

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 2003.

Highlights of the reporting year include:

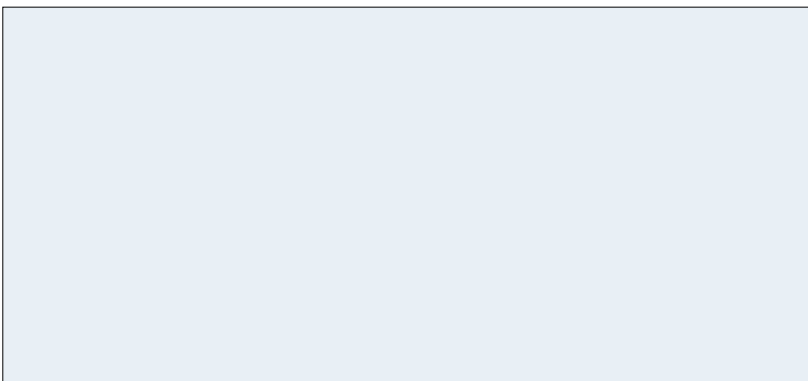
- completion of the Interim Report on Sexual Offences;
- completion of an Issues Paper on Workplace Privacy;
- completion of an empirical project examining homicides which occurred between 1 July 1997 and 30 June 2001. The outcomes will be reported in the *Defences to Homicide* Options Paper which will be published shortly; and
- the establishment of an Advisory Council to assist the Commission in monitoring law reform activities being undertaken by other bodies and in identifying community law reform projects.

Yours sincerely,



Professor Marcia Neave
Chairperson

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Chairperson's Foreword

Annual Report 2002–03



The second full year of the Commission's operations has been demanding and productive. The Commission received a reference on artificial reproduction on 16 October 2002 and a reference on family violence on 4 November 2002. With these two new references, the Commission has responsibility for reviewing six different areas of law. Some preliminary work has been undertaken on these two new references while we have been awaiting the appointment of a second full-time Commissioner.

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During 2002–03 the Commission's most significant publications were the Interim Report on Sexual Offences and the Issues Paper on Workplace Privacy. We also made substantial progress in completing an Options Paper on Defences to Homicide and a Final Report on Compulsory Care of People With an Intellectual Disability.

The Commission's most important achievement was the publication of the Interim Report on Sexual Offences. The Report deals with all aspects of the criminal justice system, ranging from police training and investigation procedures, prosecution practices, rules of evidence and the conduct of sexual offences trials. It takes account of the views of complainants in sexual offence cases, police, prosecution and defence lawyers and judicial officers, and organisations and individuals who provide assistance to the victims of sexual assault. The Interim Report contains over 107 recommendations for changes designed to make the criminal justice system more responsive to the needs of complainants in sexual offence cases. The Commission made a particular effort to encourage participation from those who face significant barriers to reporting sexual assault to the police, such as people from Indigenous communities, people from culturally and linguistically diverse communities, and people with intellectual and other cognitive disabilities.

Our research and consultation showed that prior legislative reforms which were intended to encourage reporting of offences to police and to make it easier for complainants to give evidence in sexual offence cases, have not always operated in the way intended. The Interim Report identified the need to encourage discussion among prosecutors and judicial officers about the purpose of legislative changes

and how to implement them. The Commission has been involved in discussions with Victoria Police about police training and investigation processes and with the Solicitor for Public Prosecutions and the Director of Public Prosecutions about the content of training programs for prosecutors in sexual offence cases. We also suggested that the Judicial College of Victoria organise a Workshop for judges, to facilitate discussion of the practical problems which arise in running sexual offence trials and in dealing with child witnesses in such cases. The VLRC has assisted in the planning of that Workshop.

The Commission is committed to engaging the community (and particular groups within the community) in the law reform process. Since publication of the Interim Report we have held a number of information sessions to ensure that those who made submissions to us are aware of the proposed changes. We will be undertaking further research and consultation on the recommendations in the Interim Report, prior to the publication of a Final Report in 2004.

Since the Commission was established we have emphasised that law reform recommendations should be based on clear evidence about the way in which the law is operating in practice. The limited availability of reliable Victorian data about some aspects of the justice system has made it necessary for the Commission to undertake a great deal of empirical research. This is often time-consuming. The Interim Report on Sexual Offences incorporated findings from our large empirical research project on the outcomes of sexual offence prosecutions. Similarly, as part of its work on the reference on defences to homicide, the Commission has examined the characteristics of homicide offenders,

the outcomes of homicide prosecutions and the defences raised by those charged with murder and manslaughter over a four year period. The Options Paper on Defences to Homicide, which will shortly be published, will take account of the findings of this research.

The Issues Paper on Workplace Privacy, which was published on 6 November 2002, examines how privacy in the workplace is affected by federal and State law. Through the use of case studies it identifies deficiencies and uncertainties in the laws relevant to privacy of employees, whether they are working at home or on the employer's premises. Submissions received in response to the publication of the Issues Paper will provide the basis for any recommendations we may make on issues such as surveillance, use of biometric measures and monitoring of employee communications.

The Commission's role includes monitoring and co-ordinating law reform in Victoria. In addition to our work on areas of law reform referred to us by the Attorney-General, the Commission can initiate minor law reform projects of general community concern (community law reform projects). The Commission has recently established an Advisory Council to assist us in carrying out these functions. The Council will:

- facilitate information sharing about law reform projects;
- provide advice on the strategic directions of the Commission;
- provide advice on directions and priorities for community law reform projects; and
- provide advice on community education strategies that the Commission should employ to enhance the community's capacity to participate in law reform.

Consistently with its statutory responsibility to monitor law reform, the Commission has liaised with other bodies engaged in law reform, ranging from the Parliamentary Law Reform Committee to the Federation of Community Legal Centres. We have also participated in other policy making processes with other bodies. For example, the Chairperson and/or the Chief Executive Officer have regularly attended meetings of the Statewide Steering Committee to Reduce Family Violence which was established by the Chief Commissioner of Victoria Police and the Office of Women's Policy to provide advice on how to improve the responses of the police, courts and other service providers to family violence.

In a little over two years the Commission has completed its work on two references and reported on one community law reform project. We hope that the recommendations in the Final Reports on Co-ownership and Failure to Appear in Court in Response to Bail will be implemented by legislation in the near future.

In addition to three Final Reports and one Interim Report, the Commission has published nine other Discussion, Issues or Occasional Papers. Overall, our work has dealt with nine different areas of the law. The work of the Commission has been supported by five to six research staff and only one full-time Commissioner, although it is understood that an additional full-time Commissioner will be appointed shortly. It has become clear that some changes to the Commission's internal staffing structure are necessary to ensure that the Commission can deal with the wide range of legal issues which may be referred to it, is able to provide research staff with structured support and supervision, and can ensure that part-time Commissioners receive expert research support when dealing with new and technical areas of the law. The Commission has recently sought advice on its staffing structure in order to ensure that it can continue to maintain a high level of performance in the future.

In the meantime I want to express my gratitude for the dedication and commitment of the research and administrative staff. Without their hard work we would have been unable to achieve so much in such a short time. I also wish to express my thanks to people who provide advice and expertise on a voluntary basis as members of the committees appointed to provide advice on particular references. Finally, I would like to express my thanks and the gratitude of all the part-time Commissioners, to the Chief Executive Officer Ms Padma Raman and the Operations Manager Ms Kathy Karlevski for their outstanding contribution to the work of the Commission.



Professor Marcia Neave AO
Chairperson

Part-time Commissioners

Year in Review



4 **The Honourable Justice David Harper**

Supreme Court of Victoria

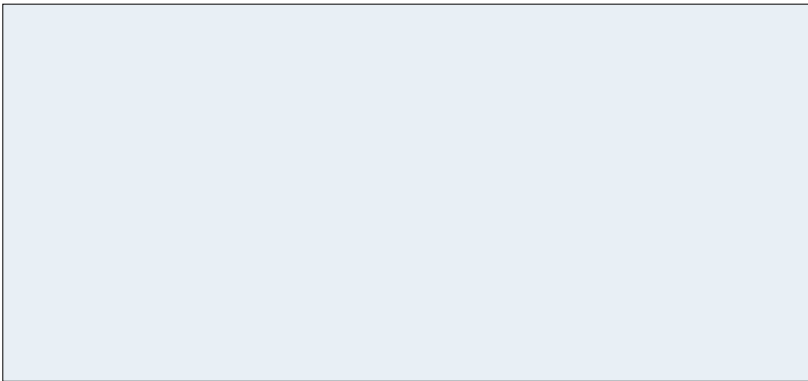
I needed little time to formulate my principal impression of my association with the Commission. It is of the enormous gulf between my very small contribution to it on the one hand and the very great benefit to me of that association on the other.

A judge in the Trial Division of the Supreme Court is generally concerned with the minutiae of the particular case. It will always be the judge's duty to do justice between the parties. Occasionally, this will involve righting some manifest wrong; more often, in civil cases, sorting out a muddle into which the parties have drifted through bad luck or bad management. It is rare that a trial judge is obliged for the proper disposition of the litigation to survey the wider purposes of the law. It is rarer still for a trial judgment properly to move the law in a new direction, even if considerations of fairness and justice seem to the judge to indicate that a new direction is required. The common law speaks with an authority whose very weight depends upon its limitations.

Law reform bodies are likewise for good reason subject to constraints. For the Victorian Law Reform Commission, one constraint is the imperative of independence. A law reform commission that is a mere appendage to the government of the day is one which has abandoned what ought to be its core principles: the scrupulously balanced consideration of all rational and relevant opinion, the due acknowledgment of the past as well as the future, and a refusal to put forward any proposal that is not based upon rigorous, intellectually impeccable research.

At the same time, a law reform commission must do what a judge must not and cannot do. A law reform commission must look well beyond black-letter law. If it is to be, as the Victorian Law Reform Commission pledges itself to be, innovative and inclusive as well as independent, it must in its research embrace disciplines other than the law. While itself subjecting to rigorous examination all of the information upon which it bases its research, it must remember that those who may benefit most from change are often those whose voice is seldom heard. It must view a landscape much broader than that from the Bench.

Which is why, in my relatively short time as a part-time Commissioner, I have learnt far more than I have contributed. And this is true not only in relation to matters beyond the range of my professional experience. The Commission's work in such areas of black-letter law as disputes between co-owners and defences to homicide has enlarged and deepened my understanding of them. Other references, such as those on workplace privacy and sexual offences, have taken me, albeit very much as an interested spectator rather than an active participant, into areas of considerable philosophical and social significance about which my ignorance would otherwise have remained profound. In large part, this has been the result of the excellence of the work of the Commission's staff. I have been the beneficiary of that excellence, which begins with the Chairperson and extends through the Chief Executive Officer to all the Commission's employees. It is an honour to be associated with their work. It is a privilege to be a beneficiary of it.



Professor Felicity Hampel SC

Barrister

It is, at times, disorienting to be both a barrister and a law reform commissioner. There is little time or opportunity in a barrister's working day to reflect on the law in its broader context. Barristers spend their time working out how the law as it applies to the particular facts and circumstances of an individual case and seeking to persuade the court to come to the desired result. My personal views about the client, the cause, or the merits of a particular case are as irrelevant as my views about whether the existing law is fair and equitable, whether it respects and protects fundamental rights and whether it best serves the interests of all in our community affected by it. It is a luxury I cannot afford, and which, if indulged, may bring me into conflict with my fundamental obligations to my client.

However, considering questions of fairness and equality before the law, preserving fundamental rights and freedoms and finding a balance between them when they come into conflict with each other, examining the social and cultural values which have, in the past, shaped the development of the law, attempting to define the values which should underpin the law, and devising the means of achieving any desired changes, is exactly what the Law Reform Commission, in the context of its particular references, does.

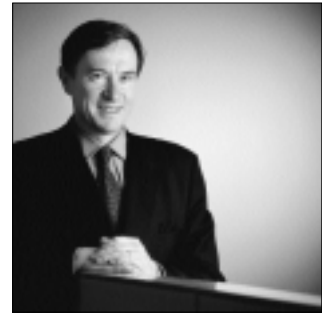
In a broader context than the imperatives of a particular case permit, I have been able to explore whether the law relating to sexual offences, and defences to homicide, equal on its face, has equal effect. My beliefs about the way these laws operate in practice have not been borne out by the results of our own, and other research. We, the Commissioners

and the researchers have used the research results, not personal beliefs, to examine whether the law operates differently on different people, and where it does, to ask what is the basis for such a distinction, and whether it is just.

The Commission's references on compulsory care of people with intellectual disabilities, workplace privacy, and access to assisted reproductive services, deal with regulatory frameworks more than the operation of the criminal law. They, too, require consideration of equality, protection of fundamental rights and freedoms, and finding a balance between conflicting rights and freedoms. All raise questions of the use of the law as a definer or regulator of social, cultural or moral values, in a time of social and technological change. Neither the existing law, nor my experience from my 'other life' as a barrister is as extensive in these fields. It has been an interesting contrast to consider the issues raised by these references outside the adversarial context of the criminal law.

Having taken part in, or observed, a number of community consultations, I have been struck as much by the desire of those consulted to be heard, as by what was said. It has brought home to me the significance of the law as it operates in reality, to those affected by it, and the importance of hearing and considering their views.

The rigorous research, diversity of experience and intellectual power the Commission has amassed in its Chairperson, the other Commissioners, the CEO and the researchers makes for daunting meetings. If I have revelled at times in the luxury of the opportunity provided to me to reflect and engage in intellectual debate, informed by rigorous research, I have quickly been brought back to reality by the challenge of engaging in a process which must, at the end of it all, come up with recommendations which are fair, workable and balanced.



Her Honour Judge Jennifer Coate

President of the Children's Court

Over the last one hundred and fifty years in Victoria, the common law has continued to develop in a range of complex areas of the law. It is one of the strengths of the common law that it can and sometimes must develop as a result of courts being faced with new and unique issues where the statutes have not as yet ventured. Ironically, there is a growing sense of some being openly critical of judges for their 'activism', as if it were something that is inimical to the common law instead of essential to it.

A common law system can adapt more readily to new and previously unexplored dilemmas presented to courts by using the principles of common law reasoning.

Where gaps or anomalies, or even voids exist in the statutory law, the common law can use its practice and principles to reason a way to a solution and always will. But responsible and robust governments need to ensure that the development of the law keeps abreast of social change and guides its development.

The best way of ensuring this is to have a robust and independent law reform commission, which has the flexibility to inform itself by both research and consultation. It is then the task of that independent law reform commission to give a well-informed, independent and robust response to the Government on the references given to it.

It has been my great privilege to be a part-time Law Reform Commissioner with the Victorian Law Reform Commission for the past two years and to have had the opportunity to participate in the stimulating and erudite environment inspired by the lead of Professor Marcia Neave.

Professor Sam Ricketson

University of Melbourne

My involvement with the work of the Victorian Law Reform Commission over the past year has been concentrated in the areas of workplace privacy and the development of a legal framework for compulsory care of persons with an intellectual disability. Each of these has involved different legal and policy issues, although there are common themes running through them all.

In the area of privacy, the initial work of the Commission has been in the development of a clear philosophical understanding of the concept of privacy and how this issue arises in the workplace environment. The Commission was greatly assisted by the contributions of various persons with an academic, practical and governmental background in privacy, and most important work was done by one of our researchers, Kate Foord, in developing a conceptual framework for approaching these issues. I found these consultations and discussions very stimulating from a personal perspective, and I believe that the benefit of this work was seen in the Issues Paper that the Commission published in late 2002. I look forward to participating in the next phase of the inquiry.

In the area of compulsory care for persons with an intellectual disability, the issues are complicated and information is not always readily available. However, a great amount of work has already been done by Commission staff and, as at the time of writing, the Commission is finalising its proposals.

Introducing our new Part-time Commissioner Paris Aristotle

To be involved with an organisation that contributes to improving our society by improving its laws is an honour and a substantial challenge. As a relatively recent addition to the Commission I found myself to be impressed by the quality of its work and the dedication of its staff from the outset.



The references the Commission deals with cover complex and emotionally charged issues that have major implications for justice in the community at large, for the accused and for the victims. Navigating a way through such complexities, where so much is at stake, is never easy.

For those of us not involved directly in the law it is often hard to feel engaged with it. While the law is there to protect us and help provide some order in our lives, many people often feel excluded from its development and question its fairness. The community sentiment that this sometimes creates can undermine confidence in the law and the administration of justice. As was found in the Commission's work in the area of sexual assault, this often resulted in victims not pursuing justice for fear that the personal costs would be too great or that it would not be forthcoming at all. It is incumbent on any society to overcome such perceptions, strengthen the relevance and administration of the law and ensure that the interests of all involved, which is all of us, are accommodated fairly.

As a part-time Commissioner with a background in the community sector I hope to bring an additional perspective to the Commission's work, one that adds value to the critical legal analysis and emphasis it must manifest. As is evidenced by its commitment to consult widely on references to date, the Commission is aware that its effectiveness is in part derived from an ability to engage with current community views and debate. If it does this well, the Commission can ensure its work is relevant and hopefully promote a stronger sense of faith in the law and our legal system.

There has been considerable debate over the years about the need for a law reform commission in Victoria. In my short time at the VLRC I have come to appreciate the intrinsic value of rigorous and independent analysis of current legal issues, and therefore of the necessity for a commission of this type. The Commission's independence and the integrity of its work are its cornerstone, enabling it to make a tangible contribution toward building a fairer society. Its references cover important areas of law; its research and analysis are thorough; the quality of its products unquestionable; and as a consequence its value is assured.

I have appreciated the enormous privilege of being associated with the Commission and the benefit I have personally received from participating in its work. Over the coming twelve months there are several key issues that the Commission will grapple with in order to fulfil its mandate. During this time I hope to draw on what I have learnt thus far in order to make a greater contribution in the future. In so doing, I hope that by offering additional community based perspectives I can help balance and complement the already exceptional legal expertise held within the Commission.

Paris Aristotle

Part-time Commissioner

Chief Executive Officer's Report

Annual Report 2002–03

The second year of operations for the Commission has been one of consolidation. In 2002-03, the Commission has continued work on its major references, commenced work on new projects and has refined its systems.



As outlined in this Report, the Commission has been working on six major areas of law reform. In addition to work on publications in relation to most of the projects, the Commission has also been involved in community consultation processes specifically tailored for each of the references. The Commission has had invaluable support from Advisory Committees that have been convened for each of the projects. In line with our strategic plan, the Commission has also established an Advisory Council to assist in shaping our community law reform processes and to ensure a coordinated approach to law reform in Victoria.

Continual evaluation and improvement of our systems has assisted in producing high quality publications and ensuring that law reform proposals are widely disseminated and debated. It has also enabled the Commission to be more accurate in budgeting projects and understanding our capacity to undertake references. Over the year we have continued to update and improve our web site. The web site continues to be extremely popular averaging 800 hits a day. The Commission is indebted to Simone Marrocco who single-handedly manages the web site alongside her other duties at the Commission.

Staffing

The Commission is extremely fortunate to have a team of dedicated research and administrative staff. There has been some turnover in staff over the financial year as stages of projects have been completed. I would like

to take this opportunity to express my gratitude to Sangeetha Chandrashekeran and Melanie Heenan who worked tirelessly on Stage 2 of the Sexual Offences reference. Their commitment, energy and wide range of skills combined to ensure successful completion of Stage 2 and the design of 107 recommendations for change. I would also like to thank Chris Dent who worked extremely hard on the Commission's references on Crown Liability, Privacy and Compulsory Care and Treatment of People with an Intellectual Disability. Over the year the Commission was also privileged to have Ian Parsons seconded from the Department of Human Services to work on the Compulsory Care project. Ian's vast experience in the area and skills in community consultation were invaluable in conducting the reference.

As the Commission is committed to evidence based research, we have worked on several empirical research projects in relation to major references. This has meant that several of our researchers have had to develop new skills to oversee and undertake empirical research. Jamie Walvisch, a researcher who has worked on a range of projects with the Commission has been seconded for a year to the Australian Institute of Criminology to further develop his skills. At the end of the financial year, the Commission lost its cherished receptionist, Naida Jackomos. Naida came to the Commission as a youth trainee and was offered a position following her training. Naida has moved to Sydney to pursue career opportunities and is sorely missed by all at the Commission.

Financial Position

The Commission is funded by two separate sources. It receives approximately half its funds from consolidated revenue and the other half from the Legal Practice Board. The funds received from the Legal Practice Board are managed in a trust fund and administered separately. The Commission achieved all it set out to do within budget over the financial year. While close reading of the financial statements indicates an operating loss, this is due to the fact that the Commission is not funded for depreciation expenses. The loss reported by the Commission reflects the full cost of operations which is inclusive of usage of previously acquired physical assets but for which no funding is required in the reporting year. The operating loss does not reflect any overrun of budget or any deficit of cash.

One of the major expenses incurred over the financial year related to renovations that were required to the Commission's premises. The renovations were undertaken to create an office for the new full-time Commissioner whose appointment the Attorney-General announced in July 2003. I would like to express my gratitude to our Operations Manager, Kathy Karlevski, for ensuring that the renovations were completed with minimum disruption to Commission business and staff. Kathy's meticulous oversight of the project meant the renovations were completed on time while accommodating the varied needs of the Commission.

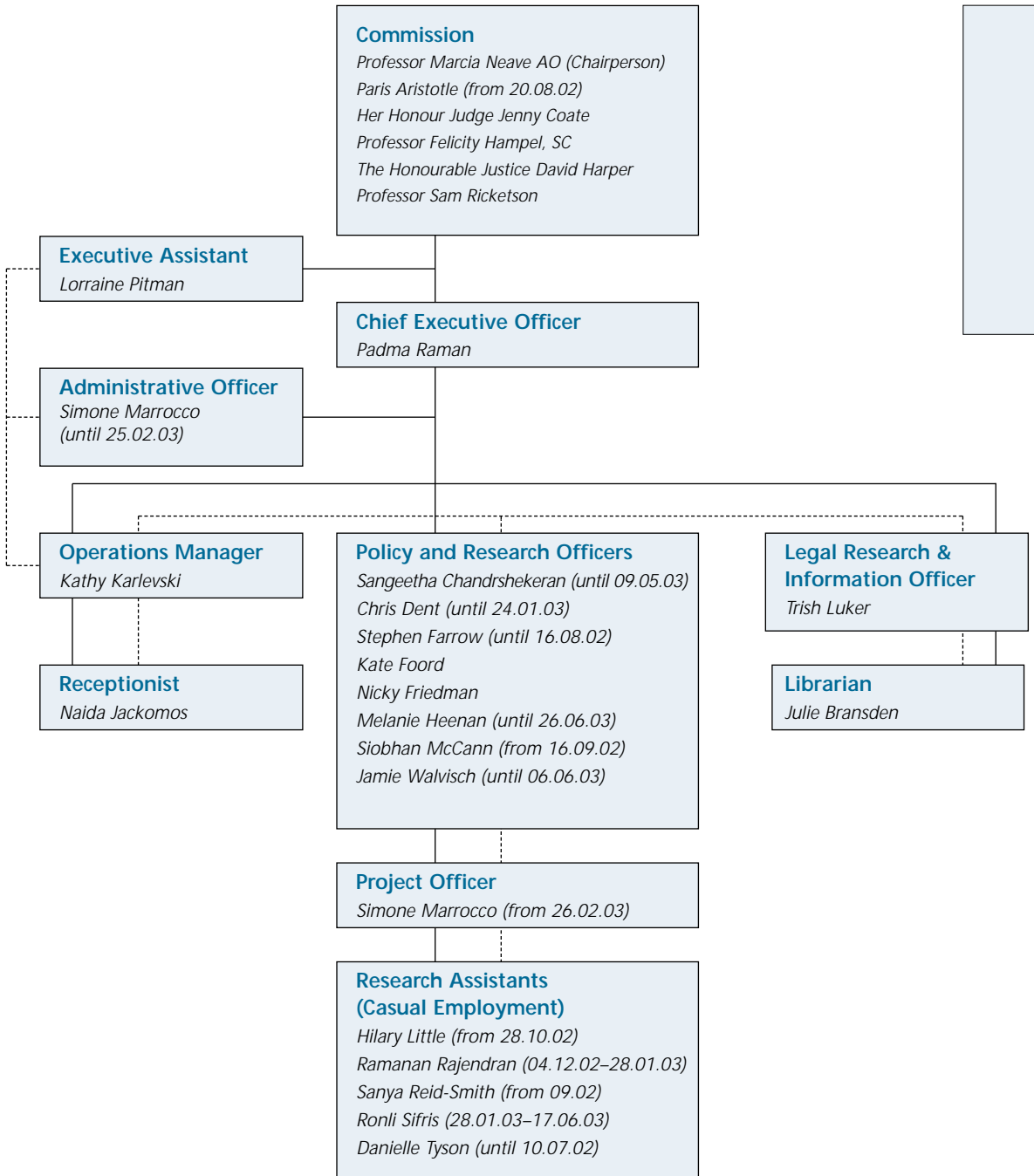
I would like to thank the research and administrative staff at the Commission who have all worked very hard over the year to achieve our objectives. I would also like to thank the part-time Commissioners who have so generously given their time and expertise. Finally, I would like to express my gratitude to our extremely diligent Chairperson who continues to work at a remarkable pace while providing me with invaluable guidance and support.



Padma Raman
Chief Executive Officer

Organisational Chart

Annual Report 2002–03



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.

The functions of the Commission are:

- a) 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;
- b) 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;
- c) 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;
- d) to monitor and co-ordinate law reform activity in Victoria; and
- e) to undertake educational programs on any area of the law relevant to a reference, whether past or current.

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; and
- 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 2002–05 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 co-ordinate 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.

Our Approach

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

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.

References

Sexual Offences



The aim of the Commission's reference on sexual offences is to decide what legislative, administrative and procedural changes should be made to make the criminal justice process more responsive to complainants of sexual offences.

Stage One

This project was referred to the VLRC by the Attorney-General in 2001. In November 2001 the VLRC published a Discussion Paper, Sexual Offences: Law and Procedure. This Paper compared Victorian sexual offences with the draft Model Criminal Code and asked a number of questions about substantive sexual offences laws and aspects of law and procedure. The VLRC also carried out research on rape prosecutions data and reported those findings.

Stage Two

After publication of the Discussion Paper, the VLRC held extensive consultations with representatives of service provider and stakeholder organisations as well as with individual victim/survivors who approached the VLRC. As well as seeking responses to the questions asked in the Discussion Paper, the consultations focused more broadly on the range of issues affecting complainants of sexual offences because of their involvement with the criminal justice system.

The second stage of the project involved additional empirical work, extensive legal research and substantial community engagement. A lengthy Interim Report was prepared and published in early June 2003.

Two major empirical projects were completed during the second stage of the project. The VLRC studied prosecution data on penetrative offences other than rape as well as police data on reporting rates of sexual offences. These projects are reported on in detail in the Interim Report.

The VLRC carried out extensive legal research in relation to aspects of each stage of the criminal justice process—disclosure, reporting, prosecution, trial and outcome. The Interim Report acknowledges that changes to substantive law do not in themselves ensure effective change to practice and thus to complainants' experiences. Accordingly, as well as substantive legal matters, the recommendations cover a range of process issues as well as education for the stakeholders in the criminal justice process.

The report makes 107 interim recommendations and asks several questions. Recommendations are made about the Police Code of Practice for Sexual Assault Cases, police training, training for Centre Against Sexual Assault counsellor advocates and judicial and prosecutor training. We make a number of recommendations about aspects of giving evidence in sexual assault trials including the need for all complainants to have the right to testify via closed circuit television, the need for added restrictions on admission of testimony about a complainant's prior sexual history and about access to confidential counselling communications. There is extensive discussion of what constitute appropriate jury directions in relation to the issue of consent. There is a series of recommendations on the introduction of objective elements into the test for the requisite mental element in rape.

Part of the VLRC's work on the sexual offences reference has focused on the experiences of people who frequently face particular barriers to access to the criminal justice system. We have looked at the difficulties child victims of sexual offences encounter when they are required to give evidence and researched best practice models in other jurisdictions. We visited Western Australia where various progressive practices appear to have significant impact on child witness' experiences. The Interim Report makes a series of recommendations in relation to child witnesses.

We have consulted extensively with service providers who work with people with cognitive impairments, about the added barriers to access experienced by complainants of sexual offences who have cognitive impairments. Our work in this area has resulted in recommendations aimed at improving the way the criminal justice process accommodates members of this group.

Stage Three

Since publication of the Interim Report in June 2003 we have focused attention on informing stakeholders about its content and seeking responses to the questions and interim recommendations. We visited Mildura to report on our work to those with whom we met in 2002. We held information sessions for the Federation of Community Legal Centres, the Centres Against Sexual Assault, members of the Criminal Bar, Victoria Legal Aid, the criminal division of the Law Institute and members of support groups for victims/survivors of sexual assault. Further events planned for include consultations in Warrnambool, a forum for child welfare organisations, a forum for County Court judges and a round table discussion with representatives of different stakeholder organisations.

During each stage of the reference we have consulted with members of Indigenous communities and service providers who work with Indigenous people about the barriers to participation in the criminal justice system faced by Indigenous people who have been victims of sexual offences. Indigenous participants have highlighted the need for specialised service provision and the dialogue will continue during the third stage, in an effort to identify more clearly the appropriate features of a specialised service.

The VLRC has focused on the barriers to access to the criminal justice process encountered by people from non-English speaking backgrounds (NESB) who have been victims of sexual offences. We conducted a full day forum in 2002 at which representatives of organisations that work with NESB victims of sexual offences identified various measures necessary to improve equity of access. A second forum will be held in September 2003.

During the final phase of the reference we will complete several additional research projects. We will gather data about delays in sexual offences proceedings, track how often complainants are called to testify at Committal Proceedings, look at the operation of the dealing with separation of trials, and study a sample of judges' directions on consent and delay in rape trials. We will look at the complex problems that arise when juveniles commit sexual offences and consider whether it is appropriate to make recommendations to deal with this group specifically. We will research various specialist court models and determine whether a specialist approach to sexual offences cases is warranted.

We plan to publish a Final Report during the first half of 2004.

References

Defences to Homicide



The aim of the Commission's reference on defences to homicide is to determine whether it would be appropriate to reform, narrow or extend defences or partial excuses to homicide. In addition to this, the Commission is looking at possible procedural reform as well as reforms to plea and sentencing practices in relation to defences and partial excuses to homicide.

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.

Critics have argued that the current defences to homicide retain anachronistic notions which are not consistent with contemporary social values. It is often argued, for example, that they excuse or condone male patterns of aggression, or perpetuate stereotypes about a person's race, religion or sexual preference.

In June 2002, the Commission completed the first stage of the reference, publishing an Issues Paper, Defences to Homicide and commissioning an Occasional paper, Who Kills Whom and Why: Looking Beyond Legal Categories.

Issues Paper

The Issues Paper explains the law in relation to defences to homicide including self-defence, provocation, mental impairment, diminished responsibility, automatism and infanticide. The Issues Paper also analysed the existing empirical research which has been undertaken in this area and highlighted the lack of data in the area and the need for more research to be done.

The Commission also foreshadowed its intention to undertake research in the area of defences to homicide as part of the project, in order to better understand the way in which the law is working in practice.

Occasional Paper

The Commission commissioned Professor Jenny Morgan to write an Occasional Paper, Who Kills Whom and Why: Looking Beyond Legal Categories. The Paper summarises the Australian data on homicide and argues that social problems rather than legal categories best inform our thinking about law reform in this area.

Homicide Study

After completing the first stage of the reference, the Commission began an empirical research project to collect detailed information about homicides occurring in Victoria over a four-year period. The Commission examined prosecutions of Victorian homicide incidents that occurred between 1 July 1997 and 30 June 2001. The sample selected included all cases which proceeded beyond the committal stage on a charge of murder, manslaughter or infanticide. The study drew on data collected from three main sources. Demographic data was drawn from the Australian Institute of Criminology's (AIC) National Homicide Monitoring Program data (NHMP), files kept

by the Office of Public Prosecutions (OPP), and publicly accessible documents available on the internet. From these three sources a variety of information was extracted including demographic information, information relating to the context of the homicide; details of any psychological assessments of the accused; details about the prosecution process, such as what charges were originally brought against the accused, what charges they were ultimately presented upon, details of any defences raised by the accused, both prior to and at trial; and the outcome of the proceedings and the success or otherwise of any defences run.

A database was built to hold the information from these various sources. In the case of the OPP files, information was extracted from individual case files from the Office of Public Prosecutions and entered into this data and combined with the NHMP data to build a picture of perpetrators and the contexts of homicide in Victoria. The main purpose of our study was to find information with which to inform our discussion of defences to homicide and to assist us in developing options for changing the law which would address some of the major issues in relation to who kills whom and why.

Options Paper

In September 2003 the Commission will publish an Options Paper on Defences to Homicide. The purpose of the Options Paper is to promote discussion of possible reforms to the law. The Options Paper sets out the results of the homicide prosecutions study and uses these results as the starting point for a critical discussion of the law as it currently exists in relation to defences to homicide, and sets out a variety of options for reform in relation to each defence. The Paper also poses a number of questions in relation to these options and calls for submissions in response to the questions and options set out in the paper.

Consultations

The Commission has held two public information sessions to inform relevant individuals and groups about the current law and give them an opportunity to express some preliminary views. The Commission has also undertaken some preliminary consultations with the following groups:

- Victorian Aboriginal Legal Service, on the implications of possible changes to defences for Indigenous people;
- experts on mental impairment issues, including psychiatrists who are frequently called as expert witnesses in homicide cases;
- Federation of Community Legal Services;
- Supreme Court judges who sit in homicide cases; and
- Victoria Legal Aid.

The Options Paper calls for submissions and the Commission will be conducting more consultations with key stakeholders in relation to the various options for reform which it has outlined over the next few months.

References

Workplace Privacy



On 5 March 2002, the Attorney-General, the Honourable Rob Hulls MP, asked the Commission to inquire into aspects of workplace privacy protection and surveillance. The Commission is currently undertaking the workplace privacy section of the reference. Work on surveillance in public places will be undertaken at a later stage of the reference.

The aim of the Commission's reference on workplace privacy is to determine whether the privacy of workers (including employees, independent contractors, outworkers and volunteers) is appropriately protected in Victoria. In the course of its inquiry, the Commission has been asked to consider activities such as worker surveillance and monitoring, physical and psychological testing, the searching of workers and their possessions and the handling of personal information in workers' records. In considering these activities, the Commission should have regard to:

- *the balancing of interests between employees and employers;*
- *the protection of the privacy, autonomy and dignity of individuals;*
- *the interaction between State and Commonwealth laws and jurisdictions; and*
- *the desirability of building on the work of other law reform bodies.*

Issues Paper

The Commission published an Issues Paper, Workplace Privacy, in October 2002. The purpose of the Issues Paper was to inform people about the scope and nature of the Commission's inquiry, to provide information and to invite public comment.

The Issues Paper discussed the meaning of privacy based notions of human autonomy and dignity. It examined the extent to which current privacy and workplace relations laws protect the privacy of workers and used a number of case studies to highlight potential privacy issues. It also canvassed some possible approaches to reform.

Occasional Paper

In November 2002 the Commission published an Occasional Paper, Defining Privacy, by Kate Foord, Research and Policy Officer at the Commission.

The Occasional Paper provided a rigorous discussion and analysis of approaches to defining privacy. The Paper argued that although privacy is difficult to define, legal theory must attempt to provide a working definition to establish a regulatory framework capable of protecting privacy. The analysis of privacy in the Occasional Paper formed the foundation of the working definition of privacy proposed in the Issues Paper.

Next stage

The next stage of the reference is for the Commission to undertake consultations with employer groups, unions and other stakeholders to further identify potential workplace privacy issues and attitudes to, and perceptions, of workplace privacy practices. The outcome of consultations will be used to develop proposed regulatory frameworks and approaches to reform of workplace privacy laws generally.

References

People with Intellectual Disabilities at Risk

During 2002–03 the Commission continued working on the reference concerning compulsory care for people with an intellectual disability. In relation to this issue the Commission was required to:



1. 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
2. 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 would occur;*
- *the process of 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 for transfers within the criminal justice system and between the criminal justice system and disability services.*

Over the course of this year the Commission engaged in extensive consultation with the general community and key stakeholders. Particular emphasis was placed on accessing the views of people with an intellectual disability, their advocates, families and carers. The Commission also convened an expert Advisory Committee to assist it to examine and consider the implications of the information gathered through the consultation process.

The Commission is presently preparing a Final Report on this reference and it is anticipated that this will be tabled in Parliament during the Spring 2003 Parliamentary session. Once the Final Report is tabled it will be publicly released. The Commission will then implement an information campaign to publicise and explain its recommendations.

References

Family Violence

A review of the *Crimes (Family Violence) Act 1987* was referred to the Commission by the Attorney-General, The Honourable Rob Hulls MP, on 1 November 2002. Work on the reference is due to commence in August 2003 with the appointment to the Commission of an additional full-time Commissioner. It is expected that the reference will be completed in 2005.

The terms of reference require the Commission to review the Crimes (Family Violence) Act 1987 and to consider whether the Act is based on a coherent philosophy and whether, having regard to national and international experience, its approach to family violence is the best approach available in Victoria. In addition the reference is to:

- 1. Identify procedural, administrative and legislative changes which may be necessary to ensure that the Act provides the best possible response to the problem of family violence.*
- 2. Undertake research to monitor the practical effect of any changes.*
- 3. Develop and/or co-ordinate the delivery of educational programs which address any lack of knowledge or misconceptions relating to the Crimes (Family Violence) Act 1987 and the existing processes under the Act.*
- 4. Develop and/or co-ordinate the delivery of educational programs which may ensure the effectiveness of proposed legislative, procedural or administrative reforms.*

5. In conducting this reference, the Commission shall have regard to:

- The work of the Statewide Steering Committee to Reduce Family Violence.*
- The accessibility of the Act and whether it is working effectively for:
 - > Immigrant women (particularly recent immigrants);*
 - > Indigenous communities; and*
 - > People with disabilities.**
- The position of children in applications made under the Act and the intersections between the Crimes (Family Violence) Act 1987, the Children and Young Persons Act 1989 and the Family Law Act 1975 (Cth).*

Addressing, managing and preventing family violence raises complex legal, social, personal, and political challenges. The review of the Crimes (Family Violence) Act 1987 will inform the development of the whole of government responses to family violence initiated by the launch in 2002 of the Women's Safety Strategy.

Planning for the reference will commence in August 2003 and the Commission will be consulting widely with all stakeholders on the substantive law, practices, procedures and programs.

References

Assisted Reproductive Technology

On 11 October 2002, the Attorney-General, Rob Hulls MP, referred issues relating to eligibility for assisted reproduction and adoption to the Commission.

1. *The Victorian Law Reform Commission is to enquire into and report on the desirability and feasibility of changes to the Infertility Treatment Act 1995 and the Adoption Act 1984 to expand eligibility criteria in respect of all or any forms of assisted reproduction and adoption, and make recommendations for any consequential amendments which should be made to the:*

Status of Children Act 1974
Births Deaths and Marriages Registration Act 1996
Human Tissue Act 1982
Equal Opportunity Act 1995
and any other relevant Victorian legislation

2. *In making its enquiry and report, the Commission should take into account, to the extent it decides is necessary or desirable:*

- (i) *social, ethical and legal issues related to assisted reproduction and adoption, with particular regard to the rights and best interests of children;*
- (ii) *the public interest and the interests of parents, single people and people in same sex relationships, infertile people and donors of gametes;*
- (iii) *the nature of, and issues raised by arrangements and agreements relating to methods of conception other than sexual intercourse and other assisted reproduction in places licensed under the Infertility Treatment Act 1995 ('the Act');*

- (iv) *the penalties applicable to persons, including medical and other personnel, involved in the provision of assisted reproduction (whether through a licensed clinic or otherwise); and*

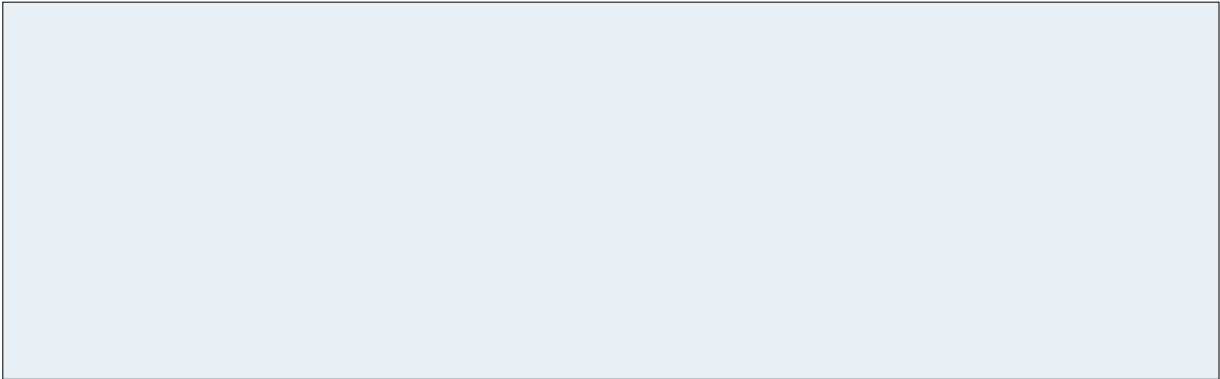

- (v) *the laws relating to eligibility criteria for assisted reproduction and adoption and other related matters which apply in other states or countries and any evidence on the impact of such laws on the rights and best interests of children and the interests of parents, single people, people in same sex relationships, infertile people and donors of gametes.*

3. *In addition, the Commission should consider whether changes should be made to the Act to reflect rapidly changing technology in the area of assisted reproduction.*

4. *The Commission is also requested to consider the meaning and efficacy of sections 8, 20 and 59 in relation to altruistic surrogacy, and clarification of the legal status of any child born of such an arrangement.*

On making its report the Commission should consider the relationship between changes to Victorian legislation and any relevant Commonwealth legislation including the Family Law Act 1975 and the Sex Discrimination Act 1984 as well as any International conventions and instruments to which Australia is a signatory.

The VLRC reference is linked to earlier changes to the law to remove discrimination against people in same-sex relationships. In its March 1998 Report, Same Sex Relationships and the Law, the Equal Opportunity Commission of Victoria identified the issues of access to reproductive



technology and adoption for people in same-sex relationships as issues requiring further consideration and community consultation, before any changes are proposed. The Infertility Treatment Act 1995 and the Adoption Act 1984 were not amended with the Statute Law Amendment (Relationships) Act 2001 and the Statute Further Amendment (Relationships) Act 2001, acts which amended over 50 pieces of Victorian legislation to recognise same-sex relationships.

The Attorney-General's reference to the Victorian Law Reform Commission was made to provide an opportunity for the community to be consulted on and to influence the law relating to access to assisted reproductive technology and adoption. Since receiving the reference, the Commission has invited several experts to join an advisory committee, and has conducted initial research on the issues raised in this inquiry. We have also begun to brief interested groups on the scope and progress of the reference. Substantial progress has been made towards producing a Consultation Paper, which explains the current eligibility criteria for both assisted reproductive technologies and adoption. This Paper asks Victorians to respond to the questions and issues raised both by the current system and by possible law reform in this area.

This Consultation Paper will be published at the same time as we call for submissions. Work has also begun on planning the consultation phase of the reference, to begin in September 2003. During this phase, the Commission will encourage broad community involvement as well as contributions from those communities most affected by the operation of the current laws.

Community Outreach and Education

Annual Report 2002–03

The Commission is committed to fostering understanding in the law reform process and to interacting with other bodies involved in law reform.

Commonwealth Law Reform Agencies Day

As part of its coordinating and monitoring of law reform function, the Commission hosted a meeting of Commonwealth law reform agencies on 13 April 2003 in conjunction with the annual Commonwealth Law Conference. Representatives from a variety of Australian and international law reform agencies participated in the meeting.

The day was opened with a welcome from the Commission's Chairperson Professor Marcia Neave, followed by guest speakers who explored many topics around the area of law reform.

Speakers were:

Professor Arie Freiberg

*Department of Criminology, University of Melbourne
Where has Justice been and where is it heading?*

Professor Anne Finlay

*Australian Law Reform Commission
Law, Science & Technology: the challenge for law in responding to scientific and technological developments*

Justice Elton Singini

*Malawi Law Commission
Creation of Law Reform Secretariats – Regional initiatives*

Michael Sayers

*Law Commission of England and Wales
Law Reform Agencies and Secretariat*

Chief Justice John Phillips

*Victoria Law Foundation
Establishing a Commonwealth Association of Law Reform Agencies and Secretariat*

Peter Hennessy

*New South Wales Law Reform Commission
Law Reform based on empirical research: benefits and pitfalls*

Peter Lown

*Alberta Law Commission
Managing research teams: project planning*

Padma Raman

*Victorian Law Reform Commission
Public consultation strategies for law reform*

Professor Marcia Neave

*Victorian Law Reform Commission
Where to from here?*

Publications

During the year the 2002–03, the Commission produced the following publications:

- Annual Report 2001–02
- Workplace Privacy Issues Paper
- Defining Privacy by Kate Foord, Policy and Research Officer
- Privacy at Work—Have Your Say (Brochure)
- Sexual Offences Interim Report

Web site

The Commission's web site is updated on a regular basis to provide current information on the Commission's references and community law reform projects, speeches and presentations and positions vacant. This year the Commission advertised positions for Policy and Research officers on its web site, and received a vast response. Over 800 hits per day to the web site were recorded during the year.

Speaking Engagements

As part of its commitment to fostering public understanding in the law reform process Commissioners, the Chief Executive Officer and all the Commission's staff interact with a broad range of non-government organisations on an almost daily basis. The Chairperson and the Chief Executive Officer have undertaken a broad range of speaking engagements during the reporting year.

| | | | |
|--------------|---|---|----------------|
| 6 Sept 2002 | Soroptimist International | Violence against women and children and VLRC reference | Marcia Neave |
| 26 Sept 2002 | Victim Assistance Program | The VLRC and its current work | Marcia Neave |
| 3 Oct 2002 | Department of Justice Conference: Vision for justice in Victoria over the next decade | How will the justice system deal with social and human rights in 2012? | Marcia Neave |
| 6 Oct 2002 | Criminal Law Congress | Will harsher sentences reduce sexual crimes? | Marcia Neave |
| 9 Sept 2002 | University of Adelaide Law School | Does law reform change anything? | Marcia Neave |
| 10 Oct 2002 | University of Melbourne, Staff | The VLRC and its current work | Marcia Neave |
| 25 Oct 2002 | Department of Justice Forum on Crimes Family Violence | Family Violence – issues for consideration | Marcia Neave |
| 29 Oct 2002 | 3AK Derryn Hinch Program | VLRC's Defences to Homicide reference | Marcia Neave |
| 30 Oct 2002 | Women Lawyers, Middletons Lawyers | Dispelling the enemy within | Marcia Neave |
| 26 Nov 2002 | Gippsland Community Legal Service | Women and violence--navigating the justice system | Marcia Neave |
| 27 Nov 2002 | Brimbank Community Legal Centre | The VLRC's work relevant to family violence | Marcia Neave |
| 27 Nov 2002 | Victorian Commercial Teachers' Association | VLRC's work on its Sexual Offences reference | Melanie Heenan |
| 10 Dec 2002 | Islamic Women's Welfare Council | The work of the VLRC | Marcia Neave |
| 13 Jan 2003 | 3AK Matt Simpson Show | VLRC's Privacy reference | Marcia Neave |
| 26 Feb 2003 | 12th Annual National Medico-Legal Congress | Medical litigation reform: AHMAC Legal Process Reform Group's Package | Marcia Neave |
| 4 Mar 2003 | Western Region Family Violence Network | VLRC's work on family violence | Padma Raman |
| 12 Mar 2003 | Bethany Community Support Inc. | VLRC's references in relation to victims of crime | Marcia Neave |
| 18 Mar 2003 | Department of Justice Cultural Diversity Forum | Concluding comments | Marcia Neave |
| 19 Mar 2003 | Victorian Commercial Teachers' Assoc. | Law reform in action: assisted reproductive technologies and defences to homicide | Padma Raman |
| 24 Mar 2003 | Women's Law Collective | Law Reform which takes account of women's experience of violence and abuse | Marcia Neave |
| 11 Apr 2003 | 3AK John Jost Program | VLRC's Defences to Homicide reference | Marcia Neave |
| 14 Apr 2003 | Commonwealth Law Conference | What does it mean to be 'inclusive and innovative'? Consultation methodologies utilised by VLRC | Padma Raman |
| 15 Apr 2003 | Commonwealth Law Conference | Rapporteur of session: Equality: The Limits of the Law | Marcia Neave |
| 16 Apr 2003 | ABC Radio | VLRC's Sexual Offences reference | Marcia Neave |
| 17 Apr 2003 | Health Services Review Council | Keynote speaker: Health Records Act and privacy | Marcia Neave |
| 15 May 2003 | Victorian Women Lawyers | Member of judging panel: Victorian Women Lawyers Achievement Awards | Marcia Neave |
| 26 May 2003 | Royal Australasian College of Physicians | Solutions to the medical indemnity crisis | Marcia Neave |
| 27 June 2003 | North Melbourne Community Legal Service | Relevance of VLRC's work to Community Legal Centres | Marcia Neave |

Other Activities

Occupational Health and Safety

During 2002–03, human and financial costs of occupational injury and illness remained nil. Many staff took advantage of the subsidised immunisation program organised by the Department of Justice. New staff received ergonomic assessments by qualified professionals. All staff participated in fire drill evacuation exercises and received training in the Commission's 'Contingency Plan for Disaster'.

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 2003, 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 2003, the Commission did not receive any applications.

Compliance with Building Act 1993

In accordance with the requirements of the Directions of the Minister for Finance, the Annual Report must include a statement about compliance with the building and maintenance of provisions of the Building Act 1993 for publicly owned buildings controlled by the Commission. The Commission does not own or control any government buildings.

Cultural Diversity

In accordance with the requirements approved by the Social Development Cabinet Committee, the Commission must report on its responsiveness to Victoria's culturally and linguistically diverse community.

Provision of Language Services

The Commission's main brochure that outlines organisational structure values and processes has been translated into ten different community languages and is available on the Commission's website.

For each of its references the Commission has identified consultation strategies which develop mechanisms to assist in capacity building and consultation with ethnic and indigenous communities on law reform. Some of these strategies include the provision of written material in community languages and the provision of interpreter services for forums and other community consultation mechanisms.

Communication with Ethnic Media

The Commission ensures communication with ethnic media is part of every inquiry strategy and sends media releases to ethnic media—press and radio. Separate funding is not allocated for communication with ethnic media as it is a central part of the Commission's communication strategy.

Funding Allocations to Multicultural Initiatives

The Commission develops strategies for consultation and capacity building of ethnic and indigenous communities on all projects. This means that culturally and linguistically diverse issues are integrated into our processes at the budgetary stage and are not separated as an added extra.

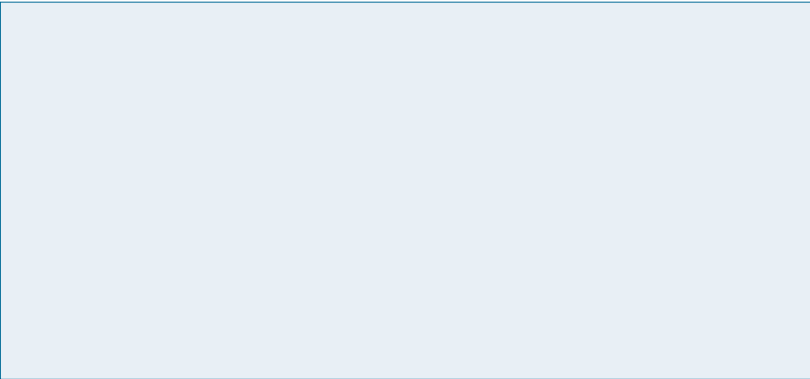
The Commission is undertaking a major reference on how the criminal justice system can be more responsive to the needs of complainants in sexual offences cases. The Commission places a strong emphasis on community participation and has in its Strategic Plan committed to increase the participation of marginalised groups in the law reform process. In line with this approach and as there is very little known about immigrant women's experiences of the criminal justice system, it was determined that immigrant women would be a major target group for the Inquiry. This has meant that the Commission has consulted with service providers and is examining ways of ensuring that long-term strategies are in place to increase reporting rates of sexual offences amongst immigrant communities while ensuring adequate support for victim/survivors. The Commission is currently undertaking this project and the outcomes are likely to be released in the next financial year.

Diverse backgrounds of Commission staff and Advisory Committee members

Five of the Commission's sixteen staff employed on a full or part-time are from culturally and linguistically diverse backgrounds. Representation is mainly within the administrative group but there is also some representation amongst research and policy officers. More than half of the casual employees working for the Commission during the year were from culturally and linguistically diverse backgrounds, as is one member of the Commission.

The Commission establishes advisory committees for its references where appropriate. These advisory committee include representatives from ethnic and indigenous communities allowing the Commission to build a fair, just, responsive, inclusive and accessible legal system for all Victorians.

Financial Statements



The following pages provide the Financial Statements for the Victorian Law Reform Commission for the year 1 July 2002–30 June 2003.

Statement of Financial Performance

for the year ended 30 June 2003

| | Notes | 2003 \$ | 2002 \$ |
|--|-------|--------------------|--------------------|
| REVENUE FROM ORDINARY ACTIVITIES | | | |
| Government | | | |
| Grant—Department of Justice | 2 | 821,327 | 928,300 |
| Other income—Legal Practice Board | 2 | 1,000,000 | 950,000 |
| Interest received on Trust Account funds | 2 | 14,301 | 0 |
| Total Revenues from Ordinary Activities | | 1,835,628 | 1,878,300 |
| EXPENSES FROM ORDINARY ACTIVITIES | | | |
| Employee benefits | 4.1 | (1,148,343) | (966,057) |
| Supplies and services | 5 | (241,490) | (248,601) |
| Depreciation and amortisation expense | 6 | (113,173) | (108,813) |
| Capital asset charge | | (31,777) | (38,790) |
| Other expenses from ordinary activities | 7 | (515,336) | (266,229) |
| Total Expenses from Ordinary Activities | | (2,050,119) | (1,628,490) |
| RESULT FROM ORDINARY ACTIVITIES | | (214,491) | 249,810 |
| NET RESULT FOR THE REPORTING PERIOD | | (214,491) | 249,810 |
| TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH THE VICTORIAN STATE GOVERNMENT IN ITS CAPACITY AS OWNER | 10 | (214,491) | 249,810 |

Statement of Financial Position

as at 30 June 2003

| | Notes | 2003 \$ | 2002 \$ |
|----------------------------------|--------|----------------|----------------|
| CURRENT ASSETS | | | |
| Cash assets | 14, 15 | 400 | 400 |
| Receivables | 3, 15 | 312,381 | 443,169 |
| Total Current Assets | | 312,781 | 443,569 |
| NON-CURRENT ASSETS | | | |
| Plant and equipment | 8 | 344,815 | 452,226 |
| Total Non-current Assets | | 344,815 | 452,226 |
| TOTAL ASSETS | | 657,596 | 895,795 |
| CURRENT LIABILITIES | | | |
| Payables | 9, 15 | 65,773 | 96,907 |
| Provisions | 4.2 | 49,610 | 48,333 |
| Total Current Liabilities | | 115,383 | 145,240 |
| NON-CURRENT LIABILITIES | | | |
| Provisions | 4.2 | 32,410 | 26,261 |
| TOTAL LIABILITIES | | 147,793 | 171,501 |
| NET ASSETS | | 509,803 | 724,294 |
| EQUITY | | | |
| Contributed capital | 10 | 474,484 | 474,484 |
| Accumulated surplus | 10 | 35,319 | 249,810 |
| TOTAL EQUITY | | 509,803 | 724,294 |

The Statement of Financial Position is to be read in conjunction with the notes to and forming part of the financial statements.

Statement of Cash Flows

for the year ended 30 June 2003

| | Notes | 2003 \$ | 2002 \$ |
|--|-------|----------------|-----------------|
| CASH FLOWS FROM OPERATING ACTIVITIES | | | |
| Receipts from the Department of Justice | | 952,116 | 537,193 |
| Receipts from other entities | | 1,000,000 | 950,000 |
| Interest received | | 14,301 | 0 |
| | | 1,966,417 | 1,487,193 |
| Payment to suppliers and employees | | (1,960,655) | (1,411,396) |
| Net Cash Inflow (Outflow) From Operating Activities | 14 | 5,762 | 75,797 |
| CASH FLOWS FROM INVESTING ACTIVITIES | | | |
| Payments for property, plant and equipment | | (5,762) | (84,622) |
| Net Cash (Outflow) From Investing Activities | | (5,762) | (84,622) |
| CASH FLOWS FROM FINANCING ACTIVITIES | | | |
| Proceeds from capital contribution by State Government | | 0 | 8,825 |
| Net Cash Inflow (Outflow) From Financing Activities | | 0 | 8,825 |
| NET INCREASE (DECREASE) IN CASH HELD | | | |
| Cash at beginning of the financial year | | 400 | 400 |
| CASH AT END OF THE FINANCIAL PERIOD | 14 | 400 | 400 |

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

The Victorian Law Reform Commission was proclaimed on 6 April 2001. The entity was incorporated under the *Victorian Law Reform Commission Act 2000 Act No. 44/2000*. The financial statements have been prepared in accordance with Australian Accounting Standards.

These financial statements have been prepared in relation to the year ended 30 June 2003 with comparative figures for the period from 1 July 2001 to 30 June 2002.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

This general-purpose financial report has been prepared on an accrual basis for the Victorian Law Reform Commission in accordance with the *Financial Management Act 1994*, Australian Accounting Standards, Statements of Accounting concepts and other authoritative pronouncements of the Australian Accounting Standards Board and Urgent Issues Group Consensus Views.

It is prepared in accordance with the historical cost convention. The accounting policies adopted and the classification and presentation of items are consistent with those of the previous year, except where a change is required to comply with a standard to improve the relevance and reliability of the financial report. Where practicable, comparative amounts are presented and classified in a basis consistent with the current year.

(a) Reporting Entity

The financial statements include both entities — current appropriation and trust fund — which the Victorian Law Reform Commission controls.

The Department of Justice administers but does not control certain resources on behalf of the Victorian Law Reform Commission. It is accountable for the transactions involving certain resources, but does not have the discretion to deploy the resources for achievement of the Commission's objectives.

(b) Objectives and funding

The Commission's objectives are 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.

The Commission is funded by accrual-based parliamentary appropriations for the provision of outputs and amounts paid to it under Section 383(2) of the *Legal Practice Act 1996*.

The appropriated amount includes funding for non-discretionary items, such as capital asset charge, amortisation and depreciation.

(c) 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 reform.

No separate statement 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 2003

(d) Acquisitions of Assets

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental costs directly attributable to acquisition.

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

(e) Revenue Recognition

Revenue received by the Commission is required to be paid into either the Consolidated Fund or the Trust Fund.

Revenue becomes controlled by the Commission when it is granted by the Department of Justice. Additionally, the amounts paid to it under Section 383(2) of the *Legal Practice Act 1996* become controlled when the Commission deposits the monies into the Trust Fund.

Amounts disclosed as revenues are, where applicable, net of returns, allowances and duties and taxes. Revenue is recognised for the Commission as follows:

Other revenue

The Attorney-General directed the Commission be allocated funds from the Law Reform and Research Account. These non-public 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.

(f) Receivables

All debtors are recognised at the amounts receivable as they are due for settlement at no more than 30 days from the date of recognition.

Collectability of debtors 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.

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

(g) 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 Victorian Government Policy – *Revaluation 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.

(h) Other financial assets—Investments

Investments in unlisted securities are recognised at cost and dividend income is recognised in the statement of financial performance when receivable.

(i) Depreciation of property, plant and equipment

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 Board (AASB) 1021—*Depreciation*.

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

| Depreciation rates are as follows: | 2003 | 2002 |
|------------------------------------|------|------|
| • Computer Equipment | 33% | 33% |
| • Plant and Equipment | 10% | 10% |

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

| | 2003 | 2002 |
|-----------|---------------|---------------|
| • Fit out | Life of Lease | Life of Lease |

(j) Leasehold improvements

The cost of improvements to or on leasehold properties is amortised over the unexpired period of the lease or the estimated useful life of the improvement to the Commission, whichever is the shorter. Leasehold improvements held at the reporting date are being amortised over 6 years from 6 April 2001.

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

(k) Trade and other creditors

These amounts represent creditors (excluding GST) for goods and services provided to the Commission 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.

(l) Goods and services tax (GST)

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.

(m) Employee benefits

(i) Wages, salaries and annual leave

Liabilities for wages and salaries, including non-monetary benefits, annual leave and accumulating sick leave expected to be settled within 12 months of the reporting date are recognised in respect of employees' services up to the reporting date and are measured as the amounts expected to be paid when the liabilities are settled. Liabilities for non-accumulating sick leave are recognised when the leave is taken and measured at the rates paid or payable.

(ii) Long service leave

The liability for long service leave expected to be settled within 12 months of the reporting date is recognised in the provision for employee benefits and is measured in accordance with (i) above. The liability for long service leave expected to be settled more than 12 months from the reporting date is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using interest rates on national Government guaranteed securities with terms to maturity that match, as closely as possible, the estimated future cash outflows.

(iii) Superannuation

The amount charged to the statement of financial performance in respect of superannuation represents the contributions made by the Commission to the superannuation fund (see note 19).

(iv) Termination benefits

Liabilities for termination benefits are recognised when a detailed plan for the terminations has been developed and a valid expectation has been raised in those employees affected that the terminations will be carried out. The liabilities for termination benefits are recognised in other creditors unless the amount or timing of the payments is uncertain, in which case they are recognised as a provision.

Liabilities for termination benefits expected to be settled within 12 months are measured at the amounts expected to be paid when they are settled. Amounts expected to be settled more than 12 months from the reporting date are measured as the estimated cash outflows, discounted using interest rates on national Government guaranteed securities with terms to maturity that match as closely as possible, the estimated future cash outflows.

(v) Employee benefit on-costs

Employee benefit on-costs, including payroll tax, are recognised and included in employee benefit liabilities and costs when the employee benefits to which they relate are recognised as liabilities.

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

(n) Cash

For purposes of the statement of cash flows, cash includes short-term deposits that are readily convertible to cash on hand and are subject to an insignificant risk of changes in value, net of outstanding cheques yet to be presented by the Commission's suppliers and creditors (see note 9).

(o) 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).

(p) Resources provided and received free of charge or for nominal consideration

Contributions of resources and resources provided free of charge or for nominal consideration are recognised at their fair value. Contributions in the form of services are only recognised when a fair value can be reliably determined and the services would have been purchased if not donated.

(q) Contributed capital

Consistent with 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.

(r) Rounding of amounts

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

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

2 REVENUE

Grant—Department of Justice
Other Income—Legal Practice Board (refer Note 1e)
Interest received on Trust Funds

| 2003 \$ | 2002 \$ |
|------------------|------------------|
| 821,327 | 928,300 |
| 1,000,000 | 950,000 |
| 14,301 | 0 |
| 1,835,628 | 1,878,300 |

The Grant excludes the non discretionary revenue which funds
Capital Asset Charge, Amortisation and Depreciation

3 RECEIVABLES

Amount owing from Department of Justice
Other debtors

| | |
|----------------|----------------|
| 312,381 | 439,025 |
| 0 | 4,144 |
| 312,381 | 443,169 |

4 EMPLOYEE ENTITLEMENTS

4.1 EMPLOYEE COSTS

Direct costs

Salaries, wages and overtime
Sick leave, annual leave and long service leave
Superannuation (refer Note 19)

| | |
|------------------|----------------|
| 925,698 | 745,501 |
| 71,088 | 71,896 |
| 60,006 | 40,609 |
| 1,056,792 | 858,006 |

Total direct costs

Related on-costs

Payroll tax
Staff training
Staff training—Youth Employment Scheme
Workcover
Fringe benefits tax

| | |
|--------|--------|
| 56,129 | 44,632 |
| 28,457 | 21,274 |
| 0 | 30,208 |
| 649 | 1,013 |
| 6,316 | 10,924 |

Total related on-costs

| | |
|---------------|----------------|
| 91,551 | 108,051 |
|---------------|----------------|

Total

| | |
|------------------|----------------|
| 1,148,343 | 966,057 |
|------------------|----------------|

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

4 EMPLOYEE ENTITLEMENTS (CONTINUED)

4.2 PROVISION FOR EMPLOYEE ENTITLEMENTS

| | | |
|----------------------------------|---------------|---------------|
| Provision for annual leave | 39,292 | 42,925 |
| Provision for long service leave | 36,011 | 29,179 |
| Accrued salaries | 6,717 | 2,490 |
| Total | 82,020 | 74,594 |

In the Statement of Financial Position, provision for employee entitlements is split between current and non-current as follows:

Current liabilities

| | | |
|--------------------|---------------|---------------|
| Annual leave | 39,292 | 42,925 |
| Long service leave | 3,601 | 2,918 |
| Accrued salaries | 6,717 | 2,490 |
| | 49,610 | 48,333 |

Non-current liabilities

| | | |
|--------------------|---------------|---------------|
| Long service leave | 32,410 | 26,261 |
| | 82,020 | 74,594 |

Total

5 SUPPLIES AND SERVICES

| | | |
|--|----------------|----------------|
| Stationery, consumables and supplies | 19,247 | 22,480 |
| External printing | 97,180 | 110,327 |
| Books, Acts, newspapers, journals | 16,230 | 13,569 |
| Advertising | 9,595 | 1,428 |
| Office equipment costs and maintenance | 8,582 | 28,282 |
| Legal subscriptions | 48,974 | 35,998 |
| Couriers and freight | 4,709 | 1,049 |
| Electronic communication charge | 20,274 | 14,181 |
| Other communication expenses | 1,291 | 9,720 |
| Mobile phone charges | 2,355 | 795 |
| Postage | 13,053 | 10,772 |
| Total | 241,490 | 248,601 |

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

6 DEPRECIATION AND AMORTISATION

Depreciation

Computer equipment

42,098 40,743

Plant and equipment

7,498 7,748

Amortisation

Leasehold fitout

63,577 60,322

Total

113,173 108,813

7 OTHER OPERATING EXPENSES

Airfares

19,128 8,833

Tram, train and taxi fares and other local travel

6,447 4,231

Functions, meetings

10,588 7,007

Professional fees

95,812 30,249

Minor equipment

12,023 2,131

Rent and associated services

125,917 119,774

Cabling, software and computer maintenance

49,235 38,438

Motor vehicle costs

7,138 5,592

Electricity

5,762 5,473

Repairs and maintenance

 Furniture and fittings

12,690 5,701

 Leasehold premises

162,490 0

Miscellaneous

8,106 38,800

Total

515,336 266,229

8 FIXED ASSETS—AT COST

Leasehold fitout

381,388 381,388

Less leasehold amortisation

(129,852) (66,274)

Written down value

251,536 315,114

Plant and equipment

203,688 197,926

Less accumulated depreciation

(110,409) (60,814)

Written down value

93,279 137,112

Total written down value

344,815 452,226

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

Reconciliation:

| 2003 | Leasehold Fitout \$ | Computer Equipment \$ | Plant & Equipment \$ | Total \$ |
|---|------------------------------------|--------------------------------------|---|---------------------|
| Carrying amount at the start of the financial year | 315,114 | 71,683 | 65,429 | 452,226 |
| Additions | 0 | 5,762 | 0 | 5,762 |
| Depreciation | 0 | (42,098) | (7,498) | (49,596) |
| Amortisation | (63,577) | 0 | 0 | (63,577) |
| Carrying amount at the end of the financial year | 251,537 | 35,347 | 57,931 | 344,815 |

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

9 PAYABLES—CURRENT

| | | |
|------------------------------|---------------|---------------|
| Trade creditors and accruals | 62,773 | 93,907 |
| Other creditors | 3,000 | 3,000 |
| Total | 65,773 | 96,907 |

10 EQUITY

Contributed capital

| | | |
|--------------------------------|---------|---------|
| Opening Balance at 1 July 2002 | 474,484 | 440,254 |
| Contributed capital | 0 | 8,825 |
| Assets received free of charge | 0 | 25,405 |

| | | |
|-----------------------------|----------------|----------------|
| Balance 30 June 2003 | 474,484 | 474,484 |
|-----------------------------|----------------|----------------|

Accumulated surplus

| | | |
|--|-----------|-----------|
| Balance at the beginning of the financial year | 249,810 | 440,254 |
| Transfer to Contributed capital | 0 | (440,254) |
| Net surplus (deficit) recognised in the Statement of Financial Performance | (214,491) | 249,810 |

| | | |
|---|---------------|----------------|
| Balance at the end of the financial year | 35,319 | 249,810 |
|---|---------------|----------------|

11 EXPENDITURE COMMITMENTS

11.1 OPERATING LEASES

Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:

| | | |
|--|----------------|---------|
| Within 1 year | 139,040 | 134,041 |
| Later than 1 year but not later than 5 years | 393,014 | 519,194 |
| Later than 5 years | 0 | 0 |
| 532,054 | 653,235 | |

11.2 CAPITAL COMMITMENTS

There were no commitments for capital expenditure as at 30 June 2003 (\$Nil–2002).

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

12 POST BALANCE DATE EVENTS

There were no significant post balance day events to be reported as at 30 June 2003 (\$Nil–2002).

13 CONTINGENT LIABILITIES

There were no contingent liabilities at balance date not provided for in the Statement of Financial Position as at 30 June 2003 (\$Nil–2002).

14 RECONCILIATION OF THE OPERATING RESULT TO NET CASH USED IN OPERATING ACTIVITIES

Operating result

(214,491) 249,810

Plus/(minus) non cash items:

Depreciation and amortisation expense

113,173 108,813

Change in operating assets and liabilities:

(Increase)/decrease in debtors and receivables

130,788 (391,107)

Increase/(decrease) in creditors and accruals

(31,134) 65,608

Increase/(decrease) in employee entitlements

7,426 42,673

Net cash from operating activities

5,762 75,797

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 2003

15 FINANCIAL INSTRUMENTS

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

Interest Rate Risk Exposure—30 June 2003

| | 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 | — | — | — | — | 312,381 | 312,381 |
| Total | — | — | — | — | 312,781 | 312,781 |
| Financial liabilities | | | | | | |
| Creditors | — | — | — | — | 65,773 | 65,773 |
| Total | — | — | — | — | 65,773 | 65,773 |

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 |

The net fair value of Financial Assets and Financial Liabilities as at 30 June 2003 is their book value.

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

16 MINISTERS AND ACCOUNTABLE OFFICERS

In accordance with the Ministerial Directions issued by the Minister for Finance under the *Financial Management Act 1994*, the following disclosures are made regarding 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 2002 to 30 June 2003 |
| <i>Acting Attorney-General</i> | The Hon Bob Cameron MP | 1 July 2002 to 22 July 2002 |
| | The Hon Bob Cameron MP | 24 December 2002 to 5 January 2003 |
| | The Hon John Thwaites MP | 6 January 2003 to 19 January 2003 |
| | The Hon Bob Cameron MP | 22 April 2003 to 24 April 2003 |
| | The Hon Bob Cameron MP | 30 June 2003 to 30 June 2003 |
| <i>Secretary to the Department of Justice</i> | Peter Harmsworth | 1 July 2002 to 16 March 2003 |
| | Penny Armytage | 17 March 2003 to 30 June 2003 |
| <i>Acting Secretary to the Department of Justice</i> | Alan Clayton | 23 December 2002 to 10 January 2003 |
| | Alan Clayton | 30 June 2003 to 30 June 2003 |

Remuneration

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

Amounts relating to Ministers 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.

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

17 REMUNERATION OF EXECUTIVES

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

Statutory Office Holder

Chairperson Professor Marcia Neave

No benefits or remuneration were paid to responsible persons of the Victorian Law Reform Commission other than the Chief Executive Officer. Total and base remuneration during the reporting period is shown in the table below in their relevant income bands. Base remuneration is exclusive of bonus payments, long-service leave payments, redundancy payments and retirement benefits.

| Income Band | Remuneration 2003 | | Remuneration 2002 | |
|----------------------|----------------------|------------------|----------------------|-----------------|
| | Total | Base | Total | Base |
| \$70,000 - 79,999 | | | | 1 |
| \$90,000 - 99,999 | | | 1 | |
| \$100,000 - 109,999 | | 1 | | |
| \$110,000 - 119,999 | 1 | | | |
| Total numbers | 1 | 1 | 1 | 1 |
| Total amounts | \$119,691 | \$109,024 | \$90,904 | \$76,401 |

The definition of an executive officer does not include Governor-in-Council appointments as statutory office holders.

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:

| | 2003 \$ | 2002 \$ |
|----------------------------|------------|------------|
| Paid as at 30 June 2003 | 4,500 | Nil |
| Payable as at 30 June 2003 | 6,800 | 11,000 |

Notes to and forming part of the Financial Statements for the year ended 30 June 2003

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.

However, superannuation contributions for the reporting period are included as part of salaries and associated costs in the statement of financial performance of the Department.

The name and details of the major employee superannuation funds and contributions made by the Victorian Law Reform Commission are as follows:

| | 2003 \$ | 2002 \$ |
|---|---------------|---------------|
| Victorian Superannuation Board (New Scheme) | 53,094 | 36,507 |
| Asgard Capital Management Ltd | 3,775 | 3,210 |
| Unisuper | 1,322 | 892 |
| Hesta | 1,159 | 0 |
| Care Super Plan | 656 | 0 |
| Total | 60,006 | 40,609 |

The bases for contributions are determined by the various schemes.

All employees of the Commission are entitled to benefits on retirement, disability or death from the Government Employees' Superannuation Fund. This Fund provides defined lump sum benefits based on years of service and final average salary.

The above amounts were measured as at 30 June of each year, or in the case of employer contributions they relate to the years ended 30 June.

Statement by the Commissioner and Chief Executive Officer

We certify that the attached financial statements for the Victorian Law Reform Commission have been prepared in accordance with Part 9 of the Directions of the Minister for Finance under the *Financial Management Act 1994*, applicable Australian Accounting Standards and other mandatory professional reporting requirements. We further state that, in our opinion, the information set out in the statement of financial performance, statement of financial position, statement of cash flows and notes to and forming part of the financial statements, presents fairly the financial transactions during the year ended 30 June 2003 and financial position of the Victorian Law Reform Commission as at 30 June 2003. At the date of signing, we are not aware of any circumstance which would render any particulars included in the financial statements to be misleading or inaccurate.



Professor Marcia Neave
Victorian Law Reform Commissioner



Padma Raman
Chief Executive Officer

Melbourne
12 September 2002

Auditor-General's report



AUDITOR GENERAL
VICTORIA

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 2003, comprising 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, and its financial performance and 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 the Victorian Law Reform Commission as at 30 June 2003 and its financial performance and cash flows for the year then ended.

J W Cameron
Auditor General

Melbourne
16 September 2003

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)(d)(ii) | Names of senior office holders and brief description of responsibility | 2–7 |
| 9.1.3(i)(d)(iii) | Organisational structure | 10 |
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| 9.2.3(ii)(e) | Depreciation | 36 |
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| 9.2.3(iii)(a)(v) | Investments | n/a |
| 9.2.3(iii)(a)(vi) | Property, plant and equipment | 36 |
| 9.2.3(iii)(a)(vii) | Intangible assets | n/a |
| 9.2.3(iii)(b)(i) | Overdrafts | n/a |
| 9.2.3(iii)(b)(ii) | Other loans | n/a |
| 9.2.3(iii)(b)(iii) | Trade and other creditors | 38, 40 |
| 9.2.3(iii)(b)(iv) | Finance lease charges | n/a |
| 9.2.3(iii)(b)(v) | Provisions, including employee entitlements | 34 |
| 9.2.3(iii)(c)(ii) | Contributed capital | 38 |
| 9.2.3(iii)(d) | Reserves, and transfers to and from reserves | n/a |
| Statement of cash flows | | |
| 9.2.2(i)(c) | Statement of Cash Flows during the year | 28 |
| Other disclosures in notes to the financial statements | | |
| 9.2.3(iv)(a) | Liability secured by a charge over assets | n/a |
| 9.2.3(iv)(b) | Contingent liabilities | 39 |
| 9.2.3(iv)(c) | Commitments for expenditure | 38 |
| 9.2.3(iv)(d) | Government grants received or receivable | 34 |
| 9.2.3(iv)(e) | Employee superannuation funds | 43 |
| 9.2.3(iv)(f) | Assets received without adequate consideration | n/a |
| 9.4 | Responsible Person-related disclosures | 42 |

Appendix 1

Budget Portfolio Outcomes

In accordance with the requirements set out in the model financial report the Commission must include in its Annual Report a comparison between the financial information published in Budget Paper No. 3 *Budget Estimates* (BP 3) and the actual results for the financial year.

The following table provides information for the current and previous year. Prior to this (during establishment in the first year) the Commission's budget was included in the Department of Justice's budget.

FINANCIAL REVIEW OF OPERATIONS AND FINANCIAL CONDITION

| Three year financial summary | 2003 \$ | 2002 \$ | 2001 \$ |
|--|------------------------|------------------------|------------|
| Target Budget | 2,400,000 ¹ | 2,300,000 ² | 0 |
| Expected Outcome | 2,400,000 ¹ | 2,100,000 ² | 0 |
| Actual Budget | | | |
| Grant from Department of Justice | 821,327 | 928,300 | 404,000 |
| Resources received free of charge | 0 | 0 | 451,012 |
| Other revenue | 1,000,000 | 950,000 | 0 |
| Interest received on Trust Account funds | 14,301 | 0 | 0 |
| Total revenue | 1,835,628 | 1,878,300 | 855,012 |
| Net result from operating activities | (214,491) | 249,810 | 440,254 |
| Net cash flow from operating activities | 5,762 | 75,797 | 33,275 |
| Total assets | 657,596 | 895,795 | 503,474 |
| Total liabilities | 147,793 | 171,501 | 63,220 |

In the financial year ending June 2003, the Commission's result from ordinary activities was significantly affected by:

- Output appropriation revenue provides the Commission with the necessary funds to meet its operational obligations. This revenue does not include an amount equivalent to the depreciation expense. Therefore, the loss reported by the Commission reflects the full cost of operations which is inclusive of usage of previously acquired physical assets but for which no funding is required in the reporting year. The operating loss does not reflect any overrun of budget or any deficit of cash.

1 Department of Treasury and Finance: Department of Justice *Budget Estimates* (BP3) 2003-04, 221
<[http://www.budget.vic.gov.au/domino/web_notes/budgets/budget03.nsf/0/31c05906b05e795cca256d1d0021a7dd/\\$FILE/bp3Stmt2DOJ.pdf](http://www.budget.vic.gov.au/domino/web_notes/budgets/budget03.nsf/0/31c05906b05e795cca256d1d0021a7dd/$FILE/bp3Stmt2DOJ.pdf)> accessed 15 August 2003.

2 Department of Treasury and Finance: Department of Justice *Budget Estimates* (BP3)2002-03, 206
<[http://www.dtf.vic.gov.au/dtf/RWP323.nsf/0/70494bca5a7de35fca256d13001a1493/\\$FILE/bp3Stmt2DOJ.pdf](http://www.dtf.vic.gov.au/dtf/RWP323.nsf/0/70494bca5a7de35fca256d13001a1493/$FILE/bp3Stmt2DOJ.pdf)> accessed 15 August 2003.



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