criminal liability should be attributed to the entity;

(ii) the way in which sentences can be imposed on the entity;

(iii) how personal criminal liability could be imposed on senior officers/employees of the entity, in circumstances where a negligent act or omission attributed to the entity causes death or serious injury to an employee or worker of the entity;

(2) Any issues which have not been considered under (1), which in the view of the Commission require consideration as the result of imposition of criminal liability on public sector bodies.

The Commission was required to report on item (1) no later than 1 March 2002.

The Crimes (Workplace Deaths and Serious Injuries) Bill 2001 was introduced into the Victorian Parliament to create new statutory offences of 'corporate manslaughter' and 'negligently causing serious injury by a body corporate'.

The policy decision to apply the Bill to the whole of the public sector had already been made by the Government. The Commission's role was confined to reporting to the Attorney-General on how to impose corporate criminal liability on 'public sector entities'.

The Commission forwarded its Report, *Criminal Liability for Workplace Death and Serious Injury in the Public Sector*, to the Attorney-General on 1 March 2002. The Report sets out a framework for application of the Crimes (Workplace Deaths and Serious Injuries) Bill 2001 to the public sector.

The Victorian Law Reform Commission has the power to initiate small-scale community law reform projects and to suggest minor changes to the law in areas of general community concern. In January 2002, the Commission released its first Draft Recommendation Paper for a community law reform project: *Failure to Appear in Court in Response to Bail*.

Community Law Reform

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Suggestions for community law reform projects emerge in a range of contexts. The Commission regularly receives correspondence from individuals who have particular concerns about how the law operates or who have encountered a procedural issue which they believe could be dealt with more effectively. Community-based organisations, trade unions, business interests and other groups have drawn attention to particular issues. Sometimes, suggestions for small-scale law reform projects arise in the context of consultation for other projects. In other instances, the projects may be referred to us by other agencies.

During the year, the Commission received a number of suggestions for community law reform projects from individuals and organisations. In some instances, the proposals were beyond the scope of the Commission's work or were too large to be regarded as community law reform projects. If a suggestion is identified as a potential community law reform project, the Commission undertakes initial research and conducts informal consultations prior to a decision being made as to whether to proceed with the project.

At a Strategic Planning Meeting held in April 2002, the Commission decided to establish an Advisory Council to strengthen the Commission's links with the community and to ensure greater input by the community into the Commission's work. One of the functions of the Council will be to provide advice on directions and priorities for community law reform projects.

The following provide examples of the type of projects included in the community law reform program during the year.

Failure to Appear in Court in Response to Bail

In May 2001 the Victorian Aboriginal Legal Service wrote to the Commission asking it to review the operation of section 4(2)(c) of the *Bail Act 1977*. Section 4(2)(c) covers the situation where people who have been charged with offences are released on bail to appear in court on a particular date and fail to appear on that date. The court can issue a warrant for the police to arrest those people and bring them to court. Under the *Bail Act 1977*, they will be held in custody until the court hears the charge and can only be released on bail again if they satisfy certain tests.

The Victorian Aboriginal Legal Service noted in its letter to the Commission that in the Aboriginal community there can be a range of environmental and cultural reasons why a person may fail to answer bail. Because the section does not permit these factors to be taken into account, people charged with minor offences can be remanded in custody even though they are unlikely to receive a sentence of imprisonment if found guilty of the offence for which they have been charged.

The Commission conducted initial research, including recommendations made by the Royal Commission into Aboriginal Deaths in Custody and the previous Law Reform

Commission of Victoria. We also examined how the issue is dealt with in other jurisdictions. Statistical research was conducted into how often the question of bail arises and how common is the offence of failing to answer bail. Consultations were held with the Victorian Aboriginal Legal Service, Victoria Police, Victoria Legal Aid, the Magistrates' Court and the Indigenous Issues Unit of the Department of Justice.

In January 2002, the Commission published a Draft Recommendation Paper, *Failure to Appear in Court in Response to Bail*. In the Paper, the Commission recommended repealing section 4(2)(c) of the *Bail Act 1977* and invited members of the community to provide comments. The Commission also pointed out that a comprehensive review of the *Bail Act 1977* is highly desirable.

The Commission received 11 submissions in response to the Paper. One submission, from Victoria Police, opposed the draft recommendation and supported amending section 4(2)(c) instead. The remainder supported the Commission's recommendation.

The Commission has prepared a Report, which will become available once it is tabled in Parliament by the Attorney-General. This is likely to occur in late 2002.

Protecting the Confidentiality of the Location of Applicants for Intervention Orders

In June 2001, the Commission received a letter from a women's refuge in Ballarat drawing attention to an issue concerning the protection of the confidentiality of the location of applicants for intervention orders.

The refuge raised concerns about the fact that as interim intervention orders disclose the location of the court where the application has been made and the name of the registrar of the court, perpetrators can potentially locate the victim. This is especially the case in country locations where centres are likely to have only one Magistrates' Court.

Currently, the procedure used by many women's refuges, particularly those in regional and rural areas, involves the applicant and a support person from a refuge travelling to the Melbourne Magistrates' Court in order to obtain an interim intervention order.

In its report *Review of Legal Services in Rural and Regional Victoria*, the Parliamentary Law Reform Committee recommended that a generic court stamp be introduced to address the problem. However, initial research conducted by the Commission indicated that changes to the application form and orders would also be needed. These changes could be achieved by introducing minor changes to the Magistrates' Court Rules. Any recommendations the Commission made in the area would have to be implemented by the Court rather than Parliament.

The Commission has drafted a short Report on this matter recommending some changes to the Magistrates' Court Rules involving minor changes to court forms. However, as the Magistrates' Court of Victoria is already undertaking a review of its internal processes in relation to domestic violence and as a more substantial review of the law concerning domestic violence in Victoria is possible, the Commission has decided that it is inappropriate to release a report on this issue at this stage.

Service of Notices under the Road Safety Act 1986

In October 2001 the Commission received a letter from a magistrate expressing concern about the potential for injustice to arise due to amendments made in 1998 to the *Road Safety Act 1986* regarding the service of certain notices.

Under the Act, if drivers accumulate 12 or more demerit points during a three year period, they have two options: either their licences will be suspended or they can elect to extend the demerit point period for a further 12 months. If drivers choose the latter option and then accumulate any further demerit points, their licences will be suspended for six months.

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Section 25(3) of the *Road Safety Act 1986* requires VicRoads to serve a notice on a driver who has accumulated more than 12 demerit points. This gives the driver the opportunity to notify VicRoads if she or he wants to elect to extend the demerit point period. If the driver does not notify VicRoads within 14 days of the notice, the licence will be suspended for three months. Penalties for driving while under suspension range from \$3000 to two years imprisonment, depending on whether it is a first or subsequent offence.

Under section 25(4A) of the *Road Safety Act 1986*, a notice sent by post addressed to the holder of a licence at his or her current address (as shown on any record maintained under the Act) must be taken to have been served on that person 14 days after the date of issue of the notice.

The Magistrate's letter indicated that the introduction of this section may have inadvertently removed the defence of honest and reasonable mistake of fact. This defence is available to a charge of driving whilst disqualified if the defendant honestly believed that, at the time of committing the offence, he or she was licensed and had reasonable grounds for that belief.

This issue has not been considered by a superior court. However, the Commission conducted research and concluded that section 25(4A) does not negate the defence of honest and reasonable mistake of fact. This is supported by the principle of statutory interpretation that Parliament is presumed not to have intended to affect basic principles of criminal responsibility unless that intention has been clearly stated.

Indemnity of Employers for Liability of Employees

A suggestion for a community law reform project was made by Professor Greg Reinhardt of the Australian Institute of Judicial Administration.

Under the common law developed in the case *Lister v Romford Ice and Cold Storage Co Ltd* [1957] AC 555, there is an implied term in a contract of employment that an employee will indemnify an employer for any damages and costs which arise as the result of the negligent acts of an employee. This generally means that the employer's insurer will be able to recover damages and costs from the employee or his or her insurer.

In New South Wales, South Australia and the Northern Territory, legislation has been passed which abrogates this rule. No such legislation has been passed in Victoria, although the rule has been modified by the *Transport Accident Act 1986* and the *Accident Compensation Act 1985*.

Consideration of this issue has been deferred, pending reform of the law of medical and public liability.

Community Outreach and Education

During the year, the Commission focused on establishing and developing relationships with communities and organisations in regional and rural Victoria.

Regional and rural outreach

During the year, representatives of the Commission visited the Gippsland region, Shepparton and Wangaratta, and Geelong as part of our community outreach program. In each location, the Commissioner, Marcia Neave, and CEO, Padma Raman, held meetings with representatives of community, government and legal agencies. In addition to introducing ourselves and outlining our current projects, these meetings also provide an opportunity for groups to identify areas of the law which could be improved through law reform and to advise on consultation strategies.

On 3–4 September 2001, the Commission visited Shepparton and Wangaratta and met with representatives of the following agencies:

- Goulburn Valley Community Health Service
- Victims Assistance Program
- Marian Community
- Women's Health Goulburn Valley
- Sexual Offences and Child Abuse Unit, Victoria Police
- Ethnic Communities Council
- Regional Information and Advocacy Council
- Magistrates' Court
- Law Institute of Victoria
- Goulburn Valley CASA (Centre Against Sexual Assault)
- Pathways Accommodation and Support Program
- Victorian Aboriginal Legal Service
- Cooroonya House
- Ovens & King Community Health Service
- Department of Human Services, Housing and Community Care

Then, on 27 September 2001, the Commission visited Morwell and met with representatives of the following agencies:

- Gippsland Community Legal Centre
- Latrobe Community Health Services
- Anglicare
- Kilmany Family Services
- Berry Street (Child and Family Services)
- Quantum Youth Services
- Salvation Army
- Lifeline
- Gippsland CASA (Centre Against Sexual Assault)
- Tyler Tipping & Woods

On 17 December 2001, the Commission visited the Barwon region and met with representatives of a number of agencies, including the following:

- Baysa Youth Services
- Barwon CASA (Centre Against Sexual Assault)
- Wathaurong Aboriginal Co-operative
- Victoria Legal Aid
- Geelong Community Legal Service Inc.
- Geelong Law Association
- Magistrates' Court
- Villamanta Legal Service

In each of these locations, the Commission received a warm reception and found the meetings useful and productive. Additional visits to Warrnambool and Mildura were also conducted as part of the consultation for the reference on sexual offences (see page 13).

Publications

Publishing is a major aspect of the work of the Commission. In relation to a specific reference, the Commission may publish an Information Paper and/or an Issues Paper which provide an outline of the law in a particular area and highlight the issues which we propose to be the focus of review. Discussion Papers provide more in-depth analysis and generally include the results of initial research. They include questions to which we seek submissions and often form the basis of the consultation strategy. Commonly, a summary document is also produced as an adjunct to a Discussion Paper. In some instances, an Interim Report may be published to provide information about the progress of a reference and to propose initial recommendations. All references require a final Report with recommendations, which is tabled in the Victorian Parliament by the Attorney-General.

The Commission has established a separate series of publications for community law reform projects, which involves Draft Recommendation Papers and Reports. The Commission has also produced a number of pamphlets which provide general information about the organisation or community legal information to assist a consultation process.

During the year 2001–2, the Commission produced the following publications:

- *Privacy Law—Options for Reform: Information Paper* (July 2001)
- *Sexual Offences—Law and Procedure: Discussion Paper* (with separate Outline) (September 2001)
- *Annual Report 2000–01* (October 2001)
- *Failure to Appear in Court in Response to Bail: Draft Recommendation Paper* (January 2002)
- *Disputes Between Co-owners: Report* (April 2002)
- *Criminal Liability for Workplace Death and Serious Injury in the Public Sector: Report* (May 2002)
- *People with Intellectual Disabilities at Risk—A Legal Framework for Compulsory Care: Discussion Paper* (June 2002)

- *What Should the Law Say About People with Intellectual Disabilities Who are at Risk of Hurting Themselves or Other People? Discussion Paper in Easy English* (June 2002)
- *Defences to Homicide: Issues Paper* (June 2002)
- *Who Kills Whom and Why: Looking Beyond Legal Categories* by Associate Professor Jenny Morgan (June 2002)
- *Tell Us What You Think About Changing the Law* (Brochure)
- *Privacy Policy* (Brochure)
- *Sexual Assault and the Law—Have Your Say* (Brochure)

All publications are distributed to a wide range of individuals and organisations in the community, government, legal and academic sectors. They are available free of charge upon request to anyone and can also be downloaded in PDF format from our web site.

Web site

The Commission has continued to develop its web site <www.lawreform.vic.gov.au> during the year, focusing on content development and the provision of up-to-date information about our work. The Commission's web site is highly accessible and functional, providing news of the Commission's latest work, useful information about progress on each of the Commission's projects, copies of all publications (in PDF format) and links to other useful sites. On average, over 450 hits were recorded per day to the Commission's web site during the year, indicating significant interest in the work of the Commission.

In September 2001, information about the work and approach of the Commission was published on the web site in ten community languages: Arabic, Bosnian, Chinese, Croatian, Macedonian, Serbian, Somali, Spanish, Turkish and Vietnamese. This information is available in both PDF and RTF formats.

Speaking engagements

10 July 2001	Hampton Rotary Club	The VLRC's Privacy Reference	Marcia Neave
13 August 2001	Amnesty International Victorian Legal Group	Are You Being Watched? The VLRC's Privacy Reference	Marcia Neave
30 August 2001	Women Barristers' Association Annual Dinner	How Law Constructs Gender and Vice Versa	Marcia Neave
6 Sept 2001	Maurice Blackburn Cashman Women's Law Section		Marcia Neave
10 Sept 2001	Springvale Monash Legal Service Annual General Meeting	My Work as a Law Reform Commissioner and my Views Regarding Critical Current Issues of Law Reform (<i>Requested topic</i>)	Marcia Neave
5 Oct 2001	Victoria University, staff	The Work of the VLRC	Marcia Neave
11 Oct 2001	Monash Law School Foundation Lecture	Law Reform in the 21st Century— Some Challenges for the Future	Marcia Neave
16 Oct 2001	Australians Against Child Abuse Annual General Meeting	Sexual Offences—Options for Reform	Marcia Neave
23 Oct 2001	LAAMS Privacy Legislation Alert	Conference Chairperson	Marcia Neave
21 Nov 2001	Department of Human Services	Reform of Victoria's Sexual Offences Laws	Marcia Neave
23 Nov 2001	Annual Conference of the Australian and New Zealand Association of Psychiatry, Psychology and Law, Official Opening	A Multi-Disciplinary Approach to Law Reform	Marcia Neave
27 Nov 2001	Victorian Commercial Teachers' Association Annual Conference Keynote Address	Inclusive, Innovative and Independent— The New VLRC	Padma Raman
27 Nov 2001	Department of Human Services <i>Privacy Make it Your Business Conference</i> , Keynote Address	Privacy Law Reform— To Everything There is a Season	Marcia Neave
1 Dec 2001	<i>Diversity Conference 2001: Reconciliation, Multiculturalism, Immigration and Human Rights</i>	An Inclusive Law Reform Commission	Marcia Neave
6 Dec 2001	Sexual Assault and Child Abuse Unit Victoria Police	VLRC's Work on the Sexual Offences Reference	Marcia Neave
1 Dec 2001	Immigrant Women's Domestic Violence Service, Annual General Meeting	The VLRC's Sexual Offences Reference	Marcia Neave
15 Feb 2002	Australian Client Interviewing and Negotiating Competition	Judge	Padma Raman
18 Feb 2002	Police Federation of Australia, Women's Advisory Committee, Conference	The VLRC's Sexual Offences Reference	Marcia Neave

5 March 2002	Ethnic Communities Council of Victoria, Women's Committee	The VLRC's Sexual Offences Reference	Padma Raman
8 March 2002	WASH (Working Against Sexual Assault) Seminar	Sexual Assault and Sexual Harassment—Some Parallel Policy Issues	Marcia Neave
8 March 2002	Department of Justice International Women's Day, Lecture	One Step Forward, Two Steps Back	Marcia Neave
15 March 2002	Genetic Health Services, Victoria	Guthrie Cards	Marcia Neave
21 March 2002	Reichstein Foundation, Forum	The 'Inclusive and Innovative' Aspects of the VLRC's Work on Sexual Offences and Ways in Which Reichstein is Contributing to our Partnership with Various Parts of the Community	Marcia Neave
22 March 2002	Law Institute of Victoria VCE Legal Studies School Lecture Series	The Role of the VLRC	Sangeetha Chandrashekeran
22 March 2002	Office of the Public Advocate Roundtable Discussion	The VLRC's Reference on the Compulsory Treatment and Care of Persons with Intellectual Disabilities	Marcia Neave
11 April 2002	University of Melbourne Criminology Department, Lecture	The Work of the VLRC	Marcia Neave
3 May 2002	Monash University	Fact Finding in Administrative Proceedings: Factors Affecting Decision Making—Race and Gender Issues	Marcia Neave
9 May 2002	La Trobe University Legal Studies Careers Seminar	Working at the VLRC	Trish Luker
4 June 2002	ABC Radio National Geraldine Doogue	Interview on Victimless Crimes	Marcia Neave
20 June 2002	Australasian Law Reform Agencies Conference	Law Reform in the Age of Managerialism	Marcia Neave

Other Activities

Occupation Health and Safety

During 2001–2, the Commission ensured human and financial costs of occupational injury and illness to its staff members were reduced by providing individual ergonomic work site assessments by qualified professionals. Most staff also took advantage of the subsidised influenza immunisation program organised by the Department of Justice.

Whistleblowers

The *Whistleblowers Protection Act 2001* encourages and facilitates disclosures of improper conduct by public officers and public bodies. For the 12 months ending 30 June 2002, the Commission did not receive any disclosures.

Freedom of Information

The *Freedom of Information Act 1982* allows the public the right to access documents held by the Commission. For the 12 months ending 30 June 2002, the Commission did not receive any applications.

Financial Statements

The following pages provide the Financial Statements for the Victorian Law Reform Commission for the year 1 July 2001–30 June 2002.

Statement of Financial Performance for the year ended 30 June 2002

Notes	2002 \$	6 April – 30 June 2001 \$
REVENUE FROM ORDINARY ACTIVITIES		
Government		
Grant—Department of Justice	928,300	404,000
Other income—Legal Practice Board	950,000	0
Resources received free of charge	0	451,012
Total Revenues from Ordinary Activities	1,878,300	855,012
EXPENSES FROM ORDINARY ACTIVITIES		
Employee entitlements	(966,057)	(207,626)
Supplies and services	(248,601)	(84,234)
Depreciation and amortisation	(108,813)	(22,024)
Capital asset charge	(38,790)	(4,292)
Other expenses from ordinary activities	(266,229)	(96,582)
Total Expenses from Ordinary Activities	(1,628,490)	(414,758)
RESULT FROM ORDINARY ACTIVITIES	249,810	440,254
NET RESULT FOR THE REPORTING PERIOD	249,810	440,254
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH THE VICTORIAN STATE GOVERNMENT IN ITS CAPACITY AS OWNER		
	249,810	440,254

The Statement of Financial Performance should be read in conjunction with the accompanying notes.

Statement of Financial Position as at 30 June 2002

Notes	2002 \$	2001 \$
CURRENT ASSETS		
Cash assets	400	400
Receivables	443,169	52,062
Total Current Assets	443,569	52,462
NON-CURRENT ASSETS		
Plant and equipment	452,226	451,012
Total Non-current Assets	452,226	451,012
TOTAL ASSETS	895,795	503,474
CURRENT LIABILITIES		
Payables	96,907	31,300
Provisions	48,333	13,988
Total Current Liabilities	145,240	45,288
NON-CURRENT LIABILITIES		
Provisions	26,261	17,932
TOTAL LIABILITIES	171,501	63,220
NET ASSETS	724,294	440,254
EQUITY		
Contributed capital	474,484	0
Accumulated surplus	249,810	440,254
TOTAL EQUITY	724,294	440,254

The Statement of Financial Position should be read in conjunction with the accompanying notes.

Statement of Cash Flows for the year ended 30 June 2002

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	Notes	2002 \$	6 April – 30 June 2001 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts from the Department of Justice		537,193	351,938
Receipts from other entities		950,000	0
		1,487,193	351,938
Payment to suppliers and employees		(1,411,396)	(318,663)
Net Cash Inflow From Operating Activities	15	75,797	33,275
CASH FLOWS FROM INVESTING ACTIVITIES			
Capital purchases/Department of Justice funding		0	(32,875)
Shortfall re: depreciation and fixed assets retirement		(84,622)	0
Payments for property, plant and equipment			
Net Cash (Outflow) From Investing Activities		(84,622)	(32,875)
CASH FLOWS FROM FINANCING ACTIVITIES			
Proceeds from capital contribution by State Government		8,825	0
Net Cash Inflow (Outflow) From Financing Activities		8,825	0
NET INCREASE (DECREASE) IN CASH HELD			
Cash at beginning of the financial year		400	0
CASH AT END OF THE FINANCIAL YEAR	15	400	400

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

1(A) ESTABLISHMENT

The Victorian Law Reform Commission was proclaimed on 6 April 2001 and prepared financial statements for the first time last year in accordance with Australian Accounting Standards. These financial statements have been prepared in relation to the year ended 30 June 2002 with comparative figures for the period from establishment to 30 June 2001. The entity was incorporated under the *Victorian Law Reform Commission Act 2000* (Act No. 44/2000).

The funding available to the Commission comprises amounts paid to it under section 383(2) of the *Legal Practice Act 1996* and money appropriated by the Parliament of Victoria for the purposes of the Commission.

The Attorney-General directed the Commission be allocated funds from the Law Reform and Research Account. These monies are held by the Legal Practice Board until they are deposited in the Victorian Law Reform Commission's trust account.

The Department of Treasury and Finance, in establishing the trust fund, stipulated 'the trust fund amounts and appropriation amounts must be used equally to meet the operating and capital expenses of the VLRC i.e. the appropriation funds are not to be exhausted in the first instance to allow the VLRC to accumulate investment income from Trust Funds.' The Department of Justice monitors the equal use of the trust funds and appropriation amounts for operating and capital expenditure of the Commission.

1(B) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The following summary explains the significant accounting policies that have been adopted in the preparation of these financial statements. Unless otherwise stated, such accounting policies are consistent with those used in the previous year.

(a) Basis of accounting

This general purpose report has been prepared for the Victorian Law Reform Commission in accordance with the *Financial Management Act 1994*, Australian Accounting Standards and other mandatory professional reporting requirements.

The report has been prepared in accordance with the historical cost convention, on an accrual basis.

(b) Revenue recognition

(i) Grants and resources received free of charge

Grants whether current, capital, special or other grants, and resources received free of charge are recognised as revenue in the Statement of Financial Performance, when the entity obtains control over the respective assets. Control over grants and granted assets is normally obtained upon their receipt or official notification, whichever is earlier.

Resources received free of charge are recognised at their fair value and are only recognised when a fair value can be reliably determined and the services would normally be purchased, if not donated.

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Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

Where resources free of charge recognised as revenue during the reporting period were obtained on the condition that they be expended in a particular manner or used over a particular period, and those conditions were undischarged as at the reporting date, the nature of and amounts pertaining to those undischarged conditions are disclosed in the notes.

(ii) Other income

Other income is recognised when control over the revenue or the right to receive the funds supporting the revenue exists.

(c) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the entity. Cost is determined as the fair value of the assets given as consideration plus costs incidental to their acquisition, including architects' fees, engineering design fees and all other costs incurred in getting the assets ready for use.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition.

Fair value means the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm's length transaction. All assets valued at over \$1,000 are capitalised.

(d) Revaluations of non-current assets

Subsequent to the initial recognition as assets, non-current physical assets, other than plant and equipment, are measured at fair value. Plant and equipment are measured at cost. Revaluations are made with sufficient regularity to ensure that the carrying amount of each asset does not differ materially from its fair value at the reporting date. Revaluations are assessed annually and supplemented by independent assessments, at least every three-years. Revaluations are conducted in accordance with the Department of Treasury and Finance's Policy Paper *Valuation of Non-Current Physical Assets*.

Revaluation increments are credited directly to the asset revaluation reserve, except that, to the extent that an increment reverses a revaluation decrement in respect of that class of asset previously recognised as an expense in net result, the increment is recognised immediately as revenue in net result.

Revaluation decrements are recognised immediately as expenses in the net result, except that, to the extent that a credit balance exists in the asset revaluation reserve in respect of the same class of assets, they are debited directly to the asset revaluation reserve.

Revaluation increments and decrements are offset against one another within a class of non-current assets.

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

(e) Depreciation of non-current assets

Items of property, plant and equipment, excluding motor vehicles, are depreciated over their expected useful lives to the entity.

Depreciation is calculated on a straight line basis in accordance with Australian Accounting Standard (AAS) 4—*Depreciation*.

Estimates of remaining useful lives, for all assets, are made regularly with annual reassessments for major items.

Assets are depreciated from the date of acquisition, or transfer, and where they have been re-valued, depreciation is charged on the adjusted amount.

Depreciation rates are as follows:	2002	2001
• Computer equipment	33%	33%
• Plant and equipment	10%	10%

Leasehold assets are amortised over the period of the lease, from the date of acquisition, or transfer, and where they have been re-valued, amortisation is charged on the adjusted amount.

	2002	2001
• Fit out	Life of Lease	Life of Lease

The life of the lease is 6 years as from 6 April 2001.

(f) Employee entitlements

(i) Salaries, wages and annual leave

Liabilities for salaries, wages and annual leave are recognised, at current pay rates, as the amount unpaid at the reporting date, in respect of employees' services up to that date.

Annual leave, sick leave and long service leave expenses paid as ordinary pay are recognised separately.

(ii) Long service leave

The Victorian Law Reform Commission has, in accordance with AAS 30—*Accounting for Employee Entitlements*, assessed the liability for employee entitlements, and the amount represents the obligation at present to pay entitlements that result from services provided up to balance date. Liabilities for employee entitlements to wages, salaries and annual leave are accrued at nominal rates.

Liabilities for employee entitlements for long service leave represent the value at present of the estimated future cash flows to be made to employees for services provided up to the balance date. In determining the liability for employee entitlements, consideration was given to future increases in wages and salary rates and to experience with staff departures. Related on-costs are also included in the liability. The current liability for long service leave is calculated on the basis of employees' leave patterns. Related on-costs have also been included in the liability.

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

(iii) Superannuation

The superannuation expense for the reporting period is determined by the Government Actuary. It reflects the present value of anticipated future payments to be made by the Victorian Superannuation Fund to beneficiaries as calculated by him. No liability is shown for superannuation in the Statement of Financial Position, or the accompanying notes, as the aggregate unfunded liability is assumed by the Department of Treasury and Finance.

(g) Goods and services tax (GST)

Revenues, expenses and assets are recognised net of GST except where the amount of GST incurred is not recoverable, in which case it is recognised as part of the cost of acquisition of an asset or part of an item of expense. The net amount of GST recoverable from, or payable to, the Australian Taxation Office (ATO) is included as part of receivables or payables in the Statement of Financial Position. The GST component of a receipt or payment is normally recognised on a gross basis in the Statement of Cash Flows in accordance with Accounting Standard AAS—28 *Statement of Cash Flows*. As the Department of Justice manages the GST transactions on behalf of the Victorian Law Reform Commission (VLRC), the VLRC GST components of its receipts and/or payments are recognised in the Department's financial statements.

Costs incurred to update existing systems or to design, develop and implement new systems to deal with the goods and services tax are charged as expenses incurred, except where they result in an enhancement of future economic benefits and are recognised as an asset.

(h) Cash

For purposes of the Statement of Cash Flows, cash includes cash on hand and cash equivalents which are highly liquid investments with short periods to maturity which are readily converted to cash on hand at the investor's option and are subject to an insignificant risk of changes in value.

(i) Debtors and receivables

All debtors and receivables are recognised at the amounts receivable, as they are due for settlement after no more than 30 days. Collectability of debtors and receivables is reviewed on an ongoing basis. Debts which are known to be uncollectable are written off. A provision for doubtful debts is raised where some doubt as to collection exists and in any event, where the debt is more than 180 days overdue.

(j) Creditors and accrued liabilities

These amounts represent liabilities for goods and services provided to the entity prior to the end of the financial year and which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

(k) Recognised financial instruments

The following methods and assumptions are used to determine the net fair values of financial assets and liabilities.

Cash and cash equivalents: The carrying amount is the principal amount.

Trade creditors and accruals: Liabilities are recognised for amounts to be paid in the future for goods and services received, whether or not invoiced, and are usually paid within 30 days from date of invoice.

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

(l) Capital asset charge

The capital asset charge is imposed by the Department of Treasury and Finance and represents the opportunity cost of capital invested in the non-current physical assets used in the provision of outputs. The charge is calculated on the carrying amount of non-current physical assets (excluding heritage assets).

(m) Contributed capital

Consistent with Urgent Issues Group (UIG) Abstract 38 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*, appropriations for additions to net assets have been designated as contributed capital. Other transfers that are in the nature of contributions or distributions have also been designated as contributed capital.

For the reporting period ending 30 June 2002, the entity has deemed all its accumulated surplus of \$440,254 as the opening balance for contributed capital. This accounting treatment is to comply with UIG Abstract 38 *Contributions by Owners Made to Wholly-Owned Public Sector Entities* and Accounting and Financial Reporting Bulletin No. 39 *Accounting for Contributed Capital* and No. 40 *Establishment of Opening Balances and Formal Designation for Contributed Capital*. The change in accounting policy has resulted in the recognition, in the Statement of Financial Position, as at 1 July 2001 of an opening balance of \$440,254 as contributed capital (6 April 2001—\$0) and \$0 amount for the accumulated surplus (6 April 2001—\$0).

(n) Comparative figures

As the Victorian Law Reform Commission was established on 6 April 2001, comparative figures in the Statement of Financial Performance and the Statement of Cash Flows are for the period from establishment to 30 June 2001.

(o) Rounding of amounts

Amounts in the financial report have been rounded to the nearest dollar.

2 OUTPUT OF THE COMMISSION

The Commission undertakes legal and empirical research and provides policy advice to the Victorian Government on law reform issues referred to the Commission by the Attorney-General, undertakes research and makes recommendations on minor law reform issues raised in community consultations or suggested by the judiciary, the legal profession or community legal centres, and implements proposals through new or amending legislation and administrative reforms.

No separate schedule has been prepared as the Commission has only one output group and the Statement of Financial Performance effectively provides the relevant information.

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

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	2002 \$	6 April – 30 June 2001 \$
3 GRANTS		
Grant—Department of Justice	928,300	404,000
Other income—Legal Practice Board (refer Note 1A)	950,000	0
Resources received free of charge	0	451,012
	1,878,300	855,012
<p>The Attorney-General directed the Commission be allocated \$950,000 from the Law Reform and Research Account for the 2001–02 financial year. These monies were held by the Legal Practice Board until April 2002 when they were deposited in the Victorian Law Reform Commission's trust account.</p>		
4 RECEIVABLES		
Amount owing from Department of Justice	439,025	51,960
Other debtors	4,144	102
	443,169	52,062
5 EMPLOYEE ENTITLEMENTS		
5.1 EMPLOYEE COSTS		
Direct costs		
Salaries, wages and overtime	745,501	154,972
Sick leave, annual leave and long service leave	71,896	31,920
Superannuation (refer Note 19)	40,609	7,608
Total direct costs	858,006	194,500
Related on-costs		
Payroll tax	44,632	9,348
Staff training	21,274	3,420
Staff training—Youth Employment Scheme	30,208	0
Workcover	1,013	358
Fringe benefits tax	10,924	0
Total related on-costs	108,051	13,126
Total	966,057	207,626

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

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Victorian Law Reform Commission Annual Report 2001–02

	2002 \$	6 April – 30 June 2001 \$
5 EMPLOYEE ENTITLEMENTS (CONTINUED)		
5.2 PROVISION FOR EMPLOYEE ENTITLEMENTS		
Provision for annual leave	42,925	11,996
Provision for long service leave	29,179	19,924
Accrued salaries	2,490	0
Total	74,594	31,920
<p>In the Statement of Financial Position, provision for employee entitlements is split between current and non-current as follows:</p>		
Current liabilities		
Annual leave	42,925	11,996
Long service leave	2,918	1,992
Accrued salaries	2,490	0
	48,333	13,988
Non-current liabilities		
Long service leave	26,261	17,932
Total	74,594	31,920
6 SUPPLIES AND SERVICES		
Stationery, consumables and supplies	22,480	26,390
External printing	110,327	21,893
Books, Acts, newspapers, journals	13,569	11,801
Advertising	1,428	1,266
Office equipment costs and maintenance	28,282	7,206
Legal subscriptions	35,998	2,069
Couriers and freight	1,049	953
Electronic communication charge	14,181	3,695
Other communication expenses	9,720	6,487
Mobile phone charges	795	830
Postage	10,772	1,349
Minor communication equipment	0	295
Total	248,601	84,234

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

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Victorian Law Reform Commission Annual Report 2001–02

	2002 \$	6 April – 30 June 2001 \$
7 DEPRECIATION AND AMORTISATION		
Depreciation		
Computer equipment	40,743	14,584
Plant and equipment	7,748	1,488
Amortisation		
Leasehold fitout	60,322	5,952
Total	108,813	22,024
8 OTHER OPERATING EXPENSES		
Airfares	8,833	1,125
Tram, train and taxi fares and other local travel	4,231	760
Functions, meetings	7,007	4,835
Written down value of fixed assets retired	0	10,852
Insurance	0	3,892
Professional fees	30,249	4,897
Minor equipment	2,131	8,420
Rent	119,774	28,538
Cabling, software and computer maintenance	38,438	22,578
Motor vehicle costs	5,592	855
Miscellaneous	49,974	9,830
Total	266,229	96,582
9 PLANT AND EQUIPMENT—AT COST		
Leasehold fitout	381,388	287,818
Less leasehold amortisation	(66,274)	(5,952)
Written down value	315,114	281,866
Computer equipment	122,945	126,337
Less accumulated depreciation	(51,262)	(12,858)
Written down value	71,683	113,479
Plant and equipment	74,981	57,156
Less accumulated depreciation	(9,552)	(1,489)
Written down value	65,429	55,667
Total written down value	452,226	451,012

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

Reconciliation:

Reconciliations of the carrying amounts of each class of plant and equipment at the beginning and end of the current financial year are set out below.

2002	Leasehold Fitout \$	Computer Equipment \$	Plant & Equipment \$	Total \$
Carrying amount at the start of the financial year	281,866	113,479	55,667	451,012
Additions*	97,094	14,183	7,351	118,628
Transfers	(3,524)	(17,578)	10,474	(10,628)
Depreciation	0	(40,744)	(7,747)	(48,491)
Amortisation	(60,322)	0	0	(60,322)
Transfers depreciation	0	2,343	(316)	2,027
Carrying amount at the end of the financial year	315,114	71,683	65,429	452,226

* Incorporates adjustments due to asset reclassification from previous financial year.

2001	Leasehold Fitout \$	Computer Equipment \$	Plant & Equipment \$	Total \$
Carrying amount at the start of the period 6 April – 30 June 2001	0	0	0	0
Additions	0	0	0	0
Disposals	0	(12,577)	0	(12,577)
Transfers	287,818	138,915	57,156	483,889
Depreciation	0	(14,584)	(1,489)	(16,073)
Amortisation	(5,952)	0	0	(5,952)
Assets written-off depreciation	0	1,725	0	1,725
Carrying amount at the end of the period 6 April – 30 June 2001	281,866	113,479	55,667	451,012

The fixed assets received free of charge from the Department of Justice prior to 6 April 2001 were finally evaluated to be the carrying amount of the fixed assets net of depreciation and/or amortisation as at 30 June 2001.

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Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

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	2002 \$	6 April – 30 June 2001 \$
10 PAYABLES—CURRENT		
Trade creditors and accruals	93,907	31,300
Other creditors	3,000	0
Total	96,907	31,300
11 EQUITY AND MOVEMENTS IN EQUITY		
Balance 1 July 2001	440,254	0
(Accumulated surplus transferred to contributed capital)		
Additions to contributed capital	8,825	0
Assets received free of charge	25,405	0
Balance 30 June 2002	474,484	0
Accumulated surplus		
Accumulated surplus at the beginning of the financial year	440,254	0
Accumulated surplus transferred to contributed capital	(440,254)	
Net surplus (deficit) recognised in the Statement of Financial Performance	249,810	440,254
Balance at the end of the financial year	249,810	440,254
In the introduction to Note 1, the history of the legal status of the entity is explained, noting that it both was proclaimed and commenced operations during the prior financial year.		
12 EXPENDITURE COMMITMENTS		
12.1 OPERATING LEASES		
Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:		
Within 1 year	134,041	132,272
Later than 1 year but not later than 5 years	519,194	573,845
Later than 5 years	0	115,493
	653,235	821,610
12.2 CAPITAL COMMITMENTS		
There were no commitments for capital expenditure as at 30 June 2002 (\$Nil—2001).		

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

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	2002 \$	6 April – 30 June 2001 \$
13 POST BALANCE DATE EVENTS		
There were no significant post balance date events to be reported as at 30 June 2002 (\$Nil—2001).		
14 CONTINGENT LIABILITIES		
There were no contingent liabilities at balance date not provided for in the Statement of Financial Position as at 30 June 2002 (\$Nil — 2001).		
15 RECONCILIATION OF THE OPERATING RESULT TO NET CASH USED IN OPERATING ACTIVITIES		
Operating result	249,810	440,254
Plus/(minus) non cash items:		
Depreciation and amortisation expense	108,813	22,024
Resources received free of charge	0	(451,012)
Change in operating assets and liabilities:		
(Increase)/decrease in debtors and receivables	(391,107)	(52,062)
Increase/(decrease) in creditors and accruals	65,608	31,300
Increase/(decrease) in employee entitlements	42,673	31,920
Net book value of fixed assets written-off during period	0	10,851
Net cash from operating activities	75,797	33,275
Reconciliation of cash		
Cash on hand	400	400
Total	400	400

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

16 FINANCIAL INSTRUMENTS

Credit risk exposure: Maximum exposures to credit risk at balance date in relation to each class of financial asset and liability are the carrying amounts of those assets and liabilities in the Balance Sheet. The carrying amounts of these assets and liabilities approximate their fair value and are non-interest bearing.

Interest Rate Risk Exposure—30 June 2002

	Floating Interest \$	Fixed Interest Maturing in			Non- interest Bearing \$	Total \$
		1 Year or Less \$	Over 1 to 5 years \$	More than 5 years \$		
Financial assets						
Cash	—	—	—	—	400	400
Receivables	—	—	—	—	443,169	443,169
Total	—	—	—	—	443,569	443,569
Financial liabilities						
Creditors	—	—	—	—	96,907	96,907
Total	—	—	—	—	96,907	96,907

Interest Rate Risk Exposure—6 April – 30 June 2001

	Floating Interest \$	Fixed Interest Maturing in			Non- interest Bearing \$	Total \$
		1 Year or Less \$	Over 1 to 5 years \$	More than 5 years \$		
Financial assets						
Cash	—	—	—	—	400	400
Receivables	—	—	—	—	52,062	52,062
Total	—	—	—	—	52,462	52,462
Financial liabilities						
Creditors	—	—	—	—	31,300	31,300
Total	—	—	—	—	31,300	31,300

The net fair value of financial assets and financial liabilities as at 30 June 2002 is their book value.

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

17 RESPONSIBLE PERSON — RELATED DISCLOSURES

Ministers and Accountable Officers

In accordance with Ministerial Directions issued by the Minister for Finance under the *Financial Management Act 1994*, the following disclosures are made regarding the Responsible Persons for the reporting period.

The persons who held the positions of Ministers and Accountable Officers in the Department are as follows:

<i>Attorney-General</i>	The Hon Rob Hulls MP	1 July 2001 to 30 June 2002
<i>Acting Attorney-General</i>	The Hon Bob Cameron MP	22 December 2001 to 29 January 2002 4 July 2001 to 13 July 2001 4 April 2002 to 14 April 2002
<i>Secretary to the Department of Justice</i>	Peter Harmsworth	1 July 2001 to 30 June 2002
<i>Acting Secretary to the Department of Justice</i>	John Charleson	24 December 2001 to 11 January 2002 2 May 2002 to 24 May 2002

Remuneration

Remuneration received or receivable by the Accountable Officers in connection with the management of the Department during the reporting period is reported by the Department of Justice.

Amounts relating to Ministers are reported in the financial statements of the Department of Premier and Cabinet.

Other transactions

Other related transactions and loans requiring disclosure under the Directions of the Minister for Finance have been considered and there are no matters to report.

Responsible Persons

The names of persons who were Responsible Persons of the Victorian Law Reform Commission, as stipulated in section 19 of the *Victorian Law Reform Commission Act 2000*, for the financial year are as follows:

Chief Executive Officer	Ms Padma Raman
<i>Statutory Office Holder Chairperson</i>	Professor Marcia Neave

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

17 RESPONSIBLE PERSON — RELATED DISCLOSURES (CONTINUED)

Remuneration of Responsible Persons

No benefits or remuneration were paid to Responsible Persons of the Victorian Law Reform Commission other than the Chief Executive Officer.

Remuneration received or receivable by the Chief Executive Officer in connection with the management of the Commission during the period was in the following ranges:

Income Band	Remuneration* 2002		Remuneration* 6 April to 30 June 2001	
	Total	Base	Total	Base
\$30,000 – 34,999				1
\$35,000 – 40,000			1	
\$70,000 – 79,999		1		
\$80,000 – 89,999				
\$90,000 – 99,999	1			
Total numbers	1	1	1	1
Total amounts	\$90,904	\$76,401	\$39,671	\$34,641

* Total remuneration includes wages and salaries, performance and other bonuses, superannuation, motor vehicles and any other allowances. Base remuneration includes wages and salaries only.

Retirement benefits of Responsible Persons

There were no significant transactions between the Victorian Law Reform Commission and the Responsible Person and the Responsible Person and Responsible Person-entities, nor are there other receivables from and payable to Committee Members and Responsible Person-related parties.

Other insignificant transactions with the Responsible Person and Responsible Person-related parties in their domestic dealings and with normal customer or employee relationships were conducted on terms and conditions no more favourable than those available in similar arm's length dealings.

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

18 REMUNERATION OF AUDITORS

Audit fees paid or payable to the Victorian Auditor-General's Office for the audit of the Victorian Law Reform Commission financial reports:

	2002 \$	6 April – 30 June 2001 \$
Paid as at 30 June	Nil	Nil
Payable as at 30 June*	11,000	5,000

* For the year 2001–02 audit fees payable were not accrued.

Audit fees for the 2001–02 period are to be paid in the 2002–03 financial year as the services were rendered in July to September 2002.

19 SUPERANNUATION FUNDS

No liability is recognised in the Statement of Financial Position for the Commission's share of the State's unfunded superannuation liability. The State's unfunded superannuation liability has been reflected in the financial statements of the Department of Treasury and Finance.

The Victorian Law Reform Commission contributes superannuation payments on behalf of its employees to the following superannuation funds:

	2002 \$	6 April – 30 June 2001 \$
Victorian Superannuation Board (New Scheme)	36,507	6,850
Asgard Capital Management Ltd	3,210	758
Unisuper	892	0
Total	40,609	7,608

The Victorian Law Reform Commission has employees who are members of both a public-sector superannuation scheme and a private scheme.

As at 30 June 2002 these schemes carried total liabilities, including liabilities for members' benefits, in excess of the value of the schemes' assets. In line with government policy, the unfunded superannuation liabilities were reflected in the financial statements of the Department of Treasury and Finance.

Notes to and Forming Part of the Financial Statements for the year ended 30 June 2002

19 SUPERANNUATION FUNDS (CONTINUED)

The public-sector superannuation scheme is as follows:

Victorian Superannuation Board (New Scheme)

Contributions to this scheme vary as follows, depending on the amounts contributed by participating employees.

Contributions		Benefits
Employee	Employer	
0%	7.3%	10% (8.5%) of final average salary for each year at the rate.
3%	8.8%	16% (14%) of final average salary for each year at the rate.
5%	9.8%	20% (17.5%) of final average salary for each year at the rate.
7%	10.8%	24% (21%) of final average salary for each year at the rate.

The benefit accrual rates in brackets are the accrual rates applying after the change in tax status of the fund in June 1995.

The private sector schemes are as follows:

Asgard Capital Management Ltd

Contributions to this scheme to 30 June 2002 are as follows:

Employee	Employer	Benefits
8%	8%	Accumulated value of investment in superannuation fund.

Unisuper

Contributions to this scheme to 30 June 2002 are as follows:

Employee	Employer	Benefits
8%	8%	Accumulated value of investment in superannuation fund.

Statement by the Commissioner and Chief Executive Officer

In our opinion, the financial statements, comprising the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and Notes to the Financial Statements, are in accordance with the *Financial Management Act 1994* and applicable Australian Accounting Standards. They present fairly the financial transactions during the financial year and the financial position of the Victorian Law Reform Commission as at 30 June 2002. As at the date of signing we are not aware of any circumstances which would render any particulars in the financial statements to be misleading or inaccurate.



Professor Marcia Neave
Victorian Law Reform Commissioner



Padma Raman
Chief Executive Officer

Melbourne
19 September 2002

Auditor-Generals Office



To the Members of the Parliament of Victoria, the responsible Ministers and the Victorian Law Reform Commissioner

Audit Scope

The accompanying financial report of the Victorian Law Reform Commission for the financial year ended 30 June 2002, comprising the statement of financial performance, statement of financial position, statement of cash flows and notes to the financial statements, has been audited. The Commissioner is responsible for the preparation and presentation of the financial report and the information it contains. An independent audit of the financial report has been carried out in order to express an opinion on it to the Members of the Parliament of Victoria, responsible Ministers and the Commissioner as required by the *Audit Act 1994*.

The audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the financial report is free of material misstatement. The audit procedures included an examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with Accounting Standards and other mandatory professional reporting requirements in Australia and the financial reporting requirements of the *Financial Management Act 1994*, so as to present a view which is consistent with my understanding of the Commission's financial position, financial performance and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In my opinion, the financial report presents fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the financial reporting requirements of the *Financial Management Act 1994*, the financial position of Victorian Law Reform Commission as at 30 June 2002, its financial performance and cash flows for the year then ended.

J W Cameron
Auditor General

Melbourne
21 September 2001

Compliance Index Disclosure Requirements

The Annual Report of the Victorian Law Reform Commission is prepared in accordance with the *Financial Management Act 1994* and the Directions of the Minister for Finance. This index facilitates identification of the Commission's compliance with the Directions of the Minister for Finance by listing references to disclosures in this financial report.

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9.1.3(i)(f)	Application and operation of <i>Freedom of Information Act 1982</i>	28
9.1.3(ii)(h)	Compliance with building and maintenance provisions of <i>Building Act 1993</i>	n/a
9.1.3(ii)(k)	Statement on National Competition Policy	n/a
9.1.3(ii)(f)	Details of consultancies over \$100,000	n/a
9.1.3(ii)(g)	Details of consultancies under \$100,000	n/a
9.6.2(i)(iv)	Disclosure of major contracts	n/a
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