



OFFICE OF THE CHIEF MAGISTRATE  
CENTRAL COURTS BUILDING  
BRISBANE

12 September 2003

The Honourable Rod Welford MP  
Attorney-General and Minister for Justice  
PO Box 149  
BRISBANE Qld 4000

Dear Mr Attorney-General

It is with great pleasure I provide you the Annual Report for the 2002 - 2003 financial year in accordance with section 57A of the *Magistrates Court Act 1921*.

I would also like to acknowledge and thank the following persons who have assisted in the preparation of this Report:

- Mr Ron Micola, Court Administrator
- Magistrates who contributed to various sections of the report
- Ms Lee Williams, Training Coordinator, Magistrates Courts Branch and
- Ms Beth Houston, A/g Research Officer to the Chief Magistrate.

Yours sincerely,

**B.P. HINE**  
A/g Chief Magistrate

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## MR B.P. HINE – ACTING CHIEF MAGISTRATE

The past 12 months have been a very dramatic and trying time for the Magistrates Court of Queensland. The upheavals relating to the former Chief Magistrate and the necessity to transfer magistrates to the three most remote centres in Queensland have combined to test the morale of the magistracy. I must emphasise firstly that magistrates continued to carry out their judicial functions and responsibilities in a professional and efficient manner.

I would like to publicly acknowledge the assistance provided to me by Ms Donna MacCallum and Mr William (Bill) McKay, who have both acted in the position of Deputy Chief Magistrate at various times since early December 2002.

A reading of this report will give some examples of the extensive jurisdiction of magistrates in this state. The reader should also get an indication of some of the constant changes to legislation that magistrates are required to keep up with.

The statistics reported in the Appendices show that the work level of magistrates has increased. As an example, the table below compares the number of Protection Orders made in Domestic and Family Violence matters in this financial year with the previous financial year. Overall there has been an average increase of 31%, yet the table shows that for the period of July to February, the average increase was 5%. The main increase occurred in the period from March to June, where the average increase was 41.5%. This can be explained by the changes to the Domestic and Family Violence Protection legislation that commenced in March and April of 2003.

	2001 - 2002	2002 - 2003	Change
July	1,501	1,655	10.26%
August	1,667	1,758	5.46%
September	1,597	1,701	6.51%
October	1,884	1,859	-1.33%
November	1,955	1,785	-8.70%
December	1,458	1,697	16.39%
January	2,191	2,223	1.46%
February	1,863	2,062	10.68%
March	1,713	2,344	36.84%
April	1,786	2,461	37.79%
May	1,800	2,510	39.44%
June	1,529	2,323	51.93%

There has been no increase in the number of magistrates to help cope with the increase in the workload. There have been six new appointees to the court and six magistrates who have retired over the last 12 months. There have been 14 magistrates transferred during the period of the financial year.

This Annual Report includes a map which shows where magistrates sit and the circuits from each of the main centres. It helps to show the coverage provided to the people of Queensland by the 75 currently serving magistrates. Some circuits require travel by air to places such as Thursday Island, some require travel by motor vehicle and some by boat.

## COMMITTEES

Informal committees assist the Chief Magistrate in formulating submissions or protocols relating to the work of the magistracy, the law and legislation it administers and matters affecting its standing. They are informal in that they have no legislative backing. They are not, however, the kind of ad hoc committees often established to report on immediate or particular issues. They have a continuing role and their value is to enable the Chief Magistrate to have access to a wider range of views when dealing with government, governmental departments and the other bodies and organisations seeking input from the Chief Magistrate or the magistracy as a whole.

## NEW BRISBANE MAGISTRATES COURTS BUILDING

The new Brisbane Magistrates Court Building is now becoming a very visible feature of the city's western approaches. Work commenced on 23 September 2002 when the Premier performed the sod-turning ceremony. Work then commenced immediately on an early works package of site remediation, roadwork construction, in-ground services and foundations.

The lower levels of the building are very complex, both in their services requirements and in their structure. This complexity has contributed to the time taken to get to the current stage of construction.

The new Brisbane Magistrates courthouse will be the first purpose-built accommodation for the Magistrates Courts service in the Brisbane Central Business District. All previous accommodation has been converted from other uses. Even the current Central Courts Building was modified from a speculative office building.

The new courthouse will have two basement levels, 10 floors above ground for court service purposes and two levels of plant rooms. At occupation there will be 25 hearing spaces made up of 19 courtrooms for hearing civil and criminal matters, two courtrooms for Coroners' Courts and four hearing rooms for the Small Claims Tribunal.

The future needs of the courts have been considered with additional courtrooms able to be added as the workload demands. When fully used for courts purposes a minimum of 39 hearing spaces will be available. Chambers are being provided for 39 magistrates and the support areas provided with space for additional staff to match the higher workload.

This building represents a \$135.5 million investment in the Brisbane Court and is a much-needed upgrade considering the state of the current building. It is due for completion on 30 September 2004.

## INFORMATION TECHNOLOGY

Over the last two years all magistrates have been provided with new desktop computers to replace machines that were five to seven years old. The newer, more powerful machines have allowed magistrates a faster access to such sites as Law Book Company, Butterworths, CCH, AUSTLII, Scale Plus and Office of the Queensland Parliamentary Counsel to assist in legal research and to keep up to date with the latest legislation.

Magistrates have developed their own web site. This site is for the use of magistrates only and helps to gain ready access to such things as bench forms, after-hours forms, conference papers, practice directions and court calendars for the state. A discussion board is also included which allows matters relevant to the magistracy to be discussed. The latest news and research and departmental links are also included. This resource allows magistrates in a decentralised state to keep in touch with each other and to keep up to date with the latest cases and legislation.

A trial is to start in the near future to test secure remote access to the magistrates' site, e-mails and the web from places other than work. This will assist magistrates on circuit and those doing reserve decisions at home or away at conferences to do research and to keep in touch.

More training has been provided to magistrates throughout the state to enable them to make full use of all the facilities provided on line. The Manager of Library Services from the Department of Justice and her staff have given individual training to magistrates and while at country centres have given training to Crown Law and Public Trustee staff.

As will be reported under the heading of Civil Jurisdiction and by the Court Administrator, electronic filing of documents under the *Uniform Civil Procedure Rules 1999* has commenced in the Magistrates Court.

## AWARDS

While all magistrates perform a service to the community I would like to mention two in particular who have been awarded the Centenary Medal. The medal was created to honour living persons who have made a contribution to Australian society or government.

Mr Robert Quinlan was awarded the medal for outstanding service as a magistrate in Queensland and for service to the community.

Mr Jim Herlihy was awarded the medal for long and distinguished service through the law.

I wish to congratulate both magistrates as they are well-deserved awards for a lifetime of service to the community, not only in the law but in other endeavours.

## CONFERENCE 2003

The Annual Conference of Queensland Magistrates was held in Brisbane from 7 April 2003 to and including 9 April 2003. At a difficult time in the history of the magistracy, it was a conference characterised by good harmony and useful dialogue between colleagues. The papers delivered throughout the conference were of a high calibre and with many thought-provoking topics.

The conference got off to a challenging start with the excellent paper delivered by the Chief Justice on "Judicial Independence and Accountability of Magistrates". The Chief Justice's paper was followed by that of Judge Michael Forde, who further extended the topic of judicial independence and included the issue of court governance. These were timely and topical papers.

The conference topics included the difficulties experienced by children in a court setting, people with intellectual disabilities in the criminal justice system, recent changes to the Civil Law, recent amendments to the Domestic Violence legislation and the implementation of the office of State Coroner. There was also a session on recent amendments and proposed changes to the *Transport Operations (Road Use Management) Act 1995*. Mr Bill Randall (Referee, Small Claims Tribunal) and Mr Tony Pascoe (Childrens Court Magistrate) provided updates on recent changes to the legislation in their respective jurisdictions.

However, probably the topic of most interest was the general discussion on the vexed problem of transfers. This session was characterised by active participation and was well received by all as an opportunity to have a say on this important issue. A list of proposals was drawn from the many suggestions put forward.

Attendees at the annual conference dinner were entertained by the after-dinner speech of the redoubtable Mr Cedric Hampson AC RFD QC, whose curriculum vitae was almost as long as his speech and was an indication of his long and interesting life.

At the end of the conference it was unanimously agreed that it had been an excellent opportunity for some of the difficulties of the preceding 12 months to be laid to rest and for the magistrates to have an input into the issues that concern us all.



*The Annual Conference of Queensland Magistrates was held in Brisbane from 7 April 2003*

## CONTINUING EDUCATION

Included in this Annual Report is a list of other conferences attended by magistrates during the financial year. Also, Magistrate O'Shea has provided a report of her attendance at the Sino-Australian Judicial Forum. The travel and accommodation were funded by the magistrate and leave was given to attend the conference.

## COURT DIVERSION PROGRAMS

### Illicit Drugs Court Diversion Program

On Friday, 28 March 2003, the Illicit Drugs Court Diversion Program began a 12-month pilot at the Brisbane Magistrates Court and Brisbane Childrens Court. This state-federal initiative is a very early intervention to get people into counselling or treatment. To be eligible, a person must plead guilty to possession of a drug in a small quantity and must not have been convicted, or have a charge pending for an offence of violence, a sex offence or a serious drug offence like trafficking.

From the inception of the program on 28 March 2003 to 30 June 2003, there have been 164 offenders diverted to attend a Drug Diversion Assessment and Education Session. Of these, nine are juvenile offenders. The age range is between 14 and 56 years.

The throughput rate steadily increased to approximately 12 offenders weekly being diverted to a counselling session.

#### Age and gender of offenders as at 30 June 2003

• 14-18 (m)	18
• 14-18 (f)	1
• 19-25 (m)	61
• 19-25 (f)	23
• 26-40 (m)	41
• 26-40 (f)	12
• 41 and above (m)	6
• 41 and above (f)	2

#### Number of diversions in each court

• Childrens Court	9
• Court 1	30
• Court 3	116
• Court 4	2
• Court 5	4
• Court 6	2
• Court 12	1

The first phase of the evaluation commenced at the beginning of June 2003 through Health Outcomes International. The final report for that phase should be completed by September 2003.



To date the Illicit Drugs Court Diversion Program has received an overwhelming positive response from the magistrates, solicitors and offenders. It appears to have filled a niche (of allowing first-time, or relatively first-time, offenders to seek assessment, treatment and education) for their minor drug offence, rather than dealing with them punitively or the more structured and long-term approach by way of a community-based order such as probation.

### **Cairns Alcoholic Offenders' Remand and Rehabilitation Program (CARRP)**

The CARRP aims to address the problems of public drunkenness and disorderly behaviour which have been prevalent in Cairns. These problems often lead to charges under the *Vagrants Gaming and Other Offences Act 1931*. Currently, unpaid fines generally end up as a debt to the government and possible imprisonment for those who do not pay their fines. The program aims to assist to rehabilitate these people from their offending behaviour.

In March 2003, a workshop was held in Cairns between representatives of the Police Service, Judiciary, Aboriginal Legal Aid, Ms Desley Boyle MP and Ms Margaret Gill, Deputy Mayor of Cairns. Since that time, two further meetings have been held. As a result, draft protocols have been developed to commence the Alcoholic Offenders' Rehabilitation Program.

When the offender is brought before the court, he or she will be considered for the program if (1) he or she is a persistent offender and (2) he or she is likely to be sentenced to a term of imprisonment. The Legal Service will need to make a submission that the offender is suitable for the program and the offender will need to consent to being remanded for the purpose of assessment. The magistrate then assesses the offender's eligibility for the program.

The magistrate will remand the offender in custody for an initial period of 24 hours to enable a service provider from the Aboriginal and Islanders Alcohol Relief Service (AIARS) or OZCARE to undertake an assessment to establish if the offender is suitable to go into their program.

The offender then goes back to court. The service provider recommends the length of time the offender should be remanded into their care, which is not to exceed one month. The recommendation is needed to advise the magistrate how much time the service provider will need to work with the offender. If not deemed suitable, or if the offender does not consent to the remand, the court will proceed to sentence in the usual way. If deemed suitable, the offender will be remanded for the period recommended by the service provider.

The offender is offered bail on his or her own undertaking, subject to the following conditions:

the defendant is not to be released from the watch house except into the care of an authorised representative of the appointed service provider;

- the defendant must reside at a particular facility and not elsewhere at all times during the remand period and not depart the facility except in the company of a representative of the facility and/or in the event of a medical emergency;
- the defendant must abide by all the rules, directions, requirements and conditions attaching to the facility while a resident there and
- the defendant must not indulge in alcohol or any other intoxicating substance while a resident of the facility.

If the offender complies with the bail conditions and participates in the program he or she will return to court on the remand date. If the service provider considers that more time is needed with the offender then the service provider can recommend to the court that a further remand be granted to continue with the program.

The magistrate will then make his or her determination on the submissions made. The magistrate might elect to sentence for the substantive offence, having regard to the recommendation (i.e. fine, probation, imprisonment) or grant the further remand sought.

If the offender breaches the conditions of his or her bail, the offender will either be arrested as soon as possible or be listed as a wanted person. Once apprehended, the prosecutor has the discretion to offer no evidence on the offence of breaching conditions of bail. The court may elect to sentence with respect to the outstanding substantive charges.

The first matter will be dealt with in early July 2003.

## INDIGENOUS ISSUES

### **Murri Court**

A Murri Court was established in the Central Magistrates Court at Brisbane and began operation with a ceremonial sitting on 9 August 2002.

A forum was conducted by the Magistrates Court and held in the Banco Court of the Supreme Court on "Indigenous People and the Law" on 12 August 2002. Speakers included Dr Robert Anderson, the President of the Aboriginal and Torres Strait Islander Advisory Board (ATSIAB); Judge Rota of the District Court in New Zealand; Dr Kate Auty, Magistrate Koori Court of Victoria; Mr Chris Vass, Magistrate Nunga Court of South Australia; Mr Tony Koch, the News Editor at the Courier-Mail newspaper; and myself. This forum spoke on Indigenous Courts in various jurisdictions and the rationale behind those courts. As this court is a novel concept in Queensland I will give a short explanation of the court and the proceedings.

#### **What is the Murri Court?**

According to the Macquarie Concise Dictionary (1992:638), the definition of Murri is "Aboriginal". The Brisbane Murri Court is a Queensland Magistrates Court, which deals with the sentencing of adult Aboriginal and Torres Strait Islander offenders.

It is based on similar courts in other states. South Australia currently has four Aboriginal (Nunga) Courts and Victoria has an Indigenous (Koori) Court set up by Parliament.

The Murri Court is about Indigenous Queenslanders, in association with the judicial system, having a greater responsibility in helping to find a solution to certain concerns regarding the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system.

#### **Why initiate a Murri Court?**

The over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system is a major cause of concern. While Indigenous Queenslanders make up only about 2.5% of the state's population, they make up more than 25% of the state's prison population. Reducing the level of over-representation of these people is a high priority for the Queensland Government. In particular, the Queensland Aboriginal and Torres Strait Islander Justice Agreement seeks a 50% reduction in the rate of incarceration of Indigenous people by the year 2011.

The Australian Law Reform Commission (ALRC) established in 1973 "for the purpose of promoting the review, modernisation and simplification of the law" (ALRC 1986:ii), identified that statute law failed to provide a system which fully addressed Aboriginal needs. This failure resulted in injustices towards Aboriginal and Torres Strait Islander people which included:

- the disproportionate number of Aboriginal and Torres Strait Islander people in jails;
- the high incidence of refusal of bail and
- the harsh sentencing of Aboriginal and Torres Strait Islander people for minor offences.

As a result of the ALRC’s investigations, numerous recommendations were made, including “within certain limits the views of the local Aboriginal community about the seriousness of the offence, and the offender” should be relevant in sentencing.

### **Legislation**

The Queensland Government introduced legislation with the objective of ensuring greater participation of the Aboriginal and Torres Strait Islander Communities in the sentencing process of courts throughout the state. On 5 October 2000, the *Penalties and Sentences and Other Acts Amendment Act 2000* was passed. It received assent on 13 October 2000 and was proclaimed to take effect from 27 October 2000. That Act amended section (9)(2) of the *Penalties and Sentences Act 1992*.

Sentencing guidelines within the Queensland Penalties and Sentences Act require judicial officers to listen to submissions from Elders or respected members from the Indigenous community when sentencing offenders. Section 9(2) now provides:

- “(o) if the offender is an Aboriginal or Torres Strait Islander person – any submissions made by a representative of the community justice group in the offender’s community that are relevant to sentencing the offender, including, for example—
  - (i) the offender’s relationship to the offender’s community; or
  - (ii) any cultural considerations; or
  - (iii) any considerations relating to programs and services established for offenders in which the community justice group participates; ...”

In the Aboriginal and Torres Strait Islander Communities, community justice groups have been formed and they regularly assist the magistrate with sentencing. However, in the time that the amendment had been in force, almost two years, no submissions had been made to the Brisbane Courts.

Presently, there is no community justice group in Brisbane, therefore an Indigenous Elder, or a respected person, may make submissions to the Magistrate on (i) or (ii) above.

### **Murri Court objectives**

The Murri Court has been set up to help redress the above injustices, with the main objective being to reduce the number of Aboriginal and Torres Strait Islanders who pass through the criminal justice system and who end up in prison.

Section 9(2)(a) of the Penalties and Sentences Act states:

- “(2) In sentencing an offender, a court must have regard to—
  - (a) principles that—
    - (i) a sentence of imprisonment should only be imposed as a last resort; and
    - (ii) a sentence that allows the offender to stay in the community is preferable;”

Cultural inclusion in the judicial process ensures that all Queenslanders are represented equally in the courtroom. The Murri Court has been set up specifically to give the magistrate involved more culturally appropriate sentencing options.

By working with the magistrate, Elders, by explaining cultural considerations and personal issues relating to the offender, help to determine the most appropriate sentencing options, penalties and interventions on a case-by-case basis.

It also seeks to reduce the number of Indigenous offenders who fail to appear in court, which can lead to the issue of warrants for arrest and imprisonment. Setting this objective can be supported with evidence that the rate of attendance at court of Indigenous offenders in South Australia is now more than 80%. This compares with the less than 50% attendance rate of Indigenous offenders before the Aboriginal Courts were set up. In the time that the Murri Court has been operating we have consistently had an attendance rate of between 80% and 100%.

The court is also trying to decrease the re-offending rate of Indigenous offenders and the number of court orders which are breached which can also lead to prison.

The Murri Court aims to impose sentences other than imprisonment wherever possible for offenders in an attempt to reduce recidivism. The court and representatives of organisations such as the Department of Corrective Services, Aboriginal and Torres Strait Islander Women's Legal and Advocacy Service (ATSIWLAS), Aboriginal and Islander Community Mental Health Service, Salvation Army, Boys Town Link Up, Indigenous Alcohol and Drug Service, Queensland Health Alcohol, Tobacco and Other Drug Services (ATODS), Biala Indigenous Community Team and Queensland Health met to develop sentencing options that can be used in conjunction with probation, community service or intensive correction orders.

#### **Participants in the Murri Court**

The Murri Court is presided over by a Queensland magistrate. The magistrate is assisted by an Indigenous Elder or a respected person as outlined above.

Also present in the courtroom are the court clerk, the police prosecutor, a representative from Corrective Services, the offender, his or her legal representative and members of the offender's family or chosen support people. The court is an open court and members of the public are entitled to sit in the gallery.

#### **The role of Elders in the Murri Court**

Elders provide advice to the magistrate on cultural issues, provide background information about the offender, explain the meaning of the magistrate's questions or concerns to the offender if required and act as a liaison with local Indigenous communities.

The magistrate can also ask an Elder about the appropriateness of the court order and its conditions.

Elders do not impose sentences on the offender; they are there to advise the court and to help facilitate communication between all parties.

Elders are given a training course on the penalties that can be imposed under the Penalties and Sentences Act and the purposes for which sentencing may be imposed. The Elders or respected persons would also have to excuse themselves if there was any conflict of interest or perceived bias.

It is the magistrate who makes the final decision and imposes the sentence.

### **Murri Court eligibility**

The court will deal with matters only if the following conditions are met:

- the matter is from the Magistrates District and/or Division where the Court is sitting;
- the offender is an adult;
- the offender is an Aboriginal or Torres Strait Islander person;
- a plea of guilty is entered;
- the offence/s fall within the jurisdiction of the Magistrates Courts of Queensland i.e. can be dealt with summarily and
- there is a reasonable possibility of imprisonment for the offender.

Offenders must elect to be dealt with by the Murri Court. Their legal representatives then request a transfer to the Murri Court.

Usually, only those matters where the offender is otherwise likely to be sentenced for a term of imprisonment are dealt with by the Murri Court. Minor matters are not normally dealt with by the Murri Court, unless the offender has a criminal record such that there is a reasonable possibility that he or she will receive a sentence of imprisonment for the minor matter.

### **Murri Court policy**

Police Prosecutions Corps have agreed not to appear in uniform, to prevent intimidating the offender/s or other Indigenous people present in Court.

The defendant sits next to his or her legal representative, even if he or she is in custody. The defendant must be given the opportunity to sit at the bar table. Extra prison staff should be made available if necessary.

A member of the defendant's family or a support person may sit next to defendant at the bar table.

The magistrate will sit on the same level as the defendant (at the court clerk's table) and the Elder or respected person will sit beside the magistrate. The court clerk sits with the magistrate and the Elder. The magistrate is not robed, again with the object of making the proceedings less intimidating to the offender and his or her family, to allow open communication.

When the court is opened, adjourned or closed, all present will stand.

When matters are being heard, all present shall remain seated (as in Childrens Court).

The proceedings will be taped in the usual way, and all advice given by the Elder or respected person to the magistrate will be able to be heard by all present.

**Murri Court procedure**

Court is opened and formal introductions are taken.

The defendant enters the plea and the facts are read by the police prosecutor and relevant matters associated with the defendant are tendered. Victim impact statements are tendered if prepared.

The defendant's legal representative makes his or her submissions on behalf of the defendant.

The defendant is then given the opportunity to address the magistrate and the Elder or the respected person.

The defendant's family member or support person is given the opportunity to address the magistrate and the Elder or the respected person.

The magistrate and the Elder or the respected person have the opportunity to question the defendant and the defendant's family member or support person.

The corrective services officer has the opportunity to address the magistrate and the Elder or respected person in relation to any case plans which may have been worked out in consultation with the offender, the offender's family, the offender's probation officer or any other relevant people or authorities. Other service providers such as drug, alcohol, psychological and violence treatment agencies may also have been included.

The Elder or respected person can then give advice on cultural issues.

All the submissions put before the magistrate and the Elder or respected person are then considered and clarification can then be made to ensure that a suitable sentence is handed down to the defendant.

**Extensions of the Murri Court**

A similar court commenced on 24 June 2003 at Rockhampton. The Elders have been asked to nominate a name.

There are also hopes to set up a Murri Court in the Childrens Court at Brisbane commencing early next year.

Where a community justice group has been established, submissions are made by those groups to the Magistrates Court at their centre. Magistrates are assisted by these groups, who express the community's views and explain the circumstances of the offender.

**Community Justice Groups**

Extra funding has been requested from the government to enable magistrates to stay longer on circuits, particularly on the Cape York and Thursday Island circuits. This would enable magistrates to meet on a regular basis with members of community justice groups and Elders and allow more time for sentencing in each community. Due to budgetary constraints no funding has been made available to date.

**JUDICIAL INDEPENDENCE**

An indicative list of state Acts where breaches are dealt with in a summary manner is attached to the report (see Appendix 8). Prosecutions by numerous state government departments and semi-government entities are undertaken in Magistrates Courts all over the state.

To ensure that there is no perception of bias it is essential that the court is seen to be an independent entity. Queensland magistrates became formally recognised as members of the judiciary with the passing of the *Magistrates Act 1991*. The Act states that it is “An Act relating to the office of Magistrates, *the judicial independence of the magistracy*, and for related purposes”. As Chief Justice Paul de Jersey AC has observed, it was only when the separation of the magistracy from the public service took place that the magistracy effectively took on the cloak of judicial independence.

Perhaps the best description of judicial independence is that given by the Chief Justice in his opening address on 7 April 2003 to the Queensland Magistrates Conference:

“Judicial independence essentially means impartiality, freedom from any external influence which may corrupt, and that must be the reality, and seen as such.”

The Fitzgerald Report concluded its comments about the judiciary’s independence as follows:

“Independence is such an important requirement, that not only must it actually be present, but it must also be seen to be present.”

Indeed the United Nations has formulated certain “basic principles” to assist member states in their task of securing and promoting the independence of the judiciary. Included is the following:

“The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. **It is the duty of all governmental and other institutions** to respect and observe the independence of the judiciary.”

In discharging their responsibilities, magistrates, like judges, have and are now expected to exhibit judicial independence. As the Chief Justice observed in his opening address to the Magistrates Conference:

“...it falls for consideration whether the independent Magistracy should be more broadly recognized. Chapter 4 of the *Constitution of Queensland*, as consolidated in 2001, acknowledges that there must be a Supreme Court and a District Court, and includes provisions as to the tenure and remuneration of the Judges. There is a question whether we have not reached the point where similar constitutional provision should not be accorded the Magistrates Court.”

His Honour has cautioned that the “precious” commodity of judicial independence is ultimately “fragile”:

“The rule of law, and its component the independence of the judiciary, are indeed inherently fragile stipulations, even regrettably in established and sophisticated regimes. We need to understand them and fearlessly monitor their state of health.”

Because of the significant number of prosecutions dealt with in the Magistrates Court (probably more than any other court) by government and semi-government entities it is an important requirement to the rule of law that, not only must such independence actually exist, but it must also be seen to exist. It is disappointing that there have been no moves to include this court within the protections afforded by the Queensland Constitution to the other ranks of the judiciary.

B.P. Hine  
A/g Chief Magistrate

Beenleigh	B.R. Gribbin	<i>Coordinating Magistrate</i>
	W.H. Ehrich	
	P.J. Webber	
Bowen	G.J. Brennan	<i>Acting Chief Magistrate</i>
Brisbane	B.P. Hine	<i>Acting Deputy Chief Magistrate</i>
	D.M. MacCallum	
	B.A. Callaghan	<i>Coroner</i>
	C.A. Clements	<i>Relieving Magistrate</i>
	S.L. Cornack	<i>Drug Court Magistrate</i>
	J. Costanzo	
	J.M. Daley	
	A.G. Dean	
	K.W. Dillon	
	J.S. Gordon	<i>Industrial Magistrate</i>
	E.A. Hall	
	J.M. Herlihy	
	B.R. Manthey	
	W.J. McKay	
	N.F. Nunan	
	C.J. Owens	<i>Childrens Court Magistrate</i>
	A.I. Pascoe	<i>Relieving Magistrate</i>
	J.V. Payne	
	R. Quinlan	
	W.J. Randall	<i>Small Claims Referee</i>
	A.C. Thacker	
	D.M. Fingleton	<i>Chief Magistrate</i>
Bundaberg	B.D. Barrett	
Caboolture	K.E. Krosch	<i>Coordinating Magistrate</i>
	J.L. Mould	
Cairns	K.P. Lynn	<i>Coordinating Magistrate</i>
	T.J. Black	
	P.M. Kluck	
	J.B. Lock	
	T. Previtiera	
	R.D.S. Spencer	
Charleville	W.A. Cridland	
Cleveland	B.N. McCormack	
Dalby	I.R. Rose	
Emerald	C.J. Taylor	
Gladstone	D.W. Morton	
Gympie	P.W. Johnstone	
Hervey Bay	W.J. Smith	
Holland Park	J.C. Bloxsom	
Inala	L.G. Johnston	
Innisfail	Z. Sarra	
Ipswich	E.R. Wessling	<i>Acting Coordinating Magistrate/ Regional Coordinating Magistrate</i>
	W.A. Cull	
	L.J. O'Shea	
Kingaroy	A.L. Yorkston	
Mackay	R.N. Risson	
Mareeba	T.A. Allingham	



Maroochydore	I.T. Killeen	<i>Coordinating Magistrate/ Regional Coordinating Magistrate</i>
	C. Proctor	
	K.O. Taylor	
	D.F. Wilkinson	
Mount Isa	G.M. McIntyre	
Petrie	M.J. Halliday	
Redcliffe	R. Woodford	
Rockhampton	T.G. Bradshaw	<i>Coordinating Magistrate/ Regional Coordinating Magistrate</i>
	A. Hennessy	
Sandgate	P.M. Dowse	
Southport	G.A. Wilkie	<i>Coordinating Magistrate/ Regional Coordinating Magistrate</i>
	P.J. Austin	
	J. Batts	
	R.G. Kilner	
	C.A. Pirie	
Toowoomba	B.F. Tynan	<i>Coordinating Magistrate</i>
	B.T. Schemioneck	
Townsville	G.J. Tatnell	<i>Coordinating Magistrate/ Regional Coordinating Magistrate</i>
	D.R. Glasgow	
	G.A. Hillan	
	B.L. Smith	
	S.M. Tonkin	
	L.P. Verra	
Warwick	J.P. Barbeler	

## APPOINTMENTS AND RETIREMENTS 2002 - 2003

### Appointments

B.A. Callaghan	30 September 2002
W.A. Cull	30 September 2002
J.M. Daley	30 September 2002
J.B. Lock	30 September 2002
R.D.S. Spencer	24 February 2003
P.M. Kluck	11 April 2003

### Retirements

R.W. Fitzsimon	5 July 2002
I.A. Fisher	15 August 2002
W.J. Swan	23 August 2002
L.A. Mellors	10 January 2003
B.G. Zahner	28 February 2003
B.F. Murray	17 March 2003

## ACTING MAGISTRATES

<i>Ayr</i>	R.J. Mack	<i>Holland Park</i>	T.M. Duroux
<i>Bowen</i>	R.W. Muirhead	<i>Kingaroy</i>	R.H. Lebsanft
<i>Bundaberg</i>	N. Lavaring	<i>Mackay</i>	B.L. Kucks
<i>Caboolture</i>	P. Hasted	<i>Maroochydore</i>	D.R. Munster
<i>Cairns</i>	K.J.D. McFadden	<i>Petrie</i>	A.J.P. Comans
<i>Charters Towers</i>	M.A. Bice	<i>Rockhampton</i>	M.T. Morrow
<i>Clermont</i>	G.B. Pitt	<i>Roma</i>	D.A. Beutel
<i>Cleveland</i>	R.L. Warfield	<i>Sandgate</i>	A.J. Chilcott
<i>Coolangatta</i>	M.O. O'Driscoll	<i>Southport</i>	T.N. Arnold
<i>Dalby</i>	H.B. Stjernqvist	<i>Toowoomba</i>	R. Stark

## CRIMINAL JURISDICTION

Approximately 96% of all criminal matters are dealt with in the Magistrates Court. These can include offences which would, if proceeded with by way of indictment, carry penalties of up to 14 years' imprisonment. However, if dealt with in the Magistrates Court, a maximum jail term of three years can be imposed for such offences and/or a maximum fine of 100 penalty units. When a charge is determined summarily in the Magistrates Court it is heard by a magistrate sitting alone, who is the sole arbiter of fact and law.

All criminal offences are mentioned in the first instance in the Magistrates Court and thereafter it may be referred to a superior jurisdiction for final determination and/or sentence. Except in the most serious of offences (e.g. murder) the Magistrates Court will determine whether the accused is entitled to bail pending finalisation of the charge/s.

Magistrates Courts also deal with any number of regulatory offences which may include shoplifting offences, offences of public disorder, unlawful removal of trees from rural properties, parking/traffic regulations, animal protection and breaches of various food industry regulations. The court also has jurisdiction in various offences against the laws of the Commonwealth.

Magistrates deal with the issue of warrants or orders for various purposes including the search of premises and/or persons, to authorise the performance of various medical procedures, to detain or remove people in or from custody for purposes of interview and also for mental health-related issues.

In the past 12 months there has been an increase in the number of matters put before the Court, as the following table will show:

	2001 - 2002	2002 - 2003	Change
<b>Magistrates Court</b>			
Charges	310,739	314,824	+1.31%
Defendants	169,304	176,174	+4.06%
<b>Childrens Court</b>			
Charges	24,461	26,162	+6.95%
Defendants	11,962	13,026	+8.89%

During the financial year, 93.35% of non-committal matters were finalised within six months.

Most Magistrates Courts are severely under-resourced as far as technology is concerned. Telephone evidence is a constant source of difficulty. There are insufficient numbers of conference telephones available. Those that are available are of old technology and are frequently inoperable. Further, very few courts have independent closed-circuit television (CCTV) facilities, with such facilities often having to be shared if there is a District Court in the same building. Outdated technology regularly means CCTV facilities are inoperable. This constitutes additional hardship to child complainants who are unfortunate enough to be giving evidence in such areas. It also undermines the directives given by the Office of the Director of Public Prosecutions that all such committals should be dealt with by way of CCTV to limit the trauma to such witnesses. There is some potential for this situation to improve with the proposed amendments under the Evidence (Protection of Children) Amendment Bill and also with the approval of funds for the installation of additional facilities in selected courts throughout the state.

A new initiative to extend sentencing options has been introduced for a drug diversion program to apply to persons charged with possession of small quantities of drugs and which the court is satisfied is for personal use. The program will be run in Brisbane Central Courts only and will operate for 12 months. The coordinator reports a high level of cooperation by persons offered the opportunity. The program will be finally evaluated at the end of the trial period but initial results indicate a good success rate.

## CIVIL JURISDICTION

### UNIFORM CIVIL PROCEDURE RULES

The *Uniform Civil Procedure Rules 1999* have now been in force for four years.

The major change that the new rules represented required a significant readjustment and learning process on the part of courts, registrars, legal practitioners and bailiffs. The practical implementation of the rules demonstrated the need for amendments from time to time.

The Rules Committee is responsible for the regular review of the rules and the approval of any amendments. This is a standing committee established under section 118C *Supreme Court of Queensland Act 1991*. The membership comprises the Chief Justice, the President of the Court of Appeal, two Supreme Court judges, two District Court judges and two magistrates.

Magistrate Basil Gribbin has been a member since the inception of the committee and Magistrate Anne Thacker has been a member since May 2000.

A major part of the committee's work is considering and dealing with submissions that are received from sources such as judges and magistrates, registrars, legal practitioners and professional bodies. Many of those submissions result from experiences of the rules in operation.

While many of the amendments that are implemented are in the nature of fine-tuning, the committee also spends a deal of time formulating quite significant and far-reaching changes to the rules.

Where possible, the process involves the publishing of draft proposals to allow all interested parties the opportunity of making submissions before the final implementation of the changes.

For example, there are rules currently being developed in relation to expert witnesses which, among other things, would clarify the expert's duty to the court rather than to a party and would make provision for the appointment of a sole expert either by parties or by the court.

An earlier draft has already attracted extensive submissions from professional bodies in particular and a revised draft has now been published for comment.

The current proposal is that these rules would apply in a Magistrates Court only if ordered by the court.

A significant area of change that occurred this year, and which at this stage has application only in the Magistrates Court, was the introduction of rules (Chapter 22, pt 1, div 4) to cater for the electronic filing of documents (see *Uniform Civil Procedure Amendment Rule (No.1) 2003* – SL 87/03).

The rules allow legal firms to file documents electronically. The Chief Magistrate has made the appropriate practice directions (PD1/03 and PD1A/03) to facilitate electronic filing so that non-legal firms can also lodge documents electronically. This is now available in 16 registries throughout the state.

This development is clearly in concert with the philosophy of the uniform rules as stated in Rule 5 "... to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense" by making use of available up-to-date technology.

The following table shows that there has been an increase of civil matters in the Magistrates Court. The numbers of small claims and minor debts have declined slightly.

<b>Magistrates Court</b>	<b>2001 - 2002</b>	<b>2002 - 2003</b>	<b>Change</b>
Civil Claims	28,900	30,712	+6.27%
Minor Debts	18,866	17,231	-8.67%
Small Claims	18,637	17,537	-5.90%
Total Claims	66,403	65,480	-1.39%

## STATE MAGISTRATES – COMMONWEALTH JURISDICTION (OTHER THAN FAMILY LAW)

Although free to do so, the Commonwealth Parliament has refrained generally from investing federal courts, including the recently established Federal Magistrates Service, with criminal jurisdiction over breaches of Commonwealth laws.

By virtue of section 77(iii) of the *Commonwealth of Australia Constitution*, the Commonwealth Parliament may make laws investing state courts with federal jurisdiction with respect to certain matters. Effect is given to this provision by sections 39 and 39A of the *Judiciary Act 1903* and sections 4, 7, 8 and 12 of the *Commonwealth Places (Application of Laws) Act 1970*. The latter relates to the application and administration of laws in places acquired by the Commonwealth for public purposes. By proclamation the Act has effect in all states as from 30 November 1970. The complementary legislation passed by the Queensland Parliament is the *Commonwealth Places (Administration of Laws) Act 1970*.

Under section 68(1) of the Judiciary Act, state courts are required to apply state laws to persons charged with Commonwealth offences relating to:

- their arrest and custody;
- the granting of bail;

and the procedure for:

- their summary conviction;
- their committal for trial on indictment and
- the hearing of appeals.

Section 79 of the Judiciary Act makes the laws of the state, including its laws relating to procedure, evidence and the competency of witnesses, binding on all courts exercising federal jurisdiction in that state in all cases to which they are applicable, unless otherwise provided by the Commonwealth Constitution or the laws of the Commonwealth.

In *Williams v the King (No 2)* (1934) 50 CLR 551, Dixon J (as he then was) explained that the policy behind the enactment was:

“to place the administration of the criminal law of the Commonwealth in each State upon the same footing as that of the State and to avoid the establishment of two independent systems of criminal justice” (at 560).

Federal jurisdiction is conferred “notwithstanding any limits as to locality of the jurisdiction of that court under the law of that State”: see section 68(5) of the Judiciary Act. Hence, magistrates in Queensland deal with federal offences committed elsewhere in the state from where their courts are held, or indeed interstate.

The *Crimes Act 1914* (Cth) constitutes a regime for the purposes of sentencing federal offenders. Unless specifically adopted by the Commonwealth, state provisions for sentencing do not apply to federal offenders. Sections 68(1) and 79 of the Judiciary Act do not have the effect of making state sentencing options available to federal offenders.

Where the maximum penalty for a federal offence is imprisonment of not more than 12 months, or no imprisonment is provided, such an offence is a “summary” offence and must be heard and determined by a state magistrate. With regard to “indictable” offences, i.e. any offence punishable by imprisonment for a period exceeding 12 months, such offences may be heard summarily if the Magistrates Court is empowered to do so by Commonwealth legislation.

Further, with respect to some offences, if the maximum penalty does not exceed 10 years’ imprisonment, such offences may be determined summarily with the consent of the prosecutor and the defendant.

All Queensland magistrates deal with offences against Commonwealth legislation. However, in Brisbane, a particular court, Court 11, is the focal point of all such prosecutions conducted by the Commonwealth Director of Public Prosecutions or by the Australian Government Solicitor or regulatory agencies such as the Australian Taxation Office, which prosecutes a variety of offences under the Taxation Acts.

Federal offences dealt with by Queensland magistrates, indeed all state magistrates throughout Australia, is quite extensive.

Such offences include social welfare fraud and offences against the Commonwealth *Criminal Code*, the *Taxation Administration Act 1953*, the *Customs Act 1901*, the *Quarantine Act 1908*, the *Great Barrier Reef Marine Park Act 1975* and the *Migration Act 1958*, to name a few.

Queensland magistrates also have other functions under Commonwealth legislation, such as determining if it is proper under the *Marriage Act 1961* to permit a minor to marry and issuing warrants under Commonwealth legislation at any time of the night or day. Earlier this year, the Australian Federal Police and the Director of Public Prosecutions made an urgent after-hours application for the issue of a warrant to extradite an alleged “people smuggler” to Australia. The warrant was duly issued at a private table in a Brisbane restaurant where the Court 11 magistrate was attending a family function. Three officers from the Office of the Commonwealth Director of Public Prosecutions and the Australian Federal Police attended the restaurant, armed with the appropriate application and affidavits for that purpose.

Such is the lot of a state magistrate exercising federal jurisdiction.

## FAMILY LAW

While Magistrates Courts throughout the state historically and routinely undertake family law matters within the limited jurisdiction conferred on courts of summary jurisdiction by the *Family Law Act 1978* (Cth), in recent years magistrates in some centres have provided a “specialist” family law service.

Such service has been provided at

- Beenleigh: fortnightly;
- Brisbane: twice weekly;
- Ipswich: fortnightly call-over and final hearings by consent;
- Maroochydore: monthly;
- Southport: weekly and
- Toowoomba: weekly call-over and final hearings by consent of the parties.

In the call-over list, magistrates attend to interlocutory applications including location orders, interim applications such as interim residence and contact applications, contravention applications, spousal and child maintenance matters and child support applications. Longer matters for hearing may be adjourned to a hearing date given time constraints.

Despite the fact that the Magistrates Court has limited jurisdiction under the Family Law Act (section 69N(3) and (4): children’s proceedings and section 46(1)(b): property proceedings), the parties may consent to the court exercising jurisdiction in a particular matter. In children’s matters, absent the consent of the parties, the court may make only preliminary orders sufficient to address any immediate issue before transfer to and determination by the Family Court of Australia. However, parties may and do, pursuant to section 69N(2) of the Family Law Act, consent to the Magistrates Court dealing with proceedings on an interim and final basis. Similarly, in property matters where jurisdiction is limited to matters with a gross property pool not exceeding \$20,000 the parties may and do, pursuant to section 46(1)(a), consent to the Magistrates Court making final orders in contested matters.

While there are no dedicated counselling services available to the parties in children’s matters as in the Family Court, conciliation conferences in property matters are conducted by a “specialist” magistrate other than the local magistrate who is to hear the matter; thus to some extent the opportunities for mediation and conciliation are afforded the parties as is the case in the Family Court. Further, it is advantageous that the one judicial officer with knowledge of the matter manages the case from initiation to determination, making procedural orders as necessary, setting the trial preparation timetable for disclosure, issuing of subpoena and document filing. That parties are able to have their matter dealt with in their local area, saving time, travel and legal costs, together with a shorter waiting time between filing and final hearing, no doubt contributes to the acceptance of the service provided by the specialist magistrate.

### LEGAL EDUCATION

Since 2001 law students undertaking the subject “clinical legal practice” in the Bachelor of Law degree at Griffith University have been given leave to appear in the Magistrates Court at Brisbane to apply for adjournments, seek directions, make interim applications and seek consent orders on behalf of clients of the Caxton Legal Centre. Participating students are supervised by academic staff from Griffith University and lawyers from the Caxton Legal Centre. The exercise provides valuable in-court experience for law students and representation for parties who might otherwise appear as litigants in person.



# CHILDRENS COURT

The jurisdiction of the Childrens Court was set out in detail in the last Annual Report of the Magistrates Court. The court in its criminal jurisdiction deals with the offending behaviour of the young persons (people under 17 years of age) appearing before it. The court also exercises jurisdiction under the *Child Protection Act 1999* dealing with applications for child protection orders.

The statistics in relation to the young persons appearing before the Brisbane Childrens Court in its criminal jurisdiction are set out in Appendix 1.

## DRUG DIVERSION

In March this year, as a result of amendments to the *Juvenile Justice Act 1992*, the court was able to offer eligible offenders the opportunity to attend a drug assessment and education session. The Brisbane Childrens Court and the Magistrates Court Brisbane are the only courts in which the program is available at this stage. There have been 18 referrals with favourable outcomes reported and breach action taken for one referral.

If a person attends a drug assessment and education session he or she will not have a drug conviction recorded for the minor drug offence. At the session, he or she will receive factual information about the consequences of illicit drug use and assistance to stop using drugs.

## YOUTH CONFERENCE

There has been an increase in the number of offenders referred to the youth conference process this year. As a result of the amendments to the *Juvenile Justice Act*, as from 1 July 2003, the consent of the victim of an offence is no longer essential before a conference may be ordered. It is anticipated that there will be a large increase in the number of conferences ordered in the future.

The use of conferencing instead of traditional sentencing outcomes is reported to have been most successful. Offences including assault, theft, burglary, housebreaking, drink driving and offensive behaviour have been dealt with by way of conference.

**Offender:** *It [the conference] was a good experience, which opened my mind and helped me to understand things better with that in mind. I will not think about doing something like this [committing a similar offence] ever again.*

**Victim:** *I believe the conference was positive and I firmly believe it helped us. I would like to see more of these happen for other juvenile and adult offenders.*

**Police:** *An excellent opportunity for everyone to have their say and for the offender to understand how his actions have affected everyone involved.*

## CHILD PROTECTION ISSUES

In Brisbane, the court sits in its “child protection” jurisdiction each afternoon. Applications for temporary assessment orders are dealt with in chambers. Applications for court assessment orders and child protection orders are dealt with before the court. The applications for child protection orders are usually adjourned at the first mention to enable the respondent parents to obtain legal advice and for them to have further discussions with the applicant regarding the alleged issues of concern. If the application is to be contested the court will order a family meeting and a conference to be held before listing the application for hearing.

## DOMESTIC AND FAMILY VIOLENCE

The *Domestic and Family Violence Protection Act 1989*, previously known as the *Domestic Violence (Family Protection) Act 1989*, received substantial amendment in March 2003. The new descriptive title reflects the extension of the legislation to cover abuse between family members, abuse of people by their informal carers and abuse in some dating relationships.

The Magistrates Court remains the only court with jurisdiction to deal with applications under the above Act for protection orders where allegations of domestic violence have been made by one person against the other, now known as “the aggrieved” and “the respondent”.

Often police are called to the scene of a domestic dispute and, upon investigation of the incident, will either take the alleged perpetrator into custody until an application can be made for a temporary protection order or the alleged perpetrator can be released from custody on bail with conditions to appear in court at the next opportunity. The release from custody form has the same effect as a temporary protection order.

An application to court for a temporary order can be made before a magistrate, either as the result of intervention by police or by an aggrieved making an application to the court, either in person or by the police or by way of being privately represented. A guardian or administrator appointed under the *Guardianship and Administration Act 2000*, the adult guardian and a person who is acting under an enduring power of attorney may in certain circumstances make application on behalf of an aggrieved.

At the preliminary hearing, a temporary order can be made, even if the respondent has been unable to be served; if served, the respondent may consent to a protection order being made for up to two years or may oppose the making of an order and ask for a hearing to be set down to determine whether a final order should be made.

The protection order must include what are known as the “two standard conditions”: that the respondent be of good behaviour and that the respondent is not to commit domestic violence to the aggrieved or any named person. It may also include other conditions, such as no contact with the aggrieved, subject to certain arrangements that suit both parties.

A breach of an order in circumstances where the respondent was present in court served and with the order or told about the existence of the order by a police officer is a criminal offence and can be dealt with accordingly. Depending on the seriousness of the breach, an offender could be imprisoned as a result.

Alternatively, if certain pre-conditions are satisfied, an offender, upon breaching an order and either pleading guilty or having been found guilty, can be placed on a probation order, which includes taking part in a “perpetrators’ program”. This will involve the perpetrator in an attempt to redress patterns of behaviour which have led to an order having been made against him or her and, hopefully, to help the perpetrator form healthier relationships in the future.

Domestic violence includes acts that a person has committed against another, e.g. wilful injury, wilful damage to the other person’s property, intimidation or harassment of the other person, indecent behaviour to the other person without consent, or a threat of any of the above. The type of wilful injury to which a person can be subjected to includes physical, emotional, psychological or sexual abuse.

While some courts are busier than others in this jurisdiction, it is a part of the work of magistrates that is demanding both emotionally and in terms of workload. Every effort is made by court staff to ensure that the safety of parties is maintained at each Magistrates Court.

Since the amendments to the Act in 2003, categories of persons covered by the Act have been expanded beyond spousal and same sex couples to cover persons in “intimate personal relationships”, people who are or were engaged to be married to each other or betrothed under a cultural or religious tradition. It also includes people who are or were previously dating and whose lives have become enmeshed. “Family relationships” refers to people who are related either through defacto relationships or by blood or marriage such as grandparent, aunt, uncle, step-parent, half-brother, mother-in-law, parent and child (if 18 years or over). “Relatives” include those persons who for some people in the community have a wider understanding of relative than what is ordinarily understood, such as people from non-English-speaking backgrounds and Aboriginal and Torres Strait Islander communities. “Informal care relationships” extends to people with a disability, illness or impairment who are being abused by an informal carer.

Young people are able to obtain a protection order but only where a spousal relationship, intimate personal relationship or informal care relationship is shown to exist. Parents must be involved where children under 16 are a respondent or aggrieved.

A further significant change to the legislation is that apart from members of the armed services on duty, federal police, Australian Customs or Protective Services, a respondent to a domestic violence order will not be able to possess a weapon or a weapons licence for any purpose including work.

Since the amendments came into effect on 10 March 2003 the work of the Magistrates Courts in this area has increased. See Appendix 3, which provides the number of domestic violence applications and protection orders made throughout the state.

## QUEENSLAND DRUG COURT PILOT PROGRAM

The establishment of the pilot program courts at Beenleigh, Ipswich and Southport was explained in the last Annual Report. The pilot began on 13 June 2000. In November 2002 pilot program courts were also established at Cairns and Townsville. The northern pilot program courts will have different rules. Defendants who have had a previous sentence of six or more months' imprisonment are automatically disqualified. Once an intensive drug rehabilitation order (IDRO) is made the defendant will report back to court for supervision on a monthly basis, instead of commencing weekly reporting and diminishing to fortnightly and then monthly reporting as occurs in the South-East Queensland Drug Courts.

The functions of a pilot program magistrate under the *Drug Rehabilitation (Court Diversion) Act 2000* have now been allocated to eight magistrates:

- Mr John Costanzo (Beenleigh, Ipswich and Southport);
- Ms Anne Thacker and Mr Craig Proctor (Backup to Mr Costanzo);
- Ms Tina Previtera (Cairns);
- Mr Rob Spencer and Mr Zac Sarra (Backup to Ms Previtera);
- Mr Graham Hillan (Townsville) and
- Mr David Glasgow (Backup to Mr Hillan).

A training program for Drug Court magistrates was designed with the assistance of the Department of Corrective Services. The program comprised three days of seminars about drugs, drug testing, rehabilitation and counselling services, and other relevant topics, plus a week in the Drug Court. Five magistrates were trained in 2002 – 2003.

At the time of writing (15 August 2003), since 13 June 2000 there were 636 people referred to the Drug Court by the five pilot program courts for assessment of drug dependency and of suitability for drug rehabilitation treatment. Of these, 555 were in South-East Queensland and 81 were in North Queensland. Intensive drug rehabilitation orders were made for 315 people, while 279 were found to be ineligible for various reasons. Eighteen were still being assessed and 24 (less than 3.8%) absconded before an intensive drug rehabilitation order could be made.

Of the 315 intensive drug rehabilitation order participants, 67 have successfully completed all three stages of the Drug Court program and were given a non-custodial final sentence. Also, 158 defendants were removed from the program and given a final sentence (usually imprisonment). The remaining active participants are in residential or outpatient programs according to their individual rehabilitation needs.

Referrals to the South-East Queensland Drug Courts ceased on 31 December 2002 for the purpose of an independent evaluation by the Australian Institute of Criminology (AIC).

The AIC evaluation was published in July 2003 and provided to the Attorney-General. The AIC assessed whether the Drug Court had been "successful", by undertaking an analysis that examined the length of time it took for offenders to commit their first offence after being referred to the court and whether the frequency of their offending had declined. The AIC concluded:

- recidivism is significantly reduced for those who successfully complete the Drug Court program;
- few graduates re-offend once they complete the program;
- where offending does occur, the average time to re-offend is longer than that of the comparison groups and
- reductions in offending before and after the program are greater for the Drug Court graduates than the comparison groups.

The AIC also found that although prior imprisonment and previous offences were not significant predictors of completion, the length of the prior sentence was significant. Those who had served actual prison sentences *longer* than six months were more likely to complete the Drug Court program. Also, graduates with a prior sentence *longer* than six months took significantly less time to graduate (397 days) compared to those with a *shorter* prior sentence (491 days to graduate). The findings suggested “such people may be at a point in their lives where they really do not want to continue with their current lifestyle, possibly because they face a longer term of imprisonment if they fail—the incentive to becoming crime and drug free may be stronger.”

The full report, entitled “Final report on the South East Queensland Drug Court” by Dr Toni Makkai and Keenan Veraar, Technical and Background Paper No. 6, can be obtained from the AIC in Canberra or by downloading it from: <http://www.aic.gov.au/publications/tbp/tbp006.pdf>

Magistrate Costanzo has also presented the pilot program magistrate’s evaluation report to the Attorney-General as required under section 46 of the Drug Rehabilitation (Court Diversion) Act.

As well as corroborating some findings of the AIC evaluation, the pilot program magistrate’s report contains further significant findings and makes 74 recommendations for reform and refinement of the program.

As well as the obvious benefits to the community by the achievement of 67 successful graduations from the Drug Court program, the report also found numerous other community benefits gained as a direct result of the Drug Court program, both where participants graduate and where they have their programs terminated. These included:

- improvements in parenting skills;
- family reunification;
- a cessation of criminal activity, even where occasional drug use persists;
- abstinence from drug abuse;
- a reduction on the pressure on prison resources;
- a reduction in the drain on Child Welfare funds;
- payment of restitution to victims;
- repayment of debts to Queensland Housing and Residential Tenancies Authority;
- independent accommodation and reduced drain on public housing funds;
- a reduction in the likelihood that children will follow their parents and siblings into a life of drug abuse and crime, thereby avoiding the future cost to society;
- improvements in health and consequent reduction in the drain on public health funds in future;
- the birth of six drug-free babies;
- less drain on the Department of Families and the Department of Corrective Services as these babies could have been separated from their mothers causing more trauma for mother and child, which could have brought other social ramifications in the future;
- healthy settled children attending school;
- adults and children learning respect for authority;
- employment and less drain on unemployment funds and
- further education and consequent self-esteem and sustained motivation for improved employment and earning prospects.

Mr Costanzo’s report, entitled “Final Report on the South East Queensland Drug Court Pilot” can be obtained from the Department of Justice and Attorney General or by downloading it from either: <http://www.justice.qld.gov.au/publications.htm#1> or <http://www.justice.qld.gov.au/courts/home.htm>

As a result of these evaluations the government has announced the South East Queensland Drug Court will recommence to receive referrals before the end of 2003. The government has yet to announce whether it will continue the Drug Court program beyond 2004.

## THE CORONERS COURT

Under the *Coroners Act 1958* every magistrate in Queensland is also a coroner with responsibilities to inquire into “reportable deaths”. These are deaths which warrant special scrutiny either because of the circumstances in which they occur or the vulnerability of the deceased person. Some examples of deaths which are handled in this way are:

- violent or unnatural or suspicious deaths;
- sudden deaths where the cause is unknown;
- drownings;
- deaths under anaesthesia;
- deaths where no certificate can be provided by a medical practitioner;
- deaths where a person has not seen a doctor during the three months prior to death;
- where deaths occur while detained in prison or psychiatric hospital and
- where the coroner decides there should be inquiry or the Minister so directs.

In the year ended 30 June 2003, there were 2,724 deaths reported to coroners throughout Queensland.

Some fires must also be reported to a coroner.

In most cases coronial investigations resulted in decisions or recommendations by the coroner not to convene an inquest. A decision not to convene an inquest is made where the coroner’s investigation reveals the death was due to natural causes.

In cases where a coroner is satisfied after inquiry that an inquest will not serve any good purpose, a recommendation is made that no inquest be convened. The recommendation is reviewable by the Chief Executive.

The main purpose for holding an inquest is to establish identity, determine the circumstances in which the death occurred and to decide whether there is sufficient evidence to require any person to stand trial in relation to the death.

Most importantly an inquest provides a public forum to look to the future in making coronial recommendations to help prevent similar deaths. In the last year, strengthening of the legislative requirement for pool owners has been passed by parliament, in response to the continuing tragic documentation through the coronial courts of young children drowning in backyard pools.

In April 2003 the *Coroners Act 2003* was passed. This Act creates a new position of State Coroner who must oversee and coordinate the coronial system to ensure the objects of the new Act are achieved by establishing procedures and guidelines that will bind all local coroners. The new system emphasises:

- the need for the effective and timely investigation of reportable deaths;
- the rights of the next of kin to be involved in decisions concerning the deceased;
- the need for coroners to seek to proactively contribute to a safer and more just community by making recommendations aimed at increasing public health and safety and improving the justice system;
- the centralising of data concerning reportable deaths to enable more effective data analysis and
- the desirability of a more consistent, efficient and transparent coronial system.

The new system is likely to come into affect around December 2003.

# SMALL CLAIMS TRIBUNAL

The Small Claims Tribunal was established in 1973 to deal with disputes between consumers and traders. It originally consisted of one referee, who had the responsibility for dealing with all claims state-wide, with the registry situated in Brisbane. With the increase in the number of claims, the *Small Claims Tribunal Act 1973* was amended by appointing all magistrates in Queensland to be referees, with all Magistrates Courts registries to be registries for processing small claims. No legal representation is allowed in the tribunal and no rules of evidence apply. Orders made for payment of monies by one party to another are recoverable like any other court order.

As there was a registry already set up in Brisbane, it was decided to use this central registry to process all small claims within the Brisbane metropolitan area. The Brisbane tribunal covers a significant area across surrounding local authorities. The registry of the Brisbane Small Claims Tribunal is situated within the Brisbane Central Courts complex. Small claims hearings are not dealt with in the Magistrates Courts at Redcliffe, Sandgate, Wynnum, Cleveland, Beenleigh, Holland Park and Inala.

The jurisdiction of the tribunal over the years has been enlarged and now includes the following:

- disputes between consumers and traders;
- disputes between traders and traders;
- claims for payment of money for damages to property caused by, or arising out of, the use of a vehicle;
- claims under the *Mobile Homes Act 1989*;
- disputes under the *Dividing Fences Act 1953*;
- tenancy disputes under the *Residential Tenancies Act 1994*;
- tenancy disputes under the *Residential Services (Accommodation) Act 2002* and
- warranty claims under the *Property Agents and Motor Dealers Act 2000*.

The increase in the jurisdiction of the tribunal, to deal with all residential tenancy disputes rather than just rental bond disputes, has seen the workload of the tribunal increase rapidly. In 1996 the Brisbane tribunal processed just over 3,500 claims, while in 2001 that number rose to 7,884.

## PROCEDURES FOR BRISBANE SMALL CLAIMS TRIBUNAL IN RELATION TO RESIDENTIAL TENANCY MATTERS

The Residential Tenancies Act makes provision for two distinct types of claims, referred to as “urgent claims” and “non-urgent claims”.

### **Non-urgent claims**

These claims are all claims other than claims which are deemed to be “urgent claims” under the Act. The tribunal cannot process these claims unless the parties have been to the Residential Tenancies Authority (RTA) for conciliation. If the RTA is unable to resolve the dispute, it will issue the party bringing the dispute with a “Notice of Unresolved Dispute”, and this document must be produced by the claimant before a claim can be filed in the tribunal.

## Urgent claims

These claims can be filed without the parties attempting conciliation with the RTA, and include the following examples:

- claims by a lessor to terminate the tenancy due to a breach by the tenant;
- claims by a tenant for emergency repairs and
- claims by either the lessor or the tenant to terminate the tenancy due to excessive hardship.

The average time between lodgement and hearing ranges from seven to fourteen days for urgent claims and from six to eight weeks for non-urgent claims. If a claim is filed and it is considered by the registry staff to be in need of an immediate hearing, the matter will be listed in Hearing Room 1 on three days' notice to the parties. A second magistrate from Central Courts assists the Small Claims Referee on a regular basis for three out of five days each week, which is a reduction from previous years.

## RECENT DEVELOPMENTS

### Warranty claims under the Property Agents and Motor Dealers Act

The tribunal has jurisdiction to deal with matters where a buyer of a motor vehicle has a dispute with either a motor dealer or an auctioneer over defects in a recently purchased motor vehicle. The tribunal may order that the warrantor repairs the defect, pay the buyer compensation or extend the warranty period.

### Boarding house tenancy disputes

The Residential Services (Accommodation) Act commenced on 23 August 2002 and regulates the relationship between service providers and residents in some types of boarding houses. The Act provides that, except for jurisdiction disputes, all disputes must go to the RTA for conciliation before a claim can be lodged in the tribunal.

### Tenancy databases

As from 1 August 2003 the tribunal has jurisdiction to make orders in relation to the removal of the name of a tenant from a database. The jurisdiction applies to where tenants are currently listed, or where the tenants are listed in the future. These claims will be treated as "urgent claims".



# THE INDUSTRIAL MAGISTRATES COURT

The Industrial Magistrates Court is one of the industrial tribunals constituted under chapter 8 of the *Industrial Relations Act 1999*. It is a court of record and has both civil and criminal jurisdiction under that Act and other state legislation such as the *WorkCover Queensland Act 1996*.

By virtue of his or her appointment as a full-time or acting magistrate, every Queensland magistrate is an industrial magistrate. Because of the volume of cases, one magistrate in Brisbane works exclusively in that jurisdiction, as well as being responsible for Commonwealth prosecutions and applications other than family law matters. However, all magistrates have jurisdiction in such matters and regularly hear and determine them.

The court deals with wage claims and other claims of entitlement under an award or industrial instrument, if applicable. If the claim is for unpaid wages under a federal award, and the amount sought to be recovered is not more than \$10,000, the claimant may elect under section 179C of the *Workplace Relation Act 1996* (Cth) to have the “small claims” procedure apply. Features of that procedure are:

- the magistrate is not bound by any rules of evidence;
- the magistrate may correct any mistake in the application;
- the magistrate can act in an informal manner, and without regard to legal form and technicalities;
- the magistrate may allow officers or employees of a union, or of an employer’s body, to appear for parties in the proceedings;
- no party to the proceedings (i.e. neither the employee nor the employer) can be represented by a barrister or solicitor, unless the magistrate permits this and
- if the magistrate decides to allow the employer to be represented by a barrister or solicitor, the magistrate may choose to impose conditions designed to ensure that the employee is not unfairly disadvantaged.

The major part of the workload in the Industrial Magistrates Court relates to hearing appeals on claims for workers’ compensation under the *WorkCover Queensland Act*. The court is the first appeal court for such matters, the final appeal court being the Queensland Industrial Court. Such appeals to the Industrial Magistrates Court are heard “de novo”, (i.e. afresh) on all relevant evidence then available, while appeals to the Queensland Industrial Courts are appeals by way of “rehearing on the evidence and proceedings before the magistrate” unless the court exercises its discretion to allow additional evidence.

The majority of such appeals involve the issue whether the injury arose out of, or in the course of, employment. While a work-caused psychiatric or psychological disorder is capable of being a compensable “injury”, the Act excludes such claims in certain circumstances, such as if the claimed “stress” condition resulted from reasonable management action taken in a reasonable way by the employer in connection with the worker’s employment. More and more “stress” claims are coming before the Industrial Magistrates Court and, because of issues involved, usually involve lengthy hearings.

In hearing workers’ compensation appeals, the court is not bound by technicalities, legal forms or rules of evidence (subject to section 501 of the Act) and may inform itself on a matter it considers appropriate in the exercise of its jurisdiction. Also, the court is to be governed in its decisions by equity, good conscience and the substantial merits of the case, having regard to the interests of the persons immediately and the community as a whole.

Apart from those considerations, such an appeal to an Industrial Magistrate is in truth a full trial.

The Industrial Magistrates Court has an important criminal and quasi-criminal jurisdiction with respect to the prosecution and punishment for industrial and employment-related offences. Such offences include fraudulent claims for workers' compensation, failure to pay award wages and benefits, failure to keep wage records and failure to ensure workplace health and safety obligations. The penalties that may be imposed are significant.

For example, if an employer fails to observe their obligations under the *Workplace Health and Safety Act 1995* and the breach causes the death of or grievous bodily harm to an employee or another, the employer may be fined a maximum of \$60,000 or imprisoned for two years if an individual, or fined a maximum of \$300,000 if the employer is a corporation.

# COURT ADMINISTRATOR

The management of the non-judicial work of the Queensland Magistrates Court is the responsibility of the Court Administrator (Magistrates Court) who is a public servant within the Department of Justice and Attorney-General. He is assisted by a small Magistrates Court head office staff who administer training, systems and procedures (including information technology), and overall financial and human resource management for the Magistrates Courts throughout Queensland.

The administrative functions of these Magistrates Courts are handled regionally by 11 Area Managers (who are also Registrars and Clerks of the Court) at major locations throughout Queensland. These Area Managers report to the Court Administrator and the Registrars of the smaller courts in these areas report to the Area Managers.

Also reporting to the Court Administrator are the Coordinator of Child Protection Conferences, the Coordinator of the Drug Court Pilots, the Registrar of the Office of the State Coroner and the Registrar of the State Penalties Enforcement Registry (SPER). SPER works closely with the Magistrates Courts but is not part of the Courts.

The Court Administrator is also responsible for the Queensland Government Agency Program (QGAP) functions performed by court registries. QGAP offices are located in rural and remote courthouses and provide clients with access to services offered by many state and Commonwealth agencies.

The Court Administrator liaises with the Chief Magistrate to ensure that the judicial functions of the court are supported by suitable administrative operations.

Specialist financial, human resource management, building management and information management support are supplied to the Magistrates Court by other sections of the department.

## MAJOR INITIATIVES DURING 2002 – 2003

### **Establishment of Office of State Coroner**

The *Coroners Act 2002*, passed by Parliament in April 2003, provides the legislative framework for a modern coronial system with a death-prevention focus and is headed by a State Coroner. Mr Michael Barnes was appointed Queensland's first State Coroner and commenced duties on 1 July 2003. The Office of the State Coroner has been administratively established as part of the Magistrates Court Branch. Under the new Act, new coronial procedures will be implemented in all Magistrates Court registries. The Queensland Wide Interlinked Court (QWIC) system has been expanded to provide a coronial case management system.

### **Drug Court Pilot Projects**

Pilot Drug Courts were established in Ipswich, Beenleigh and Southport on 13 June 2000. The *Drug Rehabilitation (Court Diversion) Act 2000* established a trial program which provides a sentencing option to the court to divert drug-addicted offenders from prison by suspending a term of imprisonment on the condition that the offender undergo an intensive rehabilitation program. The Act was amended in 2002 to allow for a trial to commence at Townsville and Cairns on 1 November 2002. The Magistrates Court Branch is responsible for the establishment of the non-judicial court procedures and coordination of other government agencies involved in the pilots.

### **Illicit Drugs Court Diversion Program**

The Illicit Drugs Court Diversion Program is a joint initiative between the state and the Commonwealth which diverts minor drug offenders to drug counselling and rehabilitation rather than the more traditional Magistrates Court sentencing options. This program, which is being trialled for a 12-month period at the Magistrates and Childrens Courts at Brisbane, commenced on 28 March 2003. The Magistrates Courts Branch has established and is monitoring the procedures needed to run and assess the program.

### **Enhancement of the Queensland Wide Interlinked Court (QWIC) system**

The QWIC system that was implemented in late 2000 was further developed this year.

This system provides case management functions for all criminal and non-civil applications (including domestic violence matters) and financial functions for all Magistrates Court registries. The system allows for registration of all cases in the state, including those in registries not operated by the Department of Justice and Attorney-General.

During the last year, major work has been carried out on the financial management and reporting component (released in October 2002), development of a Coroners Court case management system (expected to be released in September 2003) and the domestic violence component (released in March 2003). The Oracle database was also upgraded (released in July 2003).

### **Enhancement of the civil case system**

This computer system records all civil matters (including small claims). It is an older system developed in the early 1990s which presently is operating in 16 major centres throughout the state.

During the last year, major work has been carried out on this system, particularly with respect to searching for names of parties to actions. These have now been categorised into individuals, organisations and business names, where previously these were all listed together. Also, there now is the ability to conduct multi-court searches.

### **Electronic lodgement of civil matters**

The Civil Registry system was modified in April 2003 to allow for the electronic lodgement of civil and minor debt claims and for requests for default judgments by solicitors and other approved persons. Clients need to register with a third party (CITEC), which transmits lodgements to the courts' computer system. The new electronic lodgement system is currently available at the 16 centres that have the Civil Registry System, between the hours of 7am and 11pm weekdays.

### **Construction and upgrades of Magistrates Court buildings**

- Construction of the new Brisbane Magistrates Court building commenced in September 2002 and the anticipated completion date is September 2004.
- In May 2003 construction of the Western Districts Magistrates Court building commenced at Richlands and is due for completion in January 2004.
- Construction of the new Mackay Magistrates Court building commenced in February 2003 and the anticipated completion date is January 2004.
- The new Caloundra Magistrates Court building is still in design stage and it is anticipated that construction will commence in April 2004.
- The upgrade of the Cooktown Magistrates Court began in April 2003 and is due for completion in September 2003.

### **Expansion of domestic violence legislation**

The amendments to the *Domestic and Family Violence Protection Act 1989* that saw an extension of domestic violence procedures to additional categories of relationships came into operation on 1 March 2003. The Magistrates Courts Branch Training Officer has completed training 329 staff from 71 registries throughout the state on these amendments. Computer systems (QWIC), the court protocol and on-line information have been updated to comply with the new legislation.

## PROPOSED ACTIVITIES IN 2003 – 2004

### **Integrated Justice Information Strategy (IJIS)**

The Magistrates Courts Branch is presently involved with the whole-of-government IJIS project. As its first initiative this project is concentrating on electronic transfer of bench charge sheets to the QWIC system by police. This is expected to be completed in mid-2004 and progressively implemented by police across the state. Future stages may include the transfer of court results to agencies such as Police, Corrections and Department of Families.

## SINO-AUSTRALIAN JUDICIAL FORUM

28 July to 2 August 2002

**By Ms Leanne O'Shea, Magistrate, Ipswich**

The Australian Institute of Judicial Administration called for interested judicial officers to attend this forum hosted by the Beijing People's High Court. Various courts and commissions in Australia were represented including the New South Wales Supreme and District Courts, Queensland District and Magistrates Courts, Australian Capital Territory Magistrates Court, the Australian Industrial Commission and the Law School of the Australian National University. During the five days of the forum, various discussions were held regarding the similarities and differences of the judicial systems in each country.

Both parties conducted a civil court hearing of a claim for damages for injuries received from the attack of an unrestrained dog on a young female model. Three judges of the Chinese Intermediate Court heard the matter which proceeded much like a very formal mediation session. The court heard the evidence-in-chief of each witness with very little involvement of the party's legal representative and would question the witnesses as the matter proceeded. Similar to our process, the plaintiff started and this was followed by the defendant's evidence. The process then developed into a series of discussions between the judges and the parties although still on a very serious note. Cross-examination by opposing counsel was not as involved as in Australian courts and the role of legal practitioners was not as important. As in Australia the role of the expert was important but both parties used the same court-appointed expert in the hearing. Once the evidence was heard the judges made their decision by majority.

Our participants then presented an Australian hearing on the same fact situation. The result in both cases was very similar. All participants then discussed issues from each nation's point of view.

We were also fortunate in being able to observe actual criminal proceedings. The matter concerned an equivalent charge to our unlawful entry of a motor vehicle. The proceedings followed a similar process to ours. The judges eventually found the defendant guilty and the penalty imposed was more severe than would have been expected in our courts.

*Magistrate Leanne O'Shea was welcomed by Vice President Li XinSheng of No1 Intermediate People's Court of Beijing.*



The Chinese judicial system follows the Roman law system in the appointment and training of judges. Graduates of law apply to the Chinese Government to become career judges, usually shortly after graduation when they are deciding in which area of law they will practice. They are then trained in their role as judge. Most have already attained a Master's Degree or some other specific interest study. Judges are then moved around courts in the province and also move between the Intermediate Court and the People's High Court in both directions in accordance with the promotion system, e.g. the President of the Intermediate Court is a more senior position than the Vice-President of the People's High Court and the President of the People's High Court is the most senior position.

Alternative Dispute Resolution is a developing practice in China. The courts all have processes including mediation but it is conducted on a compulsory basis before the trial. The Chinese judges reminded us that harmony is a basic tenet of Chinese culture and lifestyle and that mediation fits in very well with this.



*Magistrate Leanne O'Shea taking the position of Judge in the No. 1 Intermediate People's Court of Beijing.*

The social situation in the Chinese courts is different to ours in the fact that the court will enter its own sports teams, such as soccer teams, in local competitions and many, if not all, judges will be out supporting them in their team colours. These events are photographed and displayed in the court common rooms which are also equipped with televisions, pool and table tennis tables and various other recreational pursuits. Judges often are provided with accommodation and employer-provided bus services pick up judges for work and deliver them home. Judges informed us that, even though they did not receive a very high salary, many of their usual day-to-day expenses were met by their employer and most seemed very happy in their employment.

The court in China arranged many banquet functions for the Australians where we had the opportunity to discuss with them many and varied topics covering areas of cultural and social interest as well as legal matters. The Chinese courts in Beijing were wonderful in their hospitality towards us. A small group of the Australian participants went on to visit other courts in the provinces of Xian, Chengdu and Shanghai where further discussions of a similar nature occurred.

The visit to the Chinese courts highlighted the fact that this was another court modernising its practices and procedures for the benefit of its nation.



## THE LIFE OF A COUNTRY MAGISTRATE

**By Mr W.A. Cridland, Magistrate, Charleville**

Like all occupations there are downsides and upsides in what you do – but life as a country magistrate is never dull.

Over the past 20 years I have convened court in 36 separate centres on court circuits throughout Queensland. I have had the good fortune to either reside in or visit centres from Cunnamulla in the south-west to Winton in the north, east to Mackay and south-east to Stanthorpe.

Some of the circuits cover very large areas. The magistrates at Charleville, Emerald and Mount Isa are each responsible for circuits that cover court districts larger in area than the state of Victoria. A magistrate travelling on these circuits is responsible for all courts within the jurisdiction of the magistracy and is on call for out-of-hours and urgent orders 24 hours a day, seven days a week, unless on leave. There are no specialist courts and many of the support services associated with larger centres are not available.

Magistrates in these more remote centres can be absent from their place of residence for up to a week when on circuit. It is not unusual to travel and work for ten or more hours and then receive a telephone application just when you have sat down to a meal or managed to get to sleep.

One of the more enjoyable aspects of country circuits is being able to observe and have dealings with people from a variety of backgrounds.

People resident in larger coastal centres, the fruit and wine areas of the Granite Belt in southern Queensland, the sugar cane farming region of northern Queensland, the coal mining areas of central Queensland, the cotton and grain areas of the Darling Downs, the gemstone and opal mining areas of central and western Queensland and the grazing areas of western Queensland all enjoy different lifestyles.

To appreciate just how much can be taken for granted by people resident in large regional and urban centres, you only have to travel through some of the more remote areas of the state where there is no resident doctor or dentist and the communities rely on visiting practitioners or the Royal Flying Doctor Service. There are no picture theatres, chain stores or big supermarkets. Radio and television coverage and especially telephone and internet services are limited.

To observe the catastrophic effects of drought and flood on rural areas makes a person realise how resilient people who choose to make a living and reside in these areas can be.

The ingenuity and practicality of people who can set up high-quality cottage industries such as “Tambo Teddies” or “Quilpie Quilts”, thus taking advantage of their location and local product, is admirable.

Every year thousands of people from around Australia and overseas pack their bags and head into the Queensland outback to experience the magnitude and beauty of a unique part of the world. I have been able to do this on a regular basis when travelling on circuit.



I have experienced some of the most productive and historic areas of Australia. I have travelled through the coal fields of central Queensland; west past the “Tree of Knowledge” at Barcaldine, the birthplace of the Australian Labor Party; onto Longreach, where you will find the Australian Stockman’s Hall of Fame and the Qantas Outback Founders Museum, with a Jumbo 747 in the parking lot; and to Winton, the birthplace of Qantas, also known for dinosaurs and where “Waltzing Matilda” was sung in public for the first time in 1895.

As all travel on these circuits has been by road, I have witnessed events and viewed sights that many people will never see. I have seen giant draglines being walked across roads at Peak Downs and Blackwater; snowfalls on the Granite Belt; and the rare sight of literally hundreds of waterhen that have descended on a park in Cunnamulla, during the drought, march, as if in rank, over the levee bank and disappear into the Warrego River, to wherever it is they came from. There is an amazing variety of animal and bird life, including wedge-tailed eagles and (dancing) broilgas.

The drought has caused an increase in the number of drovers on the long paddock and it is not unusual to drive through large mobs of cattle. This same drought in the south-west also gave rise to the disheartening sight of hundreds of kangaroos that were so weak they would just either lie or sit in whatever shade was available without apparently being aware of traffic travelling at high speed within metres of them.

The beauty of country life is that the upsides far outweigh the downsides. A person can gain a much broader appreciation of life only by experiencing it.

## PALM ISLAND JUSTICE GROUP

**By Mr David Glasgow, Magistrate, Townsville**

Palm Island, an Aboriginal Community of some 4,000 people, is located 32 nautical miles and 20 minutes flying time from Townsville. It is serviced by the Townsville magistrates four to six days each month, with two of those sitting days being callovers. Magistrates are now rostered to sit for a three-month period.

### THE COMMUNITY JUSTICE GROUP

Palm Island has a very effective community justice group, representatives of which attend each court sitting. The group meets each Tuesday and is involved in many areas of justice, including juvenile justice. It oversees many orders which the Department of Families would ordinarily service, as that department's officers visit Palm Island only two days each week.

The group also supervises probation orders and domestic violence and anger management programs. The Department of Corrections has permanent staff on Palm Island and its officer-in-charge attends group meetings.

Magistrates refer defendants to the justice group for its advice and recommendation. Their local knowledge of the family and the history of the offender prove invaluable to the court when considering sentencing options.

The justice group regularly provides reports to the court. In the main these reports are oral. To require written reports would place additional and unnecessary work loads on this group of volunteers, who are required to give written reports to the District Court under its practice direction.

On 27 August 2003, the community justice group celebrates its tenth anniversary, with the original Chairperson, Josephine (Peena) Geia, still in charge.

Peena is a most remarkable and able lady who has held the group together since the days when Magistrate John Brennan and then Magistrate Sarah Bradley were based in Townsville. Late last year I invited Peena, as a respected Elder of Palm Island, to sit with me on the Bench, and all magistrates who have followed me have continued this practice. Magistrate Brian Smith is currently sitting in court on Palm Island.



*Magistrate Brian Smith and Chairperson Peena Geia with members of the Palm Island Community Justice Group*

## JUSTICES OF THE PEACE TRAINING PROJECT

When the community justice group was formed in 1993, the persons chosen to sit on the group all received training as Justices of the Peace (Magistrates Court). Although there are no records of how many people went through the training and were sworn in, by 1997 only three justice group members still held their office. These three did the majority of the work of Justices of the Peace on Palm Island. One other person on Palm Island, Dr Margaret Purcell, was a JP and shared some of the work on the Island; however, most of the JP work was undertaken by the chairperson of the Group, Peena Geia.



*Magistrate Glasgow and  
Community Justice Group  
Chairperson Ms Peena Geia*

In 2001 the group received funding to employ a full-time coordinator and it was decided to try and increase the number of JPs on Palm Island and relieve some of the work done by Ms Geia. Initially, to achieve this, the Barrier Reef Institute of TAFE was contracted to hold training sessions on the island and a four-week training program was arranged. Notices encouraging members of the community to undertake the training were distributed and the course attracted fourteen persons, eight from the community and six non-Indigenous workers from various agencies. All the participants paid their own fees.

In August 2002, Damien Mealey, from the Justices of the Peace Branch within the Department of Justice, was contacted to arrange a training program. It was planned that Damien spend four weeks on the island, one week each month of September, October, November and February.

The program was very successful for all participants with the highlight being a visit from Magistrate Graeme Tatnell, who was presiding on Palm Island at the time. He attended the training session and brought with him the Police Prosecutor and the Legal Aid Solicitor. For some participants who had little interaction with the court system, this input was very helpful and validated the whole process. Other speakers who addressed the group throughout the training included officers of the Police Service, Corrective Services, a representative from the Domestic Violence Resource Service and qualified JPs. The participants also spent some time attending my court observing how the justice group had been integrated into proceedings.

While the basis of the training was aimed at qualifying people to become JPs, the discussions led to many participants learning a great deal about their own community and in particular the by-laws. Local by-laws were not being 'policed' at this point as the Community Police were not employed by Council but by the Community Development Employment Program, which in effect meant they did not have the authorisation of Council to police breaches of the by-laws. These discussions encouraged the Chairperson of the Palm Island Local Council to attempt to change this anomaly by employing By-Law Officers who would be under the management of the Council. Although this program is not yet in place, it was a positive side-effect of the JP training course.

I was asked to officiate at the ceremony on 21 May to swear in the successful candidates - 17 in all. I was requested to wear my robes to lend an air of occasion to the day. The community, together with the Attorney-General and the Minister Assisting the Premier in North Queensland, was invited. A sausage sizzle was held following the formalities. The Bwgcolman Community School and St Michael's Catholic School entertained the invited guests and the large crowd of several hundred with singing and dancing throughout the ceremony. Their performances really gave the whole event a community basis.

The aftermath of this training is still to be enacted with the successful participants sitting in court and hearing breaches of the local by-laws. Some are being asked to hear opposed and un-opposed bail applications and are gaining valuable experience sitting on the Bench. The whole project has had many benefits for the community with most candidates attending other training courses throughout the project. The process also encouraged some participants to look at further training in the Justice Administration field.

Damien Mealey is to be congratulated on his efforts, which have been largely instrumental in the success of this program.

# HISTORICAL PERSPECTIVE

## ARTHUR DEAN (19 June 1855 – 14 August 1931), Police Magistrate

### By Gordon Dean, Magistrate, Brisbane

An outline of my great-grandfather Arthur Dean's career in the courts can be briefly put. He joined the Court of Petty Sessions at Bundaberg as a clerk on 27 June 1888, when 33 years of age. His annual salary was 120 pounds, and it appears he was required to give security in the sum of 100 pounds.

Ten years later he was appointed Clerk of Petty Sessions at Cooktown. He was appointed Clerk of Petty Sessions at Charters Towers on 9 May 1900, then at North Brisbane Police Court in 1907. In March 1909 he went to Mt Morgan as Mining Warden and Police Magistrate. He was transferred to Townsville in August 1912 as Police Magistrate and Mining Warden for a small mining field, with a requirement to visit Ayr. He was moved to Brisbane as a Police Magistrate in September 1916 and appears to have lived in Brisbane for the rest of his life.

In August 1917 Arthur Dean was appointed Chairman of a Royal Commission inquiring into the administration of Queensland's Railways. He continued as a Police Magistrate in Brisbane for some years after that. I do not know when he retired from the Bench but it is thought he was older than 65 when he retired and it may not have been many years before his death in 1931, aged 76.

The human story behind that bare career outline is a little more interesting. Arthur Dean was born in England on 19 June 1855, possibly the son of a junior army officer. He married there in 1878. After the wedding Arthur and his brother Albert emigrated. Albert disembarked in Sydney but Arthur and his bride continued to New Zealand, where he tried his hand at farming in the Bay of Plenty. To his misfortune, the Bay did not prove to be plentiful. Albert, however, ended up in a prosperous public house on the Gympie goldfields. He invited Arthur to join him in the hotel. Again, unfortunately for Arthur, no great return awaited him; no partnership, no share of profits, no golden future. He applied for a position in the courts, which resulted in his appointment to Bundaberg.

During his Cooktown and Charters Towers placements, he was exposed to mining law – these were the Queensland gold rush days – and became an acknowledged expert in the area. His notations on the Mining Act and related laws became standard textbook material for those doing Clerks' examinations. An old notated copy of his of the Act is in the Magistrates Library. The family had believed him to be Mining Warden in those cities but the gazetted record does not show it. Perhaps he was regularly required to perform the duties of that office.

Arthur's wife Mary, three years his elder, bore him six children. Apart from a gap between the second and third, they appeared at fairly regular two- to three-year intervals. The first, Lillian, who later married a cousin of the same surname, was born in New Zealand. The other five were born in Bundaberg. William Arthur followed Lillian, in 1881, but then came the gap until my grandfather Albert Ernest arrived in 1885. A reason for the gap is that Will was born with cataracts in both eyes. His mother took him to England for what was then a difficult and not very successful operation. Until he became completely blind a few years before his death at about 85, Will wore very thick magnifying glasses and could read and work only while wearing them and peering at papers just centimetres in front of him. Oddly enough, he became an accountant.

Two offspring entered the law as solicitors; my grandfather and the youngest, Alfred. The younger two, Harry and Alfred, served in the trenches of World War I. Harry lost a leg; Alfred, his life, in Belgium in 1918. My grandfather began articles with Tom Phillips in Charters Towers then transferred them to Morris & Fletcher, the precursor of Morris Fletcher & Cross, now Minter Ellison, in Brisbane. He was admitted on 8 December 1908, practised in Ayr for 11 years, then moved to Townsville in 1920 on his appointment as City Solicitor with a right of private practice. I joined his firm in 1960 and was admitted in March 1965.

One in the generation after my grandfather became a lawyer. He was Will's son William (Bill), my second cousin. He served in World War II then completed articles with my grandfather, after which he practised in Hughenden, then Townsville. Bill died a few years ago. I am the only descendant of my generation to have entered the law. None has followed me so perhaps the legal gene has faded away.

As far as I know, the family has little memorabilia handed down from Arthur. My late father, his grandson, had a couple of items. One was a gold gentleman's ring made in Charters Towers, the stone in which is a piece of quartz with a free gold vein running through it. It is in my possession. Also, he had managed to souvenir – a couple of crooked dice (a criminal act?). Apparently, in the 1920s, illegal gambling was rife and many prosecutions were brought. Members of the Chinese community, who bet heavily on games of Mah Jong, were frequent offenders. The two dice concerned had been forfeited. One had the "1" gouged out, where lead had no doubt been put in so as to weight the dice to turn up on the "6" opposite the "1". The other had been shaven off-square, again in a way said to favour it turning up on the "6". These dice seem now to have disappeared. The only other memorabilia appears to be an old, hand-coloured photograph of the venerable gentleman, which my cousin Bert holds.



*Arthur Dean seated 2nd on the left, front row.*

Gordon Dean (full name Arthur Gordon Dean, after his great-grandfather and an uncle) was admitted as a Solicitor on 16 March 1965. He practised in Townsville until he was elected to the House of Representatives as member for Herbert in 1977. After losing the 1983 election he returned to private practice. In 1987 he moved with his family to Brisbane. In June 1997 he was appointed a Magistrate. After a period in Brisbane he served for four years at Warwick, including circuit work to Stanthorpe, Goondiwindi and Inglewood. He was placed at Brisbane Central Courts in January 2003.

# THE BRISBANE MAGISTRATES COURT

**By John Webb, Procedures and Compliance Officer**

The Central Courts Building was opened on 18 February 1975. The official opening brochure, printed and issued by the State Government, stated that the building houses: "... general office space for sheriff's office, registry and C.P.S. offices ...". The Clerk of Petty Sessions was abolished from 1 January 1965, when it was renamed Clerk of the Court.

The address of welcome was given by the Honourable Sir Gordon Chalk, K.B.E., LL.D., M.L.A., Deputy Premier and Treasurer, who said:

"The opening of these new premises today marks a new era in the administration of the law courts in Queensland. They provide for more efficient operation of magistrates' and district courts and so should reduce delays caused by overcrowding for a number of years."

The building was opened by, as he then was, the Honourable J. Bjelke-Petersen, M.L.A., Premier of Queensland, who stated:

"The building ... will satisfy a long-felt need, especially for lower court work which for many years has functioned in premises belonging to an earlier period in the development of the State's capital. Our law courts play a vital role in the maintenance of our democratic way of life. It is only proper, therefore, that our judges, magistrates and all other people involved in the administration of justice, whether professionally or as litigants, should be able to discharge their duties and obligations in comfortable, modern surroundings."

The vote of thanks was given by the Honourable W.E. Knox, M.L.A., Minister for Justice and Attorney-General, who said:

"The opening of this building will give to the Law Courts of Brisbane a standard of accommodation, facilities and services that is without equal in Australia. All the Courts – Supreme, District and Magistrates – will now operate in modern premises, and with facilities in keeping with the importance of the Courts in our community. This building, which will accommodate the District and Magistrates Courts, will also provide better facilities for the public, and for the legal profession. Each year, the volume of work handled by the Courts increases enormously and adequate measures have been taken in the layout of this building to meet the increasing demand for Court Services. The building also provides more pleasant conditions for the Crown employees who will work in it. For a considerable time many employees have had to work in unsatisfactory conditions and I appreciate the tolerance and understanding which they have always shown."

The many attributes of the new building included:

"The ground and upper floors of the building are fully air-conditioned with modern versatile equipment which allows individual control to different functions accommodated within the building. Early warning fire detection equipment is incorporated within the building as well as a stair pressurising system to both stairwells and an emergency generating plant. The complex has been designed as a fully self contained unit, complete with a jury assembly area to hold 120 and a kitchen-dining facility to provide meals for up to 84 jurors simultaneously in six separate dining rooms."

The new building was called the “Central Courts Building,” and not the Magistrates Courts Brisbane, because initially the District Court operated from the lower ground floors and the Magistrates Court from the top floors. As is still evident, the courts on the lower floors are fitted out as District Courts, with jury boxes, and the courts on the upper floors as Magistrates Courts.

The District Court moved in early November 1974 and the Magistrates Court moved in late November 1974 and the Central Courts Building commenced operation in December 1974. The District Court had left by early 1982.

The District Court registry was located on the ground floor, where the civil registry now is. The Magistrates Court general registry, fines, maintenance, accounts and Clerk of the Court and Assistant Clerk of the Court offices were located on the ninth floor and the civil registry was on the tenth floor. After the District Court moved to their existing building, the civil registry was relocated to the first floor and the fines section moved to the tenth floor.

The lower picture on the cover shows the old Magistrates Court building as it was prior to the 1960s. During the 1960s the tower was demolished and a brick facade was added along George Street.

Prior to the move in late 1974, the Brisbane Magistrates Courts was spread as follows:

Fines Section, General Section, Maintenance Section, Fair Rents, Accounts, Clerk of the Court and Assistant Clerk of the Court, Courts 1 and 2, and the Chief Stipendiary Magistrate and Senior Stipendiary Magistrates were all on George Street, at the top of Adelaide Street, beside the Supreme Court, where Adelaide Street now proceeds through to North Quay, and which at the time was a laneway beside Trittons. Fines section was at the front, on the left hand side of the laneway and the remainder were located on the right hand side, in the middle of the lane way, facing the courtyard/car park. The Coroners Court was in the ANZ Bank building, corner George and Turbot Streets, Civil Section was in Millaquin House, Herschel Street, where the Aboriginal and Torres Strait Islanders Legal Service now is, together with some courts, and the remaining courts were in Hothlyn House, now the RTA in Herschel Street.

The District Court was also located at the front of this complex. The registry was on George Street, on the right side of the lane, from Adelaide Street to North Quay, and the District Courts were upstairs.

Those who worked in the old building will remember the massive walls and the iron bars which used to roll out from within the walls to seal the windows, and the rickety stairs to the upstairs floors, which were used only for storage, but which had previously been used as courts.

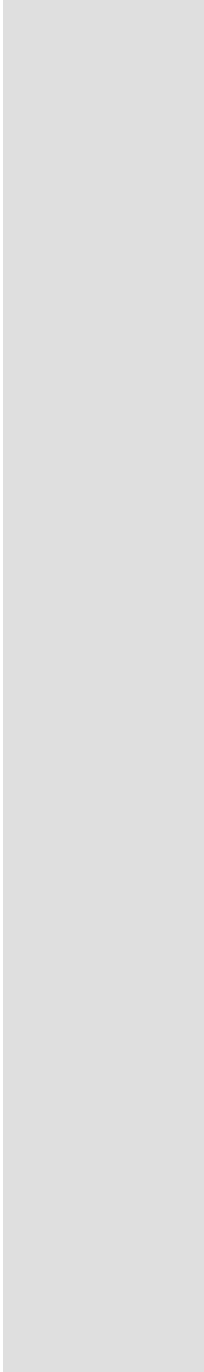
The Watchhouse was also at the back of the old courts, on North Quay. When we moved to 179 North Quay, the watchhouse was moved temporarily to the old McWilliams Wines building on Stanley Street, South Brisbane. Eventually it was relocated to the corner of Herschel Street and North Quay.

The reason the District Court moved in was so that the Supreme Court could move into the recently completed building at the corner of George and Ann Streets. The old Supreme Court building was then demolished, it was partially destroyed by fire in 1968, and the present building built. Subsequently the Supreme Court then moved into the new building, the District Court moved to their new building and the Magistrates Court took over the entire Central Courts Building.



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## MAGISTRATES COURT - CRIMINAL LODGEMENTS

COURT LOCATION	MAGISTRATES COURT		CHILDRENS COURT		TOTAL CHARGES	% OF STATE TOTAL
	CHARGES	DEFENDANTS	CHARGES	DEFENDANTS		
ALPHA	10	8	-	-	10	0%
ATHERTON	1517	1012	145	81	1662	0.5%
AURUKUN	473	294	58	28	531	0.2%
AYR	903	632	93	63	996	0.3%
BADU ISLAND	59	38	12	7	71	0%
BAMAGA	359	272	16	13	375	0.1%
BARCALDINE	66	52	2	2	68	0%
BEAUDESERT	1072	694	73	39	1145	0.3%
BEENLEIGH	19467	10023	1465	749	20932	6.1%
BILOELA	811	503	94	31	905	0.3%
BIRDSVILLE	16	12	-	-	16	0%
BLACKALL	96	38	1	1	97	0%
BLACKWATER	345	162	5	3	350	0.1%
BOULIA	78	64	-	-	78	0%
BOWEN	1192	815	73	43	1265	0.4%
BRISBANE	58850	29301	3571	1713	62421	18.3%
BUNDABERG	5559	3014	503	272	6062	1.8%
BURKETOWN	61	31	-	-	61	0%
CABOOLTURE	6395	3895	427	213	6822	2.0%
CAIRNS	17812	9484	1132	581	18944	5.6%
CALOUNDRA	512	418	-	-	512	0.2%
CAMOOWEAL	46	39	-	-	46	0%
CHARLEVILLE	724	386	94	31	818	0.2%
CHARTERS TOWERS	756	548	202	129	958	0.3%
CHILDERS	300	193	11	8	311	0.1%
CHINCHILLA	361	220	49	15	410	0.1%
CLERMONT	114	81	13	7	127	0%
CLEVELAND	3819	2361	207	116	4026	1.2%
CLONCURRY	247	184	12	12	259	0.1%
COEN	211	142	1	1	212	0.1%
COOKTOWN	557	352	16	12	573	0.2%
COOLANGATTA	2113	1499	1	1	2114	0.6%
CUNNAMULLA	467	271	114	60	581	0.2%
DAJARRA	31	25	3	3	34	0%
DALBY	1433	894	253	109	1686	0.5%
DIRРАНBANDI	62	36	7	4	69	0%
DOOMADGEE	741	444	80	30	821	0.2%
DUARINGA	44	36	-	-	44	0%
EMERALD	1372	870	139	59	1511	0.4%
GATTON	1090	762	153	52	1243	0.4%
GAYNDAH	227	174	17	11	244	0.1%
GEORGETOWN	45	39	-	-	45	0%
GLADSTONE	5293	2623	772	302	6065	1.8%
GOONDIWINDI	710	403	36	17	746	0.2%
GYMPIE	3094	1817	169	79	3263	1.0%
HERVEY BAY	3284	1896	337	194	3621	1.1%
HOLLAND PARK	5411	3717	217	124	5628	1.7%
HUGHENDEN	177	134	26	13	203	0.1%
INALA	7277	3947	535	266	7812	2.3%
INGHAM	707	464	6	5	713	0.2%
INNISFAIL	2489	1411	168	92	2657	0.8%
IPSWICH	15413	8852	969	580	16382	4.8%
JULIA CREEK	50	31	4	2	54	0%

COURT LOCATION	MAGISTRATES COURT		CHILDRENS COURT		TOTAL CHARGES	% OF STATE TOTAL
	CHARGES	DEFENDANTS	CHARGES	DEFENDANTS		
KINGAROY	1041	559	191	84	1232	0.4%
KOWANYAMA	1054	965	100	38	1154	0.3%
LOCKHART RIVER	235	154	8	5	243	0.1%
LONGREACH	542	327	42	15	584	0.2%
MACKAY	7900	4354	778	428	8678	2.5%
MAREEBA	2355	1631	159	88	2514	0.7%
MAROOCHYDORE	14364	7247	1592	557	15956	4.7%
MARYBOROUGH	2820	1737	349	185	3169	0.9%
MILLMERRAN	103	73	3	1	106	0%
MITCHELL	106	78	27	17	133	0%
MONTO	11	8	-	-	11	0%
MORANBAH	537	237	31	17	568	0.2%
MORNINGTON ISLAND	592	418	60	41	652	0.2%
MOSSMAN	1347	905	85	40	1432	0.4%
MOUNT ISA	4732	3630	590	388	5322	1.6%
MURGON	1395	843	495	204	1890	0.6%
NAMBOUR	631	468	5	2	636	0.2%
NANANGO	637	385	40	18	677	0.2%
NOOSA	3432	2611	150	80	3582	1.1%
NORMANTON	621	403	101	55	722	0.2%
OAKEY	276	215	5	3	281	0.1%
PALM ISLAND	702	355	112	60	814	0.2%
PETRIE	3597	2077	590	267	4187	1.2%
PITTSWORTH	135	85	16	4	151	0%
PORMPURA AW	364	289	7	6	371	0.1%
PROSERPINE	1607	1040	24	10	1631	0.5%
QUILPIE	79	58	12	5	91	0%
REDCLIFFE	4743	2516	551	252	5294	1.6%
RICHMOND	104	82	-	-	104	0%
ROCKHAMPTON	8861	4604	1275	595	10136	3.0%
ROMA	905	494	198	71	1103	0.3%
SANDGATE	4786	2392	374	202	5160	1.5%
SARINA	295	218	21	20	316	0.1%
SOUTHPORT	30321	14935	1290	720	31611	9.3%
SPRINGSURE	7	2	-	-	7	0%
ST GEORGE	470	274	57	21	527	0.2%
STANTHORPE	547	369	7	7	554	0.2%
TAMBO	12	11	-	-	12	0%
TAROOM	49	35	-	-	49	0%
THURSDAY ISLAND	907	570	135	70	1042	0.3%
TOO GOOLAWAH	592	219	6	5	598	0.2%
TOO WOOMBA	7755	4598	1048	536	8803	2.6%
TOWNSVILLE	19869	12610	2320	1135	22189	6.5%
TULLY	1048	745	130	62	1178	0.3%
WARWICK	2409	1178	83	38	2492	0.7%
WEIPA	304	236	17	13	321	0.1%
WINTON	152	97	-	-	152	0%
WOORABINDA	484	350	189	126	673	0.2%
WYNNUM	3028	1813	365	238	3393	1.0%
YARRABAH	715	526	62	55	777	0.2%
YEPPON	928	535	181	69	1109	0.3%
TOTAL	314,824	176,174	26,162	13,026	340,986	100%

## MAGISTRATES COURT - CIVIL CLAIMS

COURT LOCATION	CIVIL CLAIMS	MINOR DEBT CLAIMS	SMALL CLAIMS	TOTAL CLAIMS
ATHERTON	47	51	37	135
AYR	124	74	36	234
BARCALDINE	3	3	9	15
BEAUDESERT	356	101	110	567
BEENLEIGH	1172	1866	-	3038
BILOELA	51	105	39	195
BLACKWATER	28	8	18	54
BOWEN	112	46	29	187
BRISBANE	15294	2852	7116	25262
BUNDEBERG	236	251	264	751
CABOOLTURE	301	749	575	1,625
CAIRNS	712	671	850	2233
CALOUNDRA	133	128	58	319
CHARLEVILLE	62	15	14	91
CHARTERS TOWERS	42	76	27	145
CHILDERS	8	13	4	25
CHINCHILLA	25	33	13	71
CLERMONT	7	8	16	31
CLEVELAND	335	928	-	1263
CLONCURRY	21	7	5	33
COOKTOWN	11	12	10	33
COOLANGATTA	140	84	242	466
CUNNAMULLA	16	36	2	54
DALBY	96	171	45	312
EMERALD	56	76	71	203
GATTON	108	61	91	260
GAYNDAH	27	21	6	54
GEORGETOWN	2	1	3	6
GLADSTONE	146	330	156	632
GOONDIWINDI	70	62	12	144
GYMPIE	114	157	109	380
HERVEY BAY	21	29	33	83
HOLLAND PARK	883	452	-	1335
HUGHENDEN	10	16	3	29
INALA	439	222	-	661
INGHAM	55	17	10	82
INNISFAIL	82	63	68	213
IPSWICH	797	307	827	1931
JULIA CREEK	7	8	-	15
KINGAROY	34	60	60	154
LANDSBOROUGH	39	31	24	94
LONGREACH	43	68	15	126
MACKAY	313	413	467	1193
MAREEBA	19	43	37	99
MAROOCHYDORE	502	381	623	1506
MARYBOROUGH	136	97	105	338
MITCHELL	4	2	2	8
MORANBAH	10	21	16	47
MOSSMAN	21	52	45	118
MOUNT ISA	69	73	105	247

COURT LOCATION	CIVIL CLAIMS	MINOR DEBT CLAIMS	SMALL CLAIMS	TOTAL CLAIMS
MURGON	16	43	15	74
NAMBOUR	109	473	75	657
NANANGO	11	26	17	54
NOOSA	170	134	200	504
NORMANTON	8	-	55	63
OAKEY	112	8	24	144
PETRIE	816	176	209	1201
PITTSWORTH	27	28	7	62
POMONA	18	20	6	44
PROSERPINE	136	135	65	336
QUILPIE	-	3	6	9
REDCLIFFE	517	151	-	668
RICHMOND	1	17	1	19
ROCKHAMPTON	259	528	296	1,083
ROMA	53	83	22	158
SANDGATE	168	89	-	257
SARINA	61	16	21	98
SOUTHPORT	2841	2219	2531	7591
SPRINGSURE	-	-	-	-
ST GEORGE	18	81	13	112
STANTHORPE	50	38	14	102
TAROOM	23	13	1	37
THURSDAY ISLAND	58	64	42	164
TOOGOLAWAH	23	9	14	46
TOOWOOMBA	551	516	505	1572
TOWNSVILLE	991	673	853	2517
TULLY	23	23	11	57
WARWICK	73	123	39	235
WEIPA	10	7	1	18
WINTON	8	20	1	29
WYNNUM	183	131	-	314
YEPPON	39	33	86	158
TOTAL	30,712	17,231	17,537	65,480

# MAGISTRATES COURT

## - DOMESTIC VIOLENCE APPLICATIONS AND ORDERS

COURT LOCATION	APPLICATIONS	PROTECTION ORDER	REGISTER/VARY INTERSTATE ORDER	REVOKE DOMESTIC VIOLENCE ORDER	TEMPORARY PROTECTION ORDER	VARY DOMESTIC VIOLENCE ORDER	VARY TEMPORARY PROTECTION ORDER	TOTAL ORDERS
ALPHA	1	4	0	0	0	1	0	5
ATHERTON	153	154	1	4	69	12	0	240
AURUKUN	31	30	0	0	5	3	0	38
AYR	76	49	1	0	37	10	0	97
BADU ISLAND		2	0	0	0	0	0	2
BAMAGA	42	39	0	0	6	2	0	47
BARCALDINE	1	1	0	0	1	0	0	2
BEAUDESERT	139	118	0	1	52	8	2	181
BEENLEIGH	1423	1057	1	2	1144	161	2	2367
BILOELA	80	55	2	0	33	10	0	100
BIRDSVILLE	1	1	0	0	0	0	0	1
BLACKALL	1	1	0	0	0	0	0	1
BLACKWATER	18	19	0	0	5	0	0	24
BOULIA	5	7	0	0	1	0	0	8
BOWEN	41	34	0	1	13	9	0	57
BRISBANE	1031	705	6	20	758	74	1	1564
BUNDABERG	414	309	2	8	407	46	3	775
BURKETOWN	7	7	0	0	0	0	0	7
CABOOLTURE	551	373	2	11	350	76	4	816
CAIRNS	862	662	6	4	607	127	1	1407
CALOUNDRA	26	12	3	1	18	7	0	41
CAMOOWEAL	3	5	0	0	0	0	0	5
CHARLEVILLE	47	32	0	1	29	7	2	71
CHARTERS TOWERS	65	41	0	0	40	4	1	86
CHILDERS	27	27	0	0	14	1	0	42
CHINCHILLA	33	32	0	0	2	1	0	35
CLERMONT	4	4	0	0	4	1	0	9
CLEVELAND	432	271	2	1	200	39	3	516
CLONCURRY	25	20	0	0	15	1	0	36
COEN	12	11	0	0	1	5	0	17
COOKTOWN	52	46	0	1	13	5	0	65
COOLANGATTA	264	134	42	2	154	4	0	336
CUNNAMULLA	29	30	0	0	19	7	0	56
DAJARRA	1	1	0	0	0	0	0	1
DALBY	129	110	2	1	26	9	1	149
DIRRANBANDI	6	5	0	0	3	0	0	8
DOOMADGEE	41	37	0	0	6	4	0	47
DUARINGA	5	5	0	0	1	0	0	6
EMERALD	75	54	1	2	29	9	0	95
GATTON	132	84	0	2	53	17	0	156
GAYNDAH	22	18	0	0	16	1	0	35
GEORGETOWN	3	4	0	0	0	0	0	4
GLADSTONE	305	216	0	3	129	53	4	405
GOONDIWINDI	57	46	1	1	21	2	0	71
GYMPIE	200	114	2	4	113	29	1	263
HERVEY BAY	242	137	1	11	136	18	1	304
HOLLAND PARK	849	578	7	7	537	25	1	1155
HUGHENDEN	12	9	0	1	6	1	0	17
INALA	571	382	2	12	327	16	1	740
INGHAM	39	34	0	0	28	3	0	65
INNISFAIL	183	127	0	6	100	20	3	256
IPSWICH	999	641	3	14	565	33	3	1259

COURT LOCATION	APPLICATIONS	PROTECTION ORDER	REGISTER/VARY INTERSTATE ORDER	REVOKE DOMESTIC VIOLENCE ORDER	TEMPORARY PROTECTION ORDER	VARY DOMESTIC VIOLENCE ORDER	VARY TEMPORARY PROTECTION ORDER	TOTAL ORDERS
JULIA CREEK	1	3	0	0	3	0	0	6
KINGAROY	55	41	0	2	53	7	0	103
KOWANYAMA	30	51	0	0	4	16	0	71
LOCKHART RIVER	21	26	0	0	4	4	0	34
LONGREACH	16	11	0	0	19	2	0	32
MACKAY	621	409	2	9	220	95	1	736
MAREEBA	194	182	0	7	36	9	0	234
MAROOCHYDORE	738	503	2	12	454	50	6	1027
MARYBOROUGH	217	121	5	6	108	26	0	266
MILLMERRAN	11	8	0	0	1	0	0	9
MITCHELL	8	7	0	0	8	0	0	15
MORANBAH	24	14	0	1	12	2	0	29
MORNINGTON ISLAND	75	70	0	0	7	0	0	77
MOSSMAN	95	74	0	2	34	2	0	112
MOUNT ISA	277	231	0	2	101	15	0	349
MURGON	121	93	1	1	28	6	0	129
NAMBOUR	29	19	2	0	25	3	0	49
NANANGO	47	38	0	1	21	5	0	65
NOOSA	250	149	0	5	158	24	4	340
NORMANTON	60	57	0	0	10	2	0	69
OAKEY	30	29	0	0	13	1	0	43
PALM ISLAND	75	71	0	1	19	3	0	94
PETRIE	362	218	0	10	292	22	0	542
PITTSWORTH	14	13	0	1	8	0	0	22
PORMPURA AW	36	35	0	0	5	1	0	41
PROSERPINE	78	61	0	1	39	9	1	111
QUILPIE	3	4	0	0	2	0	0	6
REDCLIFFE	373	227	2	2	187	51	0	469
RICHMOND	6	4	0	0	2	0	0	6
ROCKHAMPTON	537	369	2	3	140	74	0	588
ROMA	51	46	0	2	34	11	0	93
SANDGATE	490	315	0	3	275	40	2	635
SARINA	14	11	0	0	1	2	0	14
SOUTHPORT	1815	1085	8	28	1360	43	14	2538
ST GEORGE	28	20	0	0	10	3	0	33
STANTHORPE	51	35	3	0	23	6	1	68
TAMBO	1	1	0	0	1	0	0	2
TAROOM	1	2	0	0	1	0	0	3
THURSDAY ISLAND	88	75	0	0	39	11	0	125
TOO GOOLAWAH	32	28	0	0	14	1	0	43
TOOWOOMBA	538	360	6	4	277	79	4	730
TOWNSVILLE	785	534	2	5	710	74	4	1329
TULLY	57	63	0	2	48	19	2	134
WARWICK	137	86	0	0	65	9	1	161
WEIPA	52	54	0	0	9	10	0	73
WINTON	11	12	0	0	4	0	0	16
WOORABINDA	54	55	0	0	6	1	0	62
WYNNUM	224	163	1	2	158	24	4	352
YARRABAH	75	71	0	0	15	5	0	91
YEPPON	70	50	1	1	43	13	0	108
TOTAL	18,745	13,098	124	234	11,199	1,641	78	26,374

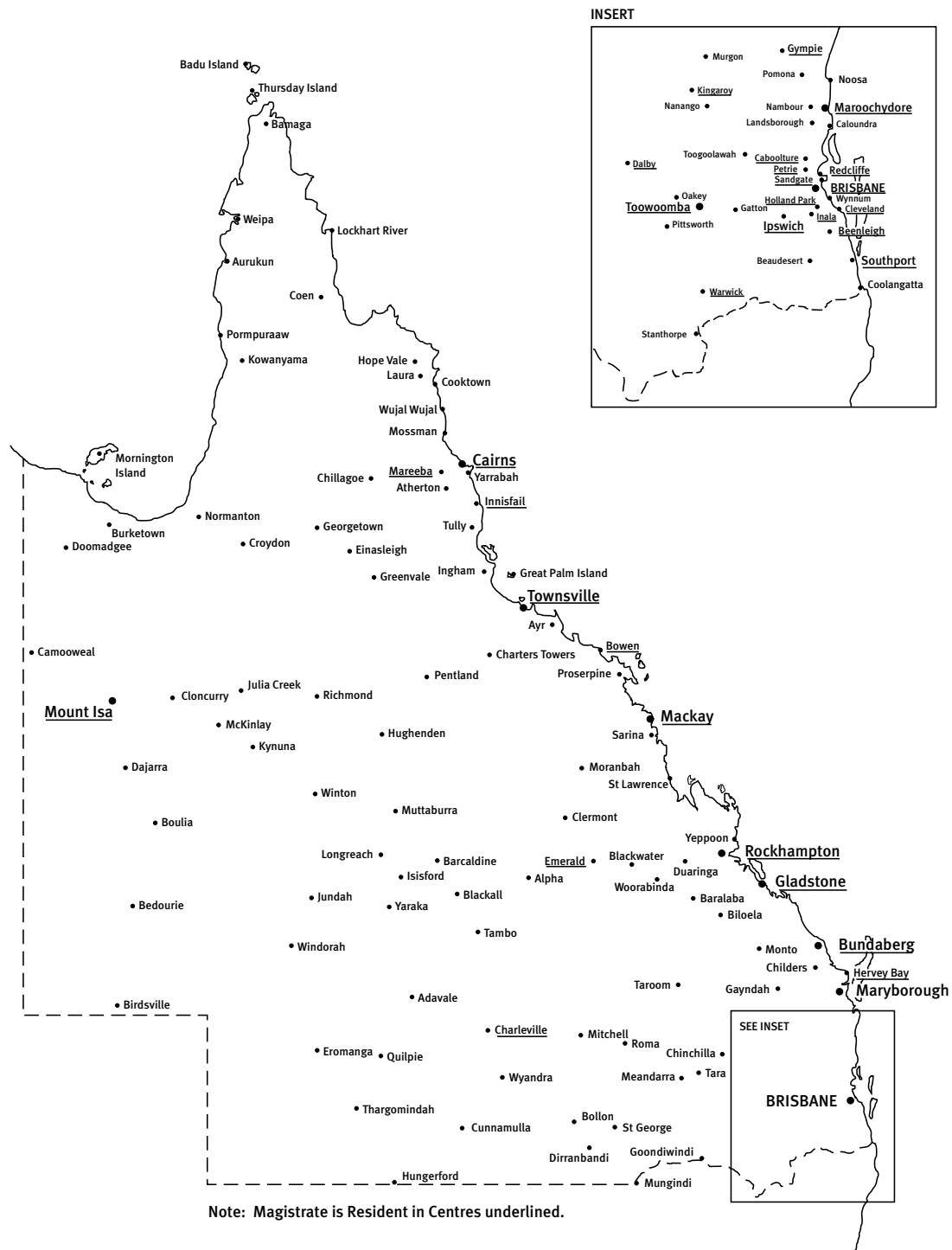
## MAGISTRATES CIRCUITS

Bowen	Mackay Proserpine	Kingaroy	Gayndah Murgon Nanango Toogoolawah
Bundaberg	Childers		
Cairns	Aurukun Badu Island Bamaga Coen Cooktown Kowanyama Lockhart River Pormpuraaw Thursday Island Weipa	Mackay	Sarina
		Mareeba	Atherton Georgetown Mossman
		Maroochydore	Caloundra Hervey Bay Maryborough Nambour Noosa
Charleville	Cunnamulla Mitchell Quilpie Roma Tambo	Mount Isa	Birdsville Boulia Burketown Camooweal Cloncurry Dajarra Doomadgee Julia Creek Mornington Island Normanton
Dalby	Chinchilla Dirranbandi Millmerran Oakey Pittsworth St George Taroom	Rockhampton	Bundaberg Duarina Mackay Woorabinda Yeppoon
Emerald	Alpha Barcaldine Blackall Blackwater Clermont Longreach Moranbah Springsure Winton	Southport	Beaudesert Coolangatta
		Toowoomba	Gatton
Gladstone	Biloela Monto	Townsville	Ayr Charters Towers Hughenden Ingham Palm Island Richmond
Gympie	Maryborough		
Hervey Bay	Maryborough	Warwick	Inglewood Goondiwindi Stanthorpe
Innisfail	Tully Yarrabah		

Please note: Magistrates visit other centres on a needs basis e.g. the Magistrate at Emerald visits Rolleston, Isisford, Jundah, Muttaborra, Windorah and Yaraka.



# PLACES FOR HOLDING MAGISTRATES COURTS



## CONFERENCES

JULY 2002 – JUNE 2003

### **AIJA 2002 Access to Justice – The Way Forward**

Brisbane, 12 – 14 July 2002

D.M. Fingleton  
B.P. Hine  
A. Hennessy  
W.J. McKay  
J.V. Payne  
A.C. Thacker  
L.J. O’Shea

### **CLE Family Law Residential Conference 2002**

Gold Coast, 16 – 17 August 2002

L.J. O’Shea

### **AIJA Magistrates’ Conference**

Brisbane, 13 – 14 September 2002

D.M. Fingleton  
B.P. Hine  
R. Quinlan  
N.F. Nunan  
L.J. O’Shea  
A.C. Thacker  
A. Hennessy

### **Criminal Law Congress**

Melbourne, 2 – 4 October 2002

T.J. Black

### **NQLA Annual Meeting**

Townsville, 4 October 2002

A.G. Dean  
D.R. Glasgow

### **Australasian Coroners’ Society**

Manly, Sydney, 16 – 18 October 2002

C.A. Clements, Brisbane Coroner

### **AIJA Technology for Justice**

Sydney, 20 – 22 October 2002

E.R. Wessling  
B.N. McCormack

**International Congress on Children's Rights**

Melbourne, 26 – 31 October 2002

J. Batts  
T. Previtiera

**Magistrates' Orientation Program**

Terrey Hills, NSW, 24 – 29 November 2002

T.A. Allingham  
B.R. Manthey  
W.A. Cull

**Youth Justice Conference – Making the Youth Justice System Work Better**

Brisbane, 21 – 22 February 2003

A.I. Pascoe  
B.F. Tynan  
D.J. Glasgow

**National Coroners Conference**

Melbourne, 21 – 24 May 2003

M.A. Barnes

**The Judicial Conference of Australia's Colloquium 2003**

Darwin, 30 May – 1 June 2003

T.J. Black

## MAGISTRATES COMMITTEES

### **Case Management and Comparative Sentencing Committee**

To discuss initiatives in the introduction of new systems into civil and criminal court procedures and to suggest possible parity in sentencing in some areas.

### **Conference Planning Committee**

To plan annual and regional conferences.

### **Ethics Committee**

To review and develop ethical standards for the magistracy.

### **Indigenous Issues Committee**

To overview issues relating to Indigenous persons within the criminal justice system and, in particular, the Magistrates Courts.

### **Information Technology Committee**

To oversee the introduction of any training in connection with introducing computer technology into the magistracy.

### **Legislation Committee**

To review proposed legislation as it affects the jurisdiction of the magistracy and to respond to government on same.

### **Resources and Budget Overview Committee**

To assess the needs for resources for magistrates to plan submissions for the annual budget.

### **Salaries and Allowances Committee**

To consult with the Chief Magistrate on the annual submission to the Salaries and Allowances Tribunal and to the Attorney-General on conditions and entitlements.

### **Training and Education of Magistrates**

To develop training for new magistrates and ongoing education for all magistrates.

# LEGISLATION COMMONLY DEALT WITH IN THE MAGISTRATES COURT

Adoption of Children Act 1964  
Agricultural and Veterinary Chemicals (Queensland) Act 1994  
Agricultural Chemicals Distribution Control Act 1966  
Agricultural Standards Act 1994  
Ambulance Services Act 1991  
Animal Care and Protection Act 2001  
Architects Act 2002

Bail Act 1980  
Beach Protection Act 1968  
Body Corporate and Community Management Act 1997  
Brands Act 1915  
Building Act 1975  
Building and Construction Industry (Portable Long Service Leave) Act 1991  
Building Units and Group Titles Act 1980  
Business Names Act 1962

Casino Control Act 1982  
Charitable and Non-Profit Gaming Act 1999  
Chemical Usage (Agricultural and Veterinary) Control Act 1988  
Child Protection Act 1999  
Chiropractors Registration Act 2001  
Classification of Computer Games and Images Act 1995  
Classification of Films Act 1991  
Classification of Publications Act 1991  
Collections Act 1966  
Commission for Children and Young People Act 2000  
Consumer Credit Code  
Coroners Act 1958  
Coroners Act 2003  
Corporations (Queensland) Act 1990  
Corrective Services Act 2000  
Credit Act 1987  
Crime and Misconduct Act 2001  
Criminal Code Act 1899  
Criminal Law (Sexual Offences) Act 1978  
Criminal Law Amendment Act 1945  
Criminal Offence Victims Act 1995  
Criminal Proceeds Confiscation Act 2002  
Crown Proceedings Act 1980

Defamation Act 1889  
Dental Practitioners Registration Act 2001  
Dental Technicians and Dental Prosthetists Act 1991  
Disposal of Uncollected Goods Act 1967  
Domestic Building Contracts Act 2000  
Domestic and Family Violence Protection Act 1989  
Drug Rehabilitation (Court Diversion) Act 2000  
Drugs Misuse Act 1986

Fair Trading Act 1989  
Fire and Rescue Service Act 1990  
First Home Owner Grant Act 2000  
Fisheries Act 1994  
Food Act 1981  
Food Production (Safety) Act 2000  
Forestry Act 1957  
Fuel Subsidy Act 1997

Gaming Machine Act 1991  
Gas (Residual Provisions) Act 1965  
Gold Coast Motor Racing Events Act 1990  
Griffith University Act 1998

Health Act 1937  
Health Practitioners (Professional Standards) Act 1999  
Health Services Act 1991  
Hire Purchase Act 1959

Industrial Relations Act 1999  
Integrated Planning Act 1997  
Invasion of Privacy Act 1971

James Cook University Act 1997  
Jury Act 1995  
Justices Act 1886  
Justices of the Peace and Commissioners of Declarations Act 1991  
Juvenile Justice Act 1992

Keno Act 1996

Land Act 1994  
Liquor Act 1992  
Local Government (Aboriginal Lands) Act 1978  
Local Government Act 1993  
Local Government (Chinatown and the Valley Malls) Act 1984  
Local Government (Queen Street Mall) Act 1981  
Lotteries Act 1997

Magistrates Court Act 1921  
Maintenance Act 1965  
Major Sports Facilities Act 2001  
Marine Parks Act 1982  
Medical Practitioners Registration Act 2001  
Mental Health Act 2000  
Mineral Resources Act 1989  
Mining and Quarrying Safety and Health Act 1999  
Misconduct Tribunals Act 1997  
Motor Accident Insurance Act 1994

National Crime Authority (State Provisions) Act 1985  
Nature Conservation Act 1992  
Nursing Act 1992

Occupational Therapists Registration Act 2001  
Osteopaths Registration Act 2001

Partnership (Limited Liability) Act 1988  
Pawnbrokers Act 1984  
Pay-roll Tax Act 1971  
Peace and Good Behaviour Act 1982  
Peaceful Assembly Act 1992  
Penalties and Sentences Act 1992  
Physiotherapists Registration Act 2001  
Plant Protection Act 1989  
Police Powers and Responsibilities Act 2000  
Police Service Administration Act 1990  
Power of Attorney Act 1998  
Prisoners (Interstate Transfer) Act 1982  
Private Employment Agents Act 1983  
Property Agents and Motor Dealers Act 2000  
Property Law Act 1974  
Prostitution Act 1999  
Psychologists Registration Act 2001  
Public Safety Preservation Act 1986  
Public Service Act 1996  
Public Trustee Act 1978

Queensland Building Services Authority Act 1991  
Queensland Law Society Act 1952  
Queensland University of Technology Act 1998

Racing Act 2002  
Radiation Safety Act 1999  
Recreation Area Management Act 1988  
Registration of Births Deaths and Marriages Act 1962  
Regulatory Offences Act 1985  
Residential Tenancies Act 1994

Second Hand Dealers and Collectors Act 1984  
Securities Industry (Application of Laws) Act 1981  
Security Providers Act 1993  
Sewerage and Water Supply Act 1949  
South Bank Corporation Act 1989  
Speech Pathologists Registration Act 2001  
State Buildings Protective Security Act 1983  
State Housing Act 1945  
State Penalties Enforcement Act 1999  
Stock Act 1915  
Storage Liens Act 1973  
Sugar Industry Act 1999  
Surrogate Parenthood Act 1988

Timber Utilisation and Marketing Act 1987  
Tobacco and Other Smoking Products Act 1998  
Tobacco Products (Licensing) Act 1988  
Tow Truck Act 1973  
Trade Measurement Act 1990  
Trading (Allowable Hours) Act 1990  
Training and Employment Act 2000  
Transport Infrastructure Act 1994  
Transport Operations (Marine Pollution) Act 1995  
Transport Operations (Marine Safety) Act 1994  
Transport Operation (Passenger Transport) Act 1994  
Transport Operations (Road Use Management) Act 1995  
Transport Planning and Co-Ordination Act 1994  
Travel Agents Act 1988  
Trust Accounts Act 1973

University of Southern Queensland Act 1998

Vagrants Gaming and Other Offences Act 1931

Valuers Registration Act 1992

Veterinary Surgeons Act 1936

Wagering Act 1998

Water Act 2000

Weapons Act 1990

Wet Tropics World Heritage Protection and Management Act 1993

Wine Industry Act 1994

Workers Compensation and Rehabilitation Act 2003

Workplace Health and Safety Act 1995