29 October 2004

The Honourable Rod Welford MP
Attorney-General and Minister for Justice
PO Box 149
BRISBANE QLD 4001

Dear Mr Attorney-General,

It is with great pleasure that I provide you with the Annual Report for the 2003-2004 financial year in accordance with section 57A of the Magistrates Courts Act 1921.

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

- Mr Paul Marschke, Acting Court Administrator;
- Magistrates who contributed to various sections of the report (Magistrates Barnes, Callaghan, Costanzo, Cull, Gordon, Gribbin, Hennessey, Hine, Manthey, McLaughlin, O’Shea, Pascoe, Randall, Roney, Rose and White);
- Magistrates who constituted the editorial committee (Magistrates Gordon, Hine and Thacker); and
- Ms Beth Houston, Research Officer to the Chief Magistrate.

Yours sincerely,

[Signature]

MP IRWIN
CHIEF MAGISTRATE
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Introduction

The title of this report reflects the fact that the Queensland Magistrates Court is the people’s court. It is the court of first instance in the judicial structure of this state.

More than 90% of people who appear before a court in Queensland appear in a Magistrates Court and approximately 95% of criminal matters are dealt with here. As such, it is the court that the majority of members of the public will have contact with, whether as complainants, defendants, witnesses, or even as interested spectators. In short, it is the court where most lay members of the public will have their first experience of the law. It is therefore here that the public perception of the criminal justice system will be formed. As Magistrate Ms Wendy Cull says in her report on the VII Biennial Conference of the International Association of Women Judges (IAWJ):

‘...the role we play as first-contact decision makers is crucial in engendering respect for and recognition of the rule of law.’

The court has a broad jurisdiction which extends beyond criminal law to include civil matters up to $50,000, small claims and minor debts up to $7,500, industrial, domestic violence and family law matters. It exercises jurisdiction as a Childrens Court and is also involved in the Queensland Drug Court pilot program. It has Commonwealth as well as state jurisdiction. The legislation commonly dealt with by magistrates, listed at Appendix 9, highlights the extent of this jurisdiction and the constant legislative changes of which magistrates are required to keep abreast. In exercising this jurisdiction, magistrates must address a wide variety of legal issues, some of which are extremely complex.

As the Queensland Attorney-General and Minister for Justice has publicly observed, the court plays a crucial role in maintaining the social fabric and in helping people resolve their disputes. Many of these people will be unrepresented, including defendants in criminal cases. Those appearing will often be stressed and trauma-affected. Magistrates must be able to communicate compassionately and clearly with these people.
Our People

There are currently 81 positions for magistrates in Queensland. The people who are appointed to these positions are spread throughout the extensive area of this decentralised state. They operate from 30 court centres and circuit to over 70 other courts. They travel by four-wheel drive, boat and light plane, to the Gulf, Cape York, Torres Strait Island and other off-shore communities. This is well demonstrated by the report’s cover.

Some of our people are stationed in single magistrate centres, including in the more remote areas of Mount Isa, Charleville and Emerald. Charleville has a population of 3,500. In the 2002-2003 report the resident magistrate, Magistrate Andy Cridland, in writing of the life of a country magistrate, said that he and the magistrates at Mount Isa and Emerald cover circuit districts larger than the state of Victoria. The “I’ve been everywhere” nature of the work of these magistrates is emphasised by the circuit of Magistrate Cliff Taylor in Emerald which involves travel to Alpha, Barcaldine, Blackall, Blackwater, Clermont, Longreach, Moranbah, Springsure and Winton. The essay in this report by Magistrate Ian Rose of Dalby emphasises that an extensive circuit workload is not confined to these areas. Our people in regional single magistrate centres are on call 24/7 throughout the year.

On 12 January 2004 the court reached a milestone in attaining its full complement of 81 serving magistrates for the first time in a long period. This resulted from the appointment of nine magistrates, including the State Coroner and myself, as Chief Magistrate, between 1 July 2003 and that date. However by 21 March 2004 another magistrate who had attained 55 years of age had retired, followed by two further magistrates by 21 April 2004. Therefore I learnt, as a new Chief Magistrate, that having a full complement of magistrates at any one time is a luxury that does not occur often.

As a result, at 30 June 2004 there were 78 serving magistrates. The current mix of magistrates includes 39 solicitors and barristers appointed from outside the court system, 20 women and four from an indigenous background.

The nine new appointments come from the ranks of barristers and solicitors. They have backgrounds, with experiences as an acting magistrate, in an Inala community legal centre, in Legal Aid Queensland, retained by the Cairns Njiku Jowan Aboriginal and Torres Strait Islanders Legal Service (NQ) Ltd, with the Queensland Building Tribunal (QBT) and the Queensland University of Technology (QUT), in addition to experience as barristers in private practice.

Magistrate Trevor Arnold’s appointment came after 32 years of service in Magistrates Courts in rural, regional and city locations around Queensland, most recently as registrar and acting magistrate at Southport. He reports that this previous experience assisted greatly in his transition to the bench. Acting magistrates continue to support the court by relieving magistrates who are on leave or otherwise unavailable to attend court. Like Magistrate Arnold, they possess considerable knowledge, experience and skill which qualify them for appointment as magistrates.
Magistrate Michael Barnes was appointed as the first State Coroner from the position of Head of Justice Studies at the QUT.

It was pleasing to have Magistrate Matt McLaughlin appointed to Brisbane from a regional area, Cairns and Magistrate Athol Kennedy to join us from a recent community legal service background. Magistrate Kennedy is initially serving in Maroochydore with a view to constituting the court in Emerald from the beginning of 2005.

Magistrates Christine Roney and Linda Bradford-Morgan were appointed from the roles of Deputy Chairpersons of the QBT to become Queensland’s first part-time magistrates, effectively “job-sharing” one full-time position. This is an important initiative which may facilitate the appointment of people who hold other commitments in the community but who are able to bring distinct and important skills to our court. Like all new magistrates they are working across our various jurisdictions.

Another “first” among the new magistrates was the appointment of Magistrates John Costello and Joan White to constitute a Magistrates Court in two locations. Magistrate Costello was appointed from private practice as a barrister to Southport for a period of 12 months, followed by three years at Charleville. Magistrate White was appointed from the Legal Aid Office at Ipswich to Brisbane for a period of 12 months, followed by a further 12 months at Southport. Their initial appointments were also on the basis that they would relieve in the positions of other magistrates who are unavailable for reasons such as leave. These appointments are similar to the earlier appointment of Magistrate John Lock in September 2002 to Cairns as Relieving Magistrate (Northern Region). As such, they are not used as additional magistrates, but are in place of the appointment of acting magistrates that would otherwise be necessary.

These new magistrates bring to the court skills and experience in civil and criminal law, legal practice and procedure, judicial administration and mediation.
Legislative Changes

Magistrates Amendment Act 2003

The above “firsts” have been made possible by amendments to the Magistrates Act 1991 which commenced on 18 November 2003.

Importantly the amendments under the Magistrates Amendment Act 2003 (the Amendment Act) also made significant changes to:

- the Chief Magistrate’s powers to discipline magistrates by reprimand;
- the process for making decisions about the transfer of magistrates;
- the review of those decisions; and
- the process for suspension and removal of magistrates from office where a magistrate is charged with an indictable offence.

I address the first two of these changes.

The Amendment Act removed the Chief Magistrate’s power to discipline magistrates by way of reprimand as being inconsistent with the important principles of judicial independence and the head of a jurisdiction being the “first among equals”.

The Amendment Act has also sought to bring a more collegiate approach to the process of making decisions about the transfer of magistrates. There can be no doubt that the previous transfer system has been at the centre of some difficulties affecting the magistracy.

The establishment of a just and equitable transfer system is important when 81 people are spread around this extensive and decentralised state and where, as a result, there is a need to post some to remote areas. Magistrates have served and will continue to serve, the community in such remote areas. However, transfer decisions will continue to be made because the period of appointment to a particular area has expired and the magistrate requests a transfer. In some circumstances, a magistrate may seek a transfer before the appointment period has expired because of either personal circumstances or the retirement of another magistrate. However the previous transfer system resulted in decisions which were unnecessarily contentious because, under the legislation, that decision was made by the Chief Magistrate with no requirement for consultation beyond the magistrate who was likely to be affected by the decision. There was no requirement that the Chief Magistrate take advice from any other magistrate or group of magistrates, no matter how experienced.

This was changed by the Amendment Act which established a Court Governance Advisory Committee to assist in the administration of the court, particularly about transfer decisions. While the Chief Magistrate continues to be the decision maker for transfer decisions, it must be done with regard to recommendations made by the committee.
The committee consists of the Deputy Chief Magistrate and the State Coroner, who will be permanent members, as well as three magistrates who will hold appointment for two years. The temporary members are selected by the Chief Magistrate in consultation with the permanent members. At least one of the temporary members must be serving in a regional centre outside the south east corner of the state. In the second reading speech the Attorney-General and Minister for Justice said:

‘The three magistrates are included on the committee to ensure that there is representation by rank and file magistrates and also to reduce the Brisbane focus of the advisory committee …’

It is clear that the aim is to ensure that the process for making decisions about the transfer of magistrates is transparent and more inclusive. In this spirit, after consideration of expressions of interest, the three temporary members were appointed from outside Brisbane, with two from outside the south east corner. Two of these members are women.

The collegiate approach has been enhanced by the development of a transfer policy by the committee in conjunction with myself. This policy is available to all serving magistrates and those who are considering an offer of appointment. It includes as core principles, in accordance with the legislation, that:

• magistrates are expected to serve in regional areas;
• generally, a magistrate is to constitute a Magistrates Court for between two and five years; and
• generally before making a decision about which magistrate is to constitute a Magistrates Court at a particular place, expressions of interest are to be called.

If no expressions of interest are received for a regional vacancy, those magistrates who have not constituted a Magistrates Court at a place or places in regional Queensland for at least two years within the previous 10 years are to be considered for filling the vacancy before considering magistrates who have that experience. However, the magistrate’s transfer history must be considered.

“Regional Queensland” refers to areas outside the Beenleigh, Brisbane, Caboolture, Cleveland, Gold Coast, Gympie, Ipswich, Maroochydore, Redcliffe and Toowoomba Magistrates Courts districts.

In addition, there are core principles that:

• a magistrate is to be consulted before a decision is made about where the magistrate is to constitute a Magistrates Court; and
• a magistrate’s personal circumstances are to be taken into account before a decision is made about this.

The existence of a transfer policy brings transparency to the process. The establishment of the committee is an important check and balance on approaches which may otherwise be adopted by chief magistrates with different styles and philosophies.
Between the time of the establishment of the committee and the end of the financial year, there have been two transfer decisions under the new system. These have involved transfers to Kingaroy and Cleveland. From my perspective, the new process has worked well.

I am committed to ensuring that the more collegiate, fair and transparent approach, which is contemplated by the legislative changes, is taken to transfer decisions with the result that a just and equitable transfer system is established. As part of this approach, there is no policy that a magistrate should be transferred after any arbitrarily selected period of time, whether that be two, five or even seven years. There is no reason why, all other things being equal, magistrates who are happy in a place can not remain there beyond their initial appointment period. I am optimistic that this flexibility will be enhanced by the new ability to nominate the first two places of appointment of new magistrates as was the case with Magistrates White and Costello. This will also allow people who are offered an appointment to make an informed decision as to whether or not to accept appointment to the places offered.

I am optimistic that by adopting a strategic approach, involving insofar as is humanly possible forward planning, the position will be reached where magistrates will wish to seek transfer to particular places rather than being forced to do so.

I also aim to obtain incentives to make the remote single magistrate centres of Mount Isa, Charleville and Emerald more attractive as transfer destinations for our people. The Attorney-General and Minister for Justice recognised the desirability of this in his second reading speech to the Amendment Act. My goal is to obtain the following incentives:

- better quality housing;
- reunion visits to home centres;
- additional leave; and
- private motor vehicle use.

I am cautiously optimistic that these incentives can be achieved, even if this is incrementally.

**Evidence (Protection of Children) Amendment Act 2003**

Amendments to the Evidence Act 1977 by the Evidence (Protection of Children) Amendment Act 2003, which came into effect on 5 January 2004, have introduced a significant change in the giving of evidence by child witnesses at committal proceedings and summary hearings.

A major change relates to the manner of giving evidence by children under 16 years or 17 years in cases of sexual offences or those involving family violence. In essence the new provisions require that, in committals of this kind, the child cannot be cross-examined without leave of a magistrate which will generally be applied for at a pre-committal direction hearing. If cross-examination is allowed, it is limited to specific issues that have been identified.
In addition, any evidence given by the child is to be pre-recorded in the presence of a judicial officer, but in advance of the proceeding. If this is not possible, the child’s evidence at the proceeding is to be given by way of audiovisual link or with the benefit of a screen. These benefits will also be available to child witnesses in summary hearings. Audiovisual or screen evidence will also be available to them in civil proceedings. It is expected that the implementation and effect of the new procedure will be evaluated in the next financial year.

To facilitate the implementation of the new legislation, guidelines have been issued to assist magistrates. A practice direction (No 2/2004) was issued on 4 April 2004 for “fast tracking” committal matters requiring evidence from children and intellectually impaired complainants of sexual abuse. A public version of these guidelines and the practice direction has been posted on the Queensland Courts website.

Coroners Act 2003

Another significant legislative development has been the creation of the Office of State Coroner under the Coroners Act 2003. Magistrate Michael Barnes was appointed to his position on 1 July 2003. The other far-reaching changes introduced by the Act came into effect on 1 December 2003, in conjunction with guidelines to assist local coroners in the implementation of the new legislative scheme. A serving Brisbane magistrate, Magistrate Christine Clements, has been appointed as the Deputy State Coroner. All other magistrates are local coroners.

The State Coroner operates independently of the Chief Magistrate in day-to-day matters but is required to consult with the Chief Magistrate about:

- resources necessary to ensure the efficient administration of the coronial system;
- the amount of work conducted by magistrates as coroners; and
- any guidelines or practice directions the State Coroner wishes to issue.

The new Act introduces far-reaching changes aimed at increasing accountability and consistency in the coronial system across the state. The appointment of a State Coroner and a Deputy State Coroner and the creation of the Office of State Coroner are designed to ensure that, for the first time in Queensland, there is a central point of responsibility for achieving this. The Coroners Court section of this report addresses this in more detail.

The new Act gives greater recognition to the important work of the Coroners Court by confining the role to magistrates. Under the previous legislation, registrars and acting registrars of the Magistrates Court were also coroners. The only downside of these reforms will be the additional workload for magistrates. Other than in Brisbane, where the Deputy State Coroner is full time, the local magistrates will have to fit in the urgent demands of the coroner’s role with their general workload. These demands will be monitored by the State Coroner and myself as part of our consultation arrangements about the amount of work conducted by magistrates as coroners.
Magistrates’ Workload

The statistics in the body of the report and in the appendices show that the workload of magistrates has continued to increase. As with the 2002-2003 report, this is graphically illustrated by the increase in protection applications under the Domestic and Family Violence Protection Act 1989 in the past year by 75.8% and the increase in orders by 29.7%. This can be explained by the March 2003 amendments to the relevant legislation which expanded the categories of people who are covered by it. The Magistrates Court is the only court with jurisdiction to deal with applications under this Act. There is anecdotal evidence that the number of younger unrepresented respondents has increased significantly since the amendments and this, in itself, necessarily adds to the workload of magistrates.

In the criminal jurisdiction there has been an increase across the court, including the Childrens Court jurisdiction, by 0.98% in the past 12 months. Excluding the Childrens Court jurisdiction, there has been an increase in charges (+2.4%) and defendants (+1.34%) over the past two years. While the Childrens Court has experienced a decrease in these areas in the past 12 months, over the two-year period there has been an increase in charges (+6.73%). In addition there has been an increase in child protection applications dealt with in the Brisbane Childrens Court during the reporting period. It is anticipated that, following the creation of the Department of Child Safety, there will be a further increase in applications lodged in 2004-2005.

Although there was an overall decrease in civil matters (-9.19%) in the past year, there has been an increase in small claims across the State (+7.01%) in that period. This is believed to have resulted from the tendency of most insurance companies in recent years to channel motor vehicle property damage claims into the Small Claims Tribunal.

The increase in domestic and family violence protection applications, small claims and the additional work involved in coronial matters has placed particular pressure on the Southport Magistrates Court. It has been necessary to relieve this pressure by assigning additional magistrates to sit in Southport and transferring the responsibility for Beaudesert from Southport. In the next financial year it will be necessary to closely monitor the trend of work in Southport to determine whether or not there is a need to increase the number of magistrates appointed there.

Despite this, as the Attorney-General and Minister for Justice stated to the Estimates Committee on 14 July 2004 in the context of the finalisation of criminal matters by the Queensland judiciary:

‘Our hardworking and busy Magistrates Court also continues to do a great job.’

This is reflected in the figures given in the Output Statement for the Ministerial Portfolio Statement for the 2004-2005 Queensland State Budget, which show that the court finalised 91% of criminal matters and 93% of civil matters within 6 months and 98% of criminal matters and 97% of civil matters within 12 months.
Professional Development

The extent of the court’s jurisdiction and the constant legislative changes make it essential that magistrates are given the opportunity to undertake professional development. This includes attendance at relevant conferences and training programs which not only provide education opportunities but also enable networks to be established with judicial officers nationally and internationally. A list of conferences and training attended by magistrates in 2003-2004 is included at Appendix 6.

Queensland Magistrates Conference 2004

The annual conference of Queensland magistrates is the only opportunity for all of our people to meet each year to discuss issues of mutual interest and to share experiences. It is a particularly important opportunity for newly appointed magistrates to meet their colleagues for the first time. We also gain the advantages of the attendance of interstate magistrates, this year from the Australian Capital Territory and Western Australia.

Conference 2004, which was held in Brisbane from 8-10 March inclusive, was opened by the Honourable Justice McMurdo, President of the Queensland Court of Appeal. The conference featured a full day devoted to indigenous issues with topics on traditional indigenous law and world views, communicating with indigenous people in court, sentencing options for indigenous people and violence in indigenous communities. I take this opportunity to thank Mr Michael Stubbins and Mr Colin Dillon of the Department of Aboriginal and Torres Strait Islander Policy for assisting us organise the program, as well as the many impressive and thought-provoking indigenous speakers who addressed us and facilitated interactive sessions. The participation of His Honour, Judge Shanahan, of the District Court, also added much to the day. There was also a report on the Murri Courts from our magistrates as well as participation by each of our indigenous magistrates.

The conference also featured sessions on the new Evidence (Protection of Children) Amendment Act, the new coronial system, litigants in person, recent legal developments and legal research techniques. We were addressed by Her Honour, Judge O’Sullivan, of the District Court; Ms Virginia Sturgess, Policy Division of the Department of Justice and Attorney-General (JAG); Mr Glenn Martin SC, President of the Queensland Bar Association; Mr Tony Rafter SC; Mr David Boddice SC; Dr Michael Robertson of Griffith University Law School; and Ms Sue Rigney, Manager of Library Services, JAG. The conference also provided opportunities for the Drug Court pilot program magistrates and the coordinating magistrates to meet.

Again this year, the conference was characterised by harmony, valuable dialogue and knowledge-sharing, among our people.
Professional Development continued

Judicial Training Programs

During the year, 12 of our people were able to participate in judicial training programs operated by the National Judicial College of Australia (NJCA Phoenix Program) and the Judicial Commission of New South Wales (NSW Magistrates Orientation Program). More than the usual numbers of magistrates were able to gain the benefit of these programs (only three participated in the previous 12 months) because it was possible to hold a Phoenix Program at Broadbeach from 10–14 May 2004. With additional financial support provided by Ms Rachel Hunter, the new Director-General of JAG, and the NJCA itself, it was possible for seven new and experienced magistrates to attend. This mix of experience is in keeping with the program philosophy which is to facilitate the sharing of information and experiences on a broad range of topics relevant to the magistracy. There were 19 delegates from a number of jurisdictions, including some Chief Magistrates.

With such a relatively small number, the conference was able to focus on interaction between the delegates, unlike the usual format of conferences where everyone simply listens to presenters. This provided a real opportunity for each delegate to raise questions and for general discussion to take place to find answers.

Delegates were unanimous in their assessment of the week as being of real value and as particularly educational for recent appointees. Undoubtedly, lifelong networks and friendships have been formed.
Enhanced Professional Development Opportunities

For the most part, the annual conference and judicial training programs are the only professional development opportunities that are not engaged in by magistrates at their own expense, in whole or in part. This is not satisfactory for a court that has to grapple with such an increasing variety of legal issues, including those of significant complexity and which is under constant pressure to keep up to date.

Reference has already been made to the report from Magistrate Ms Wendy Cull on her attendance with Magistrate Ms Tina Previtera at the VII Biennial Conference of the IAWJ. All costs of attending this conference were funded personally by the magistrates, who were given leave to attend the conference.

Magistrates do not have the advantage of receiving jurisprudential or expenses of office allowances available to judicial officers of higher courts, including myself, to undertake further education, such as the World Bar Conference that I was able to attend. Nor do they often have the opportunity to be invited guests at conferences such as the three Queensland Law Society conferences at which I have spoken.

For this reason it is one of my aims as Chief Magistrate to enhance the professional development opportunities available to our people, including the presentation of some regional conferences in addition to the annual conference in Brisbane. The advantage of regional conferences, like the Phoenix Program, is to enable greater interaction between a smaller number of delegates. Further funding for the magistracy will be required to achieve this. It will also be necessary for any additional funding to be more strategically targeted than has been the case previously. However, I am optimistic that this can be achieved given the support that the Director-General and JAG finance have recently provided. I particularly wish to acknowledge the work of Mr Jarrod Merola in this regard.

Legal Education in the Magistrates Courts

In addition to seeking opportunities for their own professional development, the magistracy recognises the fundamental importance of professional legal education and training within the ranks of those seeking admission to the legal profession and the importance of instilling an understanding of the judicial system in people such as police recruits. Therefore, the magistracy is delighted to have again this year contributed to such education and training. As described in the section of this report on the issue, this has included participation in the Bar Practice Course conducted through the Queensland University of Technology; the Professional Legal Education and Training (PLEAT) and Women and the Law Society (WATL) work experience programs of the University of Queensland; the Griffith University Law School’s General Legal Clinics and Advanced Family Law Clinics; and the Police Recruit Occupational Vocational Education (PROVE) program. Our magistrates also gain from their involvement in these programs.
Magistrates’ Participation on External Bodies

Queensland magistrates have continued to contribute to the administration of justice nationally by their involvement during the year with the Governing Councils of the Australian Institute of Judicial Administration and the Judicial College of Australia, the Council of Chief Magistrates, the Australasian Coroners Society and the Police Education Advisory Council.

Committees

Informal committees assist the Chief Magistrate in formulating submissions or protocols for the work of the magistracy, the law and legislation it administers and matters affecting its standing. They are informal in that, unlike the Advisory Committee, they have no legislative basis. These committees, which are set out in Appendix 8, enable the Chief Magistrate to have access to a wide range of views when dealing with government, governmental departments and other bodies seeking input from the Chief Magistrate or the magistracy as a whole.

As such I consider that these committees are integral to the work of the magistracy. I aim to enhance their role in the forthcoming financial year. To achieve this, it will be necessary in this decentralised state for their members to meet regularly by teleconferencing.

Chief Magistrates and Deputy Chief Magistrates from around Australia met in Brisbane on 5 March 2004 and were joined by the Attorney-General and Minister for Justice, and the Director-General, JAG.
Construction and Upgrades of Magistrates Court Buildings

The past year has seen the completion of the upgrade and extension of the Cooktown Magistrates Court and the completion of the first stage of the new Mackay Courthouse. The new Western Districts Courthouse at Richlands will open in July 2004, replacing the old courthouse at Inala. Each of these buildings has improved facilities for magistrates, staff and people who use the courts, including victims of domestic violence. Closed circuit television (CCTV) facilities have been installed to enable child witnesses and sexual assault and domestic violence victims to give evidence from a separate room in the court precincts.

Work continues on the final stage of the Mackay project and it is anticipated that new courthouses will be opened at Thursday Island and Caloundra in the next 12 months. This period will also see upgrades of the Bowen, Hervey Bay and Murgon Courthouses and the purchase of a site for a new Northern Districts Courthouse to replace the courthouse at Petrie.

The New Brisbane Magistrates Court Building

Considerable progress has been made on the construction of the new Brisbane Magistrates Court building during the year.

With the facility programmed for completion on 30 September 2004, the building structure is complete and work is now concentrated on the interior fit-out. The vast improvement which will occur in facilities for the public is already apparent with the large waiting areas outside the courtrooms opening out to views of Emma Miller Place across Roma Street. These large spaces will allow people who need to attend court to find an area in which to wait where they are removed from others appearing in the same matter.

There will be 19 Magistrates Courts, two Coroners Courts and four small claims hearing rooms in the facility. The building was designed with considerable foresight. There is additional unused space to cater for future expansion with 39 courts able to be housed in the complex eventually. At present there are other tenants from JAG to be located in the building. These include the State Penalties Enforcement Registry (SPER), Management Operations and Review branch, Office of the Adult Guardian, Internal Audit and Queensland Government Audit Office and the Justices of the Peace branch. On a permanent basis, there are the Alternative Dispute Resolution Section requiring separate mediation rooms and Courts Administration.

The major design features of the building from a functional point of view are vastly improved public spaces for people attending court and separate circulation routes for magistrates, movement of prisoners and the public. The building also has upgraded electronic security and extensive use of videoconferencing. There is secure access for prisoners, separate from other
building access and there are large vehicle locks with built-in security to aid management of prisoners as they arrive. Provision is made for people in custody with disabilities and separate lifts are provided for the movement of prisoners to courts. There are six non-contact interview rooms for legal representatives to speak to their clients who are in custody. An external food outlet (coffee shop/restaurant) has been planned in a separate building at the main entrance principally for tenants and users of the building.

On opening, there will be seven video courts with facilities to allow witnesses to appear using videoconference. It will also be possible for prisoners to appear via video link from a number of the correctional facilities in Queensland. A majority of the courts will have the facilities to play VCRs or DVDs via plasma screens built into the walls.

There are two domestic and family violence courts. These courts have separate access for the aggrieved and the respondent and one is provided with direct access to the cells should a person in custody be appearing before the court in a domestic and family violence matter. A waiting lounge with ensuite has been provided for aggrieved persons within a secure area with direct access to the courtrooms. There is a separate waiting area for respondents.

There are two courtrooms for the use of the State Coroner and the Deputy State Coroner. The large courtroom for the use of the State Coroner has a double bar table and video of the court can be streamed into another courtroom if there is a large public audience. There is a separate secure support area for the Office of the State Coroner.

There is a large criminal video court able to accommodate up to 12 prisoners in the dock. This court will be used for major criminal trials and committals. It is equipped with a double bar table where multiple legal representatives are involved. A Murri Court has been designed for the building. This has been achieved by subtle architectural changes to the design of the room and the bar table. The court is meant to be inclusive and is designed in a more circular fashion. The plans for the courtroom were shown to Murri elders before sign off.

Courtroom joinery is currently being installed and testing of sound systems is under way. This will be the first court facility to use digital recording equipment in Queensland. The technology is being assessed for development and acceptance. If it is not ready, then the courts will start with the analogue system.

During the year, magistrates have visited the site on several occasions and have had the opportunity to offer comment on aspects of the interior design. Internal finishes have also been reviewed by the magistrates.

With work proceeding close to the target program, the courts are expected to move to the new facility in mid-November 2004.
Court Technology

Electronic Filing
As reported last year, e-filing – the electronic filing of claims and default judgements – commenced in the Magistrates Court following a change to the Uniform Civil Procedure Rules 1999 on 16 May 2003. There are now 19 registries with facilities for e-filing. There has been an increasing use of this facility. The Attorney-General and Minister for Justice advised the Estimates Committee on 14 July 2004 that e-filing constitutes 33% of claims lodged in the Beenleigh Magistrates Court since July last year.

Videoconferencing/Closed Circuit Television
As observed above, there will be seven courts in the new Brisbane Magistrates Court building which will allow witnesses and some prisoners to appear via video link. The court will also pioneer the use of digital recording equipment in Queensland.

CCTV is also being installed in courts as they are refurbished (eg Cooktown) and, together with videoconferencing equipment, will be installed during 2004-2005 in 12 Magistrates Courts–Beenleigh, Cairns, Hervey Bay, Ipswich, Mackay, Maroochydore, Maryborough, Rockhampton, Southport, Toowoomba, Townsville and the Childrens Court in Brisbane.

CCTV systems are already operating in one court at the Brisbane Central Court complex, in one court at the Roma Street Arrest Courts and also at the Caboolture and Wynnum Magistrates Courts.

The rollout of these facilities is particularly important to facilitate the special measures for child witnesses provided by the Evidence (Protection of Children) Amendment Act. It will be a catalyst for an increasing use of this technology to take evidence from people away from the courtroom, including from remote locations. Extensive use is already being made of the videoconferencing and CCTV facilities available through the Mount Isa District Court.

Information Technology
This year saw the end of the three-year upgrade of all magistrates’ personal computers and printers. These tools enable our people to have access to the internet and to conduct essential electronic research. This and the ability to access e-mail, is necessary to effectively administer the courts and to deliver justice in our decentralised state.

Magistrates on circuit are provided with a notebook computer and printer linking them to a secure website for the use of magistrates only, as well as access to the internet to obtain legislation and conduct legal research and access to e-mail.
Enhanced Technology

The aim is to provide each magistrate with a laptop computer which can be connected in every court and chambers throughout Queensland. This would provide all of our people with an e-bench book which could also operate as a mobile office to take throughout Queensland or, for that matter, anywhere in the world to do their work. It would eliminate the need to carry voluminous textbooks and hard copy research materials to court. This would be a significant benefit for magistrates travelling throughout Queensland, particularly when travel by light aircraft restricts the amount of luggage that can be taken. It would also enable magistrates to prepare reserve decisions at home, on circuit, while away at conferences or, generally, to keep in touch. A pilot test continues to ensure that there can be “secure remote access” through the use of ID tokens.

The first stage of this initiative has involved installing laptop computers on the bench in two of the Brisbane Arrest Courts. The Information Technology Committee is preparing a submission in support of this and other initiatives to properly equip a modern magistracy. These issues are considered in more detail in the information technology section of this report.

Family Law

Reference was made in previous Annual Reports to a specialist family law service provided at Beenleigh, Brisbane, Ipswich, Maroochydore, Southport and Toowoomba. However, over the past year it has been decided not to continue to proactively offer this service. This does not mean that the court will not exercise the family law jurisdiction when required. Rather, it recognises that family law is not our core jurisdiction but is that of the Family Court and the Federal Magistracy.

Although there are some specialist magistrate positions, such as the Brisbane-based Childrens Court Magistrate, Small Claims Tribunal Referee, Industrial Magistrate and Drug Court pilot program magistrates, the pressure of other work upon our people is such that it is necessary that they act across all aspects of the court’s jurisdiction and not as specialists. This is essential in the many single-magistrate courts. Further, whether a specialist family law service can be provided in particular areas depends entirely on whether a magistrate with extensive family law experience is appointed or transferred to that area. It is not possible to have a family law specialist in each of the 30 Magistrate Court centres, eg the service was provided in Toowoomba by a magistrate who had a family law practice as a barrister. However, this magistrate was transferred in September 2003. In addition, the ability to exercise specialist family law skills which a magistrate might have brought to the court on appointment necessarily diminishes with the passage of time and the necessity to address the many other aspects of the broad jurisdiction of the magistracy.

The Family Court and Federal Magistracy have been advised of the court’s position on this issue.
Queensland Drug Court Pilot Program

The Drug Court pilot programs, which commenced in south east Queensland (at Beenleigh, Ipswich and Southport) on 13 June 2000 and in Cairns and Townsville in November 2002, celebrated its 100th graduate in June 2004. A graduate of the program gave a moving speech at the function, describing how the program helped him to change his life for the better. In presenting the 2004-2005 Budget, the Queensland Government announced that it would extend the pilot program until December 2005 with a budget of $9.1 million allocated to the agencies involved. A detailed account of the pilot program is contained later in this Annual Report.

Court Diversion Programs

An update is provided of two court diversion programs that were discussed in the 2002-2003 Annual Report:
- the Illicit Drugs Court Diversion Program; and
- the Cairns Alcoholic Offenders Remand and Rehabilitation Program (CARRP).

Illicit Drugs Court Diversion Program

This is a pilot program run only in the Brisbane Central Courts and the Brisbane Childrens Court to extend sentencing options to a drug diversion program for people who plead guilty to possession of small quantities of drugs, which the court is satisfied are for personal use. The legislation allows these people to be placed on a recognisance with a special condition requiring them to attend a drug assessment and education session.

There has been a 93% compliance rate, with 69% of participants advising, upon completion of the program, that their knowledge about the harms and risks of drug taking had increased, 55% saying that they were likely to reduce drug taking and 33% saying that they are likely to stop taking drugs. There were 53% who returned voluntarily for further counselling or for referral to other agencies. The program, which is currently undergoing evaluation, is described in more detail in the section on criminal jurisdiction.

Cairns Alcoholic Offenders Remand and Rehabilitation Program (CARRP)

The object of this program is to give street people in Cairns charged with public drunkenness and disorderly behaviour, in the majority Aboriginal and Islander people, an opportunity to address their frequent alcohol-induced offending behaviour. Clearly, it is in the interests of the offender and the general community that this be done. The alternative is repeat imprisonment which is generally ineffective and a further burden on the public purse.
The details of the program were outlined in detail in the last Annual Report. It operates for persistent offenders who are likely to be sentenced to a term of imprisonment. If the magistrate assesses the offender is eligible for the program and has given consent, the offender will be remanded in custody for 24 hours to enable a service provider from the Aboriginal and Islanders Alcohol Relief Service (AIARS) or Ozcare to assess whether or not the offender is suitable for the 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. If not deemed suitable, or if the offender does not consent to the remand, the court will sentence in the usual way.

If deemed suitable, the offender will be remanded for the recommended period and admitted to bail on his or her own undertaking, subject to conditions which, among others, require release only to an authorised representative of the service provider and residence at a particular rehabilitation facility.

If the offender breaches the bail conditions, upon apprehension the prosecutor has a discretion to offer no evidence on the offence of breaching bail conditions. The court may elect to sentence on the outstanding substantive charges.

If the offender complies with the bail conditions and participates in the program, the court will receive recommendations from the service provider, including whether or not a further remand is necessary to continue with the program. The magistrate might elect to sentence for the substantive offence or grant a further remand, having regard to the recommendation.

Magistrates in Cairns fully support the program. In the raw figures, drawn from the statistics maintained by the police service and AIARS, there seems to be about a 60% success rate. That is, the number of repeat offenders appearing before the court reduced by about 60%. Anecdotally, the program was even more successful in that, while about 40% of the people processed through the program have re-offended, the rate of re-offending has markedly reduced.

Mr Arthur Poa, the Counsellor/Program Manager of Douglas House Substance Use Rehabilitation Service in Cairns, is congratulated on his championing of this initiative.

Unfortunately, after the initial six-month pilot project was completed on 2 March 2004, funding became unavailable with the result that there appears to have been an increase in the number of street people appearing before the Cairns Magistrates Court for breaching bail. As a consequence, there were no appropriate rehabilitative avenues available and an increased number of these people faced the likelihood of a custodial sentence.

Fortunately, the program recommenced on 1 July 2004. However, in the absence of funding it will remain a six month pilot and the number of beds at Douglas House for the recovery phase of the program is capped at five placements.

The continuation of the program is regarded as being of benefit to the offenders and the community generally and the provision of funding for this purpose is supported by the Cairns magistrates based on their experience with it.
Indigenous Issues

Murri Court

The Murri Court, which was established in the Brisbane Central Courts on 21 August 2002, was discussed in detail in the last Annual Report. The court sits on one afternoon each week.

The main objective of the court, which deals with the sentencing of adult Aboriginal and Torres Strait Islander defendants, is to reduce the number of such people who pass through the criminal justice system and end up in prison.

The Murri Court has been set up specifically to give the magistrate more culturally appropriate sentencing options by using the special guidelines within the Penalties and Sentences Act 1992 requiring judicial officers to listen to submissions from elders or respected members from the Indigenous community when sentencing these offenders.

Community elders and respected persons explain cultural considerations and personal issues relating to the defendant and work with the magistrate to help determine the most appropriate sentencing options, penalties and interventions for each individual case. However, it is the magistrate who makes the final decision and imposes the sentence.

The Murri Court aims to impose sentences other than imprisonment wherever possible in an attempt to reduce recidivism. It also seeks to reduce the number of indigenous offenders who fail to appear in court, which can lead to the issue of arrest warrants and imprisonment. It is trying to decrease the number of orders breached which can also lead to prison.

As set out above, there will be a purpose built Murri Court in the new Brisbane Magistrates Court building. This is designed so as not to be intimidating to the defendants or other indigenous people who attend the court.

Extensions of the Murri Court

As noted in the last report, a similar court commenced in Rockhampton on 24 June 2003 and an account of the operation of this court appears later in this Annual Report. As is observed, it is the involvement of the elders and respected persons which makes the process worthwhile.

The court which sits once each month has dealt with 34 defendants to date, all but two having a significant criminal history. Successful completion of orders has occurred in 79% of cases. Defendants are also finding that they have a better understanding of the court process.

A Murri Court has also been established to sit in Mount Isa on a fortnightly basis. It first sat on 10 February 2004. Anecdotal evidence to date is that it is operating constructively with similar positive results to the Brisbane and Rockhampton models. Of the 28 defendants dealt with to date, there has been only one breach of an order.
As anticipated in the last report, a Youth Murri Court has recently been established in the Childrens Court at Brisbane. This is described in detail in the Childrens Court section of this report. It is supported by the sentencing principles under the *Juvenile Justices Act 1992* which, similarly to the *Penalties and Sentences Act*, require judicial officers to hear submissions from culturally appropriate persons. However, it is important to note that it is the magistrate who makes the final decision and imposes the appropriate sentence.

It is believed that this is the first such court in Australia to deal exclusively with indigenous youth. The courtroom walls are adorned with paintings prepared and donated by young children who are in detention after having passed through the Childrens Court. Examples of this art appear on the back cover of this report.

**Courts in Indigenous Communities**

The court also travels on circuit to sit at indigenous communities including the Gulf, Cape York and Palm and Thursday Islands. Once every three months it travels to Badu Island. In many of these communities, the court obtains significant assistance from community justice groups and elders. The community justice groups also often play a role in providing pre-sentence reports on offenders to the court and in supervising offenders admitted to community-based orders.

The appreciation for the efforts of our people in these communities is articulated in a typical letter received by one of our magistrates from a community justice group:

> The … Community Justice Group wishes to sincerely thank you for your time and work in … This thanks comes not only from the Justice Group but from many members of the community who have dropped in to the office to say they are sorry that your next visit will be your last for some time …

> The Justice Group has been most grateful for the interest you have shown in the community and that you took the opportunity, when time permitted, to tour our community, meet and speak with the local people.

> In court you have listened to the submissions of the Justice Group and taken all factors into account so that your decisions have always been seen to be fair.

> We hope to see you back in … one day.’

As indicated in the last report, the court would like to spend more time in these communities in order to have more time to deal with each matter which comes before it, particularly on sentences and to be able to meet more regularly and for longer periods with criminal justice interest groups. If the court budget permitted this, it would be possible to operate these circuits with more flexibility by spending an additional day in some communities when the extent of the court list demands this. Discussions with JAG give reason for optimism that it may be possible to increase the time spent in some Cape York communities in 2004-2005.

Additional monies were provided to fund a five-day committal in Pormpuraaw commencing in late June 2004. This was important to ensure that the proceedings could be commenced in the nearest court to where the alleged offence was committed and to minimise inconvenience to local witnesses who would otherwise have had to travel to Cairns.
My First Nine Months

It is a pleasure to be involved for the first time in the preparation of the Queensland Magistrates Courts Annual Report following my appointment as Chief Magistrate on 15 September 2003.

I would like to take this opportunity to publicly thank my Deputy, Magistrate Brian Hine, who, as acting Chief Magistrate, expertly shepherded the court through what was clearly a difficult period leading up to my appointment. He was ably assisted by Magistrates Donna MacCallum and William McKay who acted as Deputy Chief Magistrate at various times from early December 2002.

I quickly found that, under this leadership, our people continued to carry out their judicial functions and responsibilities in a professional and efficient manner, as Deputy Chief Magistrate Hine pointed out in his overview to the 2002-2003 report.

I would also like to thank each of our magistrates for their support and goodwill towards me throughout the period since my appointment.

I also express my appreciation to the many other people who have provided support to the court and myself during the period. These people are too numerous to make it possible for me to mention everyone. I hope those who are not mentioned forgive me.

However, I particularly wish to recognise the assistance of my executive assistant, Ms Narelle Kendall, and my research officer, Ms Beth Houston. I also wish to thank the Attorney-General and Minister for Justice, the Honourable Mr Welford, for his consultative approach on issues concerning the court and the Director-General, Ms Rachel Hunter and her staff for giving positive support to its operations.

I have also greatly appreciated the support of the Honourable Mr Justice de Jersey AC, Chief Justice of Queensland; Her Honour Chief Judge Wolfe; the President of the Bar Association, Mr Glenn Martin SC; the President of the Law Society, Mr Glen Ferguson and their colleagues.

During my first nine months in this position I have attempted to meet as many of our people and visit as many of the courts as possible. I have been able to visit each of the 30 court centres to which magistrates are posted and about 50% of our courts, including courts in the Gulf and on Cape York. This has enabled me to appreciate that there is no "one size fits all" solution to the administration of justice in Queensland. It has also assisted me to formulate my initial aims for the future development of the court.

In the course of this overview I have attempted to articulate some of these aims for the future of the Queensland Magistrates Court. With the continuation of the support and the collegiality and professionalism of our people, there is reason to be optimistic that these aims and many others will be achieved to the benefit of the administration of justice and the people of Queensland.
### Queensland’s Magistrates as at 30 June 2004

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<tr>
<th>Location</th>
<th>Name</th>
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<td>BA Callaghan</td>
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<td>Cleveland</td>
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<td>Warwick</td>
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## Appointments and Retirements

### Appointments

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### Retirements

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<td>JC Bloxsom</td>
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<td>BN McCormack</td>
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<td>CJ Owens</td>
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</tr>
<tr>
<td>JL Mould</td>
<td>21 April 2004</td>
</tr>
</tbody>
</table>

### Acting Magistrates

<table>
<thead>
<tr>
<th>Location</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ayr</td>
<td>RJ Mack</td>
</tr>
<tr>
<td>Bowen</td>
<td>RW Muirhead</td>
</tr>
<tr>
<td>Bundaberg</td>
<td>N Lavaring</td>
</tr>
<tr>
<td>Caboolture</td>
<td>P Hasted</td>
</tr>
<tr>
<td>Cairns</td>
<td>KJD McFadden</td>
</tr>
<tr>
<td>Charters Towers</td>
<td>M A Bice</td>
</tr>
<tr>
<td>Clermont</td>
<td>GB Pitt</td>
</tr>
<tr>
<td>Cleveland</td>
<td>RL Warfield</td>
</tr>
<tr>
<td>Coolangatta</td>
<td>M O’Driscoll</td>
</tr>
<tr>
<td>Dalby</td>
<td>HB Stjernqvist</td>
</tr>
<tr>
<td>Holland Park</td>
<td>TM Duroux</td>
</tr>
<tr>
<td>Kingaroy</td>
<td>RH Lebsanft</td>
</tr>
<tr>
<td>Mackay</td>
<td>BL Kucks</td>
</tr>
<tr>
<td>Maroochydore</td>
<td>DR Munster</td>
</tr>
<tr>
<td>Petrie</td>
<td>AJP Comans</td>
</tr>
<tr>
<td>Rockhampton</td>
<td>MT Morrow</td>
</tr>
<tr>
<td>Roma</td>
<td>DA Beutel</td>
</tr>
<tr>
<td>Sandgate</td>
<td>AJ Chilcott</td>
</tr>
<tr>
<td>Toowoomba</td>
<td>R Stark</td>
</tr>
</tbody>
</table>
Criminal Jurisdiction

The *Criminal Code Act 1899* (as amended) makes the majority of the laws in this jurisdiction and the *Justices Act 1886* (as amended) contains the laws related to the essential procedures required to deal with criminal charges before the Magistrates Courts.

Approximately 95% 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, ie $75,000. 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.

An elaborate scheme is in place to regulate which criminal matters are dealt with by the Magistrates Court and which are processed by way of a committal to the District Court or Supreme Court. Presently, all criminal charges are classified as either summary charges or indictable charges. Summary charges are all dealt with by the Magistrates Court. Some indictable charges may be dealt with summarily at the election of the prosecutor and the defendant has no election eg common and serious assaults.

Some indictable charges must be dealt with summarily unless the defendant informs the court that he or she wants to be tried by a jury eg where the value of the property concerned is not more than $5,000 (or over $5,000 if a plea of guilty is being entered) and burglary where the charge involves stealing or property damage not over $1,000 (or over $1,000 if a plea of guilty is being entered) and the offender is not armed.

A Magistrates Court may also deal summarily with crimes under the *Drugs Misuse Act 1986* that carry a penalty of up to 15 years imprisonment (section 13). A person is liable, on summary conviction for the offences, to not more than two years imprisonment. The election to have the matter dealt with summarily is that of the prosecution.

The court also has jurisdiction to deal summarily with certain federal offences. This is discussed in the section of this report dealing with Commonwealth jurisdiction.

All criminal offences are mentioned in the first instance in the Magistrates Court and thereafter an indictable offence may be referred to a superior jurisdiction for final determination and/or sentence following a committal proceeding. Except in the most serious of offences, eg murder, the Magistrates Court will determine whether the accused is entitled to bail pending finalisation of the charge/s.

Magistrates Courts also deal with regulatory offences which 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.
Part of the magistrates’ duties are to deal with the issue of warrants or orders for various emergency 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. These applications can be made outside of the normal operating hours of courthouses.

In the rural court centres, the magistrate may deal with matters across a number of jurisdictions in any one day. In the larger centres there is some specialisation so that a criminal list is created. It may be further divided between criminal matters and traffic matters. For example, in Brisbane, Court 1, located at Roma Street next to the police watch house, is the first court set down as the venue on the Notice to Appear, summons or bail undertaking sheet for the “first return date”. The majority of traffic infringement charges, including drink driving, are first mentioned and generally finalised in Court 3, also at Roma Street. These courts commence each weekday at 9.00 am and Court 1 sits each Saturday at 8.30 am. Court 5, located at the Central Magistrates’ Court Building, 179 North Quay, is known as the “callover” court. Court commences at 9.30 am each weekday. This court manages the ongoing conduct of all criminal proceedings. The presiding magistrate in Court 5 allocates each case to a particular court in the same building.

In the past 12 months, the charges before the Magistrates Court has increased by 0.98% from 340,986 to 344,320 in accordance with the following table:

**MAGISTRATES COURT**

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Charges</td>
<td>310,739</td>
<td>314,824</td>
<td>318,212</td>
<td>+2.40%</td>
</tr>
<tr>
<td></td>
<td>+1.31%</td>
<td>+1.08%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Defendants</td>
<td>169,304</td>
<td>176,174</td>
<td>171,571</td>
<td>+1.34%</td>
</tr>
<tr>
<td></td>
<td>+4.06%</td>
<td>-2.61%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**CHILDRENS COURT**

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Charges</td>
<td>24,461</td>
<td>26,162</td>
<td>26,108</td>
<td>+6.73%</td>
</tr>
<tr>
<td></td>
<td>+6.95%</td>
<td>-0.21%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Defendants</td>
<td>11,962</td>
<td>13,026</td>
<td>11,554</td>
<td>-3.41%</td>
</tr>
<tr>
<td></td>
<td>+8.89%</td>
<td>-11.3%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

During the financial year, 96% of non-committal matters were finalised within six months.

In the 2002-2003 Annual Report reference was made to the severe under-resourcing of the Magistrates Courts in the area of conference telephones and CCTV facilities. Funding has been approved for the installation of CCTV and
videoconferencing facilities in certain Magistrates Courts in the next financial year, including seven video courts in the new Brisbane Magistrates Court complex. This is discussed in more detail in the Court Administrator’s section and the information technology section later in this Annual Report.

Legislative Developments

Set out below are a number of significant changes to criminal law in Queensland which have important practical implications for magistrates and the administration of criminal justice.

Illicit Drugs Court Diversion Program

Reference was made in the 2002-2003 report to an initiative to extend sentencing options to a drug diversion program for persons charged with possession of small quantities of drugs and which the court is satisfied are for personal use.

This pilot program, which has been run only in the Brisbane Central Courts and the Brisbane Childrens Court, resulted from amendments to the *Penalties and Sentences Act 1992*. In effect the legislation permits people pleading guilty to possession of small amounts of drugs (eg less than 50 grams of cannabis, or less than one gram of heroin, amphetamine or ecstasy, or other prescribed dangerous drug in the prescribed quantity) to be placed on a recognisance with a special condition requiring them to attend a drug assessment and education session by a specific date. Defendants are not eligible for the program if they have had two previous such orders or if they have been convicted, or are yet to be dealt with for a sexual offence, an offence of violence other than common assault or serious assault, or a drug offence on indictment.

In the 2003-2004 financial year there were 1,027 participants, including 57 juveniles, with a compliance rate of 93%.

The majority of cases involved the use of cannabis as demonstrated in the table below:

<table>
<thead>
<tr>
<th>Substance</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>cannabis</td>
<td>57</td>
</tr>
<tr>
<td>amphetamines</td>
<td>11</td>
</tr>
<tr>
<td>more than one drug</td>
<td>8</td>
</tr>
<tr>
<td>heroin</td>
<td>5</td>
</tr>
<tr>
<td>other</td>
<td>19</td>
</tr>
</tbody>
</table>

The participants’ age distribution was as follows:

<table>
<thead>
<tr>
<th>Age</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 15 years</td>
<td>1</td>
</tr>
<tr>
<td>15-24 years</td>
<td>57</td>
</tr>
<tr>
<td>25-34 years</td>
<td>29</td>
</tr>
<tr>
<td>35-44 years</td>
<td>9</td>
</tr>
<tr>
<td>45-54 years</td>
<td>4</td>
</tr>
<tr>
<td>Over 55 years</td>
<td>0</td>
</tr>
</tbody>
</table>
In relation to gender, 83% of participants were male and 17% were female. The statistics also show that 34% of all participants were receiving some type of pension or benefit.

When surveyed about the impact of the program and the court system, participants responded as follows:

- I was treated very well at the court: 67%
- My attitude towards the court has improved as a result of the program: 57%
- My knowledge about the harms and risks of drug taking has increased: 69%
- I am likely to reduce my drug taking: 55%
- I am likely to stop my drug taking: 33%

Upon completion of the program 53% of participants returned voluntarily for further counselling or referral to other agencies.

The operation of this program in relation to children in Brisbane is detailed in the Childrens Court section of this report.

The program has received additional Commonwealth funding, until 30 September 2004. A final report by Health Outcomes International Pty Ltd has determined that the program is effectively and efficiently implemented. In the next 12 months it is expected that statistics will be released to show whether the rate of re-offending by persons who have completed the program is less than the general rate of re-offending.

**Evidence Act – Protection of Children**

Amendments to the *Evidence Act 1977* by the *Evidence (Protection of Children) Amendment Act 2003*, which came into effect on 5 January 2004, have introduced a significant change in the giving of evidence by child witnesses at committal proceedings and summary hearings.

One major change is that the age of a child has been raised from 12 to 16 years for the purpose of the provisions relating to the giving of evidence by special witnesses and for the tendering of documentary statements by child witnesses.

Another major change relates to the manner of giving evidence by children under 16 years or 17 years in cases of sexual offences or those involving family violence. In essence, the new provisions require that, in committals of this kind, the child cannot be cross-examined without leave of a magistrate which will generally be applied for at a pre-committal direction hearing. If cross-examination is allowed, it is limited to specific issues that have been identified. In addition, any evidence given by the child is to be pre-recorded in the presence of a judicial officer, but in advance of the proceeding, or if this is not possible, the child’s evidence at the proceeding is to be given by way of audiovisual link or with the benefit of a screen. These benefits will also be
available to child witnesses in summary hearings. Audiovisual or screen evidence will also be available to them in civil proceedings. The installation of CCTV and videoconferencing facilities referred to above will facilitate the implementation of these changes. In addition, on 2 April 2004, Practice Direction 2 of 2004 (Appendix 10) was issued to “fast track” committal matters which require evidence from child and intellectually impaired complainants of sexual abuse.

Good Order Offences

Section 7 of the Vagrants, Gaming and Other Offences Act 1931, which dealt with “disorderly manner” and other good order offences, has been replaced by section 7AA which creates a new offence of “public nuisance”. It is contained in Part 2A (Quality of Community Use of Public Spaces) which by virtue of the new section 7 has the object of ensuring that, as far as practicable, members of the public may lawfully use and pass through public places without interference from unlawful acts of nuisance committed by others. The type of behaviour which now amounts to public nuisance under section 7AA is very similar to the list of unlawful behaviour in the old section 7. However two points need to be noted.

Firstly, although the maximum period of imprisonment remains unchanged at six months, the maximum fine has increased from $100 to $750.

Secondly, the new provision requires that for the listed type of behaviour to constitute an offence, it must be such that it “interferes or is likely to interfere, with the peaceful passage through, or enjoyment of, a public place by a member of the public”. By comparison, the former section 7 provided that the behaviour was an offence if it occurred “in any public place or so near to any public place that any person who might be therein and whether any person is therein or not, could view or hear”. Because actual or likely interference is an element of the new offence, the particular circumstances in which it occurs will be relevant, as the examples of unlawful behaviour for the purpose of the provision indicate.
Civil Jurisdiction

The monetary limit for the civil jurisdiction of the Magistrates Court remains at $50,000 where it has been since August 1997. The limit for minor debt claims has been $7,500 since July 1999.

The most significant change in the nature of the work actually coming before the courts in the last few years has not come from any change in jurisdiction but as the result of a 1989 amendment to the *Small Claims Tribunals Act 1973* to include motor vehicle property damage claims in the jurisdiction of the Small Claims Tribunal. This class of action had previously constituted a significant proportion of the trial work of magistrates and was the staple fare of many junior barristers honing their skills. However, the tendency of most insurance companies in recent years has been to channel such cases through the Small Claims Tribunal where generally no legal representation is permitted. The table below is consistent with this trend. The result has been a marked change in the nature of trial work for the magistrates and the legal profession.

For the courts, any change has been more than offset by the fact that minor debt claims and small claims now comprise more than 53% of all claims filed.

Such claims are more likely than others to result in an actual hearing by the court because a trial date is automatically set when a defence is filed thus bypassing any interlocutory steps such as disclosure, pre-trial directions conferences or alternative dispute resolution (ADR) processes.

These factors, together with the unique aspects of self-represented litigants, tend to present the court with a more challenging task in doing and being seen to do, justice in the determination of these disputes. Further, the significance and importance of these claims to many of the litigants, in financial and other terms, often belie the description of “minor” bestowed on them by the rules.

The following table shows a decrease in the number of civil matters for the financial year with small claims being the only area that experienced an increase. Largely, this decrease was seen in Brisbane, which dropped from 25,262 claims in 2002-2003 to 20,963 claims in 2003-2004, being a decrease of 20.51%.

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Civil Claims</td>
<td>30,712</td>
<td>27,806</td>
<td>-9.46%</td>
</tr>
<tr>
<td>Minor Debts</td>
<td>17,231</td>
<td>12,888</td>
<td>-25.2%</td>
</tr>
<tr>
<td>Small Claims</td>
<td>17,537</td>
<td>18,766</td>
<td>+7.01%</td>
</tr>
<tr>
<td>Total</td>
<td>65,480</td>
<td>59,460</td>
<td>-9.19%</td>
</tr>
</tbody>
</table>
Electronic Filing

On 16 May 2003, Subordinate Legislation No 87/03 introduced a significant change in the Uniform Civil Procedure Rules 1999 by inserting rules 975A to 975I to make provision for e-filing – the electronic filing of claims and default judgements. The impact of this change on cost reduction to litigants has continued to be demonstrated throughout the past year by the increasing use of this facility. Four Practice Directions issued during the reporting period (Appendix 10) approved additional entities to e-file documents. During the period, Cleveland, Noosa and Petrie were added to the list of registries where documents may be e-filed (see Practice Direction No 5 of 2004 at Appendix 10). There are now 19 registries with the facilities for e-filing.

Since June 2003, 1,937 claims have been filed electronically. The three largest users filed 650 claims, 419 claims and 277 claims electronically. The remaining 591 claims were filed by less frequent users.

Uniform Civil Procedure Rules

Also, on 2 July 2004 the new provisions for expert witnesses (Replacement Part 5 of Chapter 11 (Rules 423 to 429S)) commenced (SL No 115/04). The provisions regarding the appointment of a single expert witness apply only in the Supreme Court. However, Divisions 1 and 2 apply to all courts, with the exception of a minor claim in the Magistrates Court.

The main features of the new rules as they apply in the Magistrates Court include a declaration of the overriding duty of an expert to the court rather than to any party, prerequisites for the tendering of expert evidence in court and requirements for the preparation of the expert’s report.

There are also provisions regarding the disclosure of reports, supplementary reports and the court’s power to direct experts to meet.
Commonwealth Jurisdiction (Other Than Family Law)

Queensland magistrates, like their counterparts in other states and territories, have quite extensive jurisdiction to deal with Commonwealth offences.

Section 79 of the *Judiciary Act 1903* 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 the state, in all cases to which they are applicable, unless otherwise provided by the Commonwealth Constitution or the laws of the Commonwealth.

However, state sentencing options are not available to federal offenders. The *Crimes Act 1914 (Cth)* constitutes a regime for the purpose of sentencing such offenders. Unless specifically adopted by the Commonwealth (as is the case with community service orders in Queensland), state provisions for sentencing do not apply to federal offenders, notwithstanding sections 86(1) and 79 of the *Judiciary Act*.

Whilst all Queensland magistrates exercise Commonwealth criminal jurisdiction from time to time, in Brisbane one magistrate is appointed full-time in the industrial jurisdiction, together with responsibility for all Commonwealth prosecutions and applications (other than family law matters). That magistrate sits exclusively in Court 11.

The variety of federal offences dealt with by state magistrates is quite extensive.

Some of the more common offences include social security dishonesty offences, failure to lodge income tax returns and goods and services tax activity statements, offences against the *Customs Act 1901* and the *Quarantine Act 1908* and offences against the *Financial Transaction Reports Act 1988* and the *Passports Act 1938*.

An example of a less common matter to come before Court 11 involved a 36-year-old male resident of Australia who was charged with and pleaded not guilty to, an offence against section 14(1) of the *Crimes (Aviation) Act 1991*. In a nutshell, the offence was one of "air rage", that is, committing an act of violence against another passenger on board a Malaysian Airlines aircraft on or about 15 February 2002. The flight was from Kuala Lumpur to Brisbane and the incident occurred about two hours after take off from Kuala Lumpur.

The *Crimes (Aviation) Act* applies to all aircraft over which the Commonwealth has jurisdiction including those on a "prescribed" flight, such as any international aircraft flying to Australia from any country, or vice versa, in the course of trade or commerce. In such a case, the criminal law of the Jervis Bay Territory applies on such an aircraft and the offence in question was an offence against section 24 of the *Crimes Act 1900 (ACT)*.

After a contested hearing, the defendant was found guilty of the offence. The offender was sentenced to 10 months imprisonment, to be released after serving 10 weeks, upon his entering into a $1,500 recognisance to be of good behaviour for 30 months.
State Magistrates

Apart from conducting hearings and sentencing offenders, state magistrates have other functions under Commonwealth legislation. By way of example, take the application made to the Court 11 magistrate in which the Kingdom of Cambodia made a request to the Commonwealth of Australia seeking the extradition to Cambodia of a 36-year-old male Australian citizen.

The respondent was arrested in Cambodia in early August 2002 and charged with a number of child-sex offences. He was detained in custody in Cambodia until early January 2003 when he was released conditionally by the Cambodian Court of Appeal. As a condition of bail, the respondent was required to surrender his Australian passport. His trial date was set for late January 2003.

On 23 January 2003, the respondent was issued with a replacement passport by the Australian Embassy in Cambodia. On Australia Day 2003, the respondent used the new passport to flee Cambodia and return to Australia.

On 29 January 2003, the respondent was convicted in absentia by a Cambodian Court and sentenced to 10 years imprisonment and further ordered to pay compensation type orders totalling US$10,000. No time was allowed for payment and, in default, the respondent was ordered to serve a further two years imprisonment.

The Commonwealth of Australia does not have an extradition treaty with the Kingdom of Cambodia but in March 2003, the Commonwealth enacted the Extradition (Kingdom of Cambodia) Regulations 2003. Those Regulations were enacted, so it seems, to facilitate the surrender of the respondent to the Kingdom of Cambodia. The Regulations had a “sunset clause” and ceased to have effect at midnight, 12 March 2004.

On 30 March 2003, the respondent was arrested in Queensland and taken into custody.

In late September 2003, the application for extradition was mentioned in the Magistrates Court at Southport and was adjourned for hearing on 31 March 2004. In due course, the application was transferred to Court 11 in Brisbane to facilitate an earlier hearing. The hearing was conducted in two phases, commencing on 18 December 2003 and continuing on 19 January 2004. Written decisions were provided by the Court 11 magistrate on 24 December 2003 and 23 January 2004.

The essential question was whether the respondent was eligible to surrender in relation to the three offences for which Cambodia sought his surrender. If such a person is eligible for surrender, neither the Magistrates Court, nor the Federal Court of Australia upon review of the magistrate’s decision, has any discretion with respect to the eligibility to surrender issue. In such a case, only the Commonwealth Attorney-General has a discretion whether the eligible person will in fact be surrendered, that is, extradited.

On 23 January 2004, the Court 11 magistrate found that the respondent was eligible for surrender to the Kingdom of Cambodia. However, the magistrate observed that there were some “very disturbing” aspects with respect to the whole matter and urged the Commonwealth Attorney-General to give “most anxious consideration” to all aspects before deciding to surrender the respondent under section 22(2) of the Extradition Act 1988.

Such is the variety of Commonwealth matters that come before the Court 11 magistrate in Brisbane and may come before any other Queensland magistrate.
Murri Court

Brisbane Murri Court

The Murri Court in Brisbane first sat on 21 August 2002 and has continued on a fortnightly and then weekly basis since that time. One of the original elders to sit on the court was Mr Albert Holt and he was asked for his perceptions of the court to date.

Uncle Albert stated:

"Two years have passed since the inception of the Murri Court in the Brisbane District."

"I'm pleased to say I've been involved since its inception. There are both strengths and weaknesses as in any forum or new project."

"It is always good to acknowledge the positive outcomes first."

"I have experienced great satisfaction that through the core business structure of the Murri Court, my personal goals, to work with and educate the new forum of judges and magistrates about cultural issues, have been attained. The magistrates have been very receptive to gaining a better understanding of our culture. Cultural issues do play a significant role in their sentencing procedures."

"It is pleasing to acknowledge rehabilitation programs such as suspended sentences and probation orders were considered as priorities where appropriate."

"What I saw as a major factor kicking in was better respect from our people towards the Queensland judiciary. Uniquely our younger people are also displaying greater respect for their elders."

"Putting elders back on their respected pedestal has enormous sustainable investment values for our society."

"The downside is there aren’t enough human resources of elders to cope with the work, we have to take into consideration, the active role of the elders is not only draining work but time consuming."

The elders and respected persons are an integral part of the court and without their assistance the court would not function. It is pleasing to report that the Aboriginal and Torres Strait Islander organisation First Contact have agreed to make a small payment to the elders to help defray the cost of lunch, parking fees and other expenses.

A meeting was held of all stakeholders after one year of operation of the court to discuss the operation of the court. That meeting was very well attended, reflective of the importance of the court within the Murri Community. Some changes were instigated as a result of the meeting. It is intended to have another meeting in August 2004 to again look at the operation of the court and also look at the future direction of the court."
The Biala indigenous team of Ms Marj Droste and Mrs Pele Bennett continue to provide individual drug and alcohol counselling with offenders at Brisbane North area office on a monthly basis. Each Tuesday they provide their service and input when Ms Norleen Meeks, the Community Corrections Officer, assesses or interviews offenders for Murri Court. This type of individual counselling assists greatly in motivating offenders in their rehabilitation.

Other organisations such as Boystown also provide assistance to offenders on an ongoing basis. Boystown’s Link Up program has courses on preparing curriculum vitae, applying for jobs and behaviour at a job interview, as well as giving offenders employment for three months. At the end of the three months they will attempt to find the person a full-time job. One example is of a 22-year-old male who was assessed as a high risk offender with a lengthy criminal record. He has completed the special condition of his 18-month probation order to participate in Boystown’s three-month employment and training program. He progressed through the program and is now a permanent worker at Boystown, earning $600 a week. Prior to obtaining this job he was in receipt of unemployment benefits of approximately $234 a fortnight.

There was an ongoing problem of defendants not turning up for court. A meeting was held with the Aboriginal and Torres Strait Islander Legal Service. The Legal Service agreed to impress upon defendants the seriousness of not turning up for the Murri Court. The resources of the Legal Service are limited but they agreed to assign a field officer to contact defendants by telephone the day before their court appearance and ensure that they will appear in court. This has had a marked effect on the rate of non-appearances. The elders decided in consultation with the Murri Court magistrate that if defendants fail to appear on more than one occasion they will no longer be eligible to be sentenced before the Murri Court.

There must be a reasonable possibility of a defendant pleading guilty and being sentenced to imprisonment before they are entitled to appear before the Murri Court. Therefore, most defendants who appear before the court are recidivist offenders. It is very difficult to change a lifetime of trauma and of offending behaviour but there is a feeling from the elders and the community corrections officers that some progress is being made in the rehabilitation of a good number of offenders. The other effects as outlined by Uncle Albert combined with the rehabilitation aspects provide a real benefit to the whole community and continue to make the Murri Court a worthwhile project.
Rockhampton Murri Court

The Murri Court process has been occurring in Rockhampton since June 2003 with the team consisting of local magistrates, the Fitzroy Basin Elders, Yoombudda Njueena (Rockhampton Community Justice Group) and the Rockhampton Community Corrections Officers. The Murri Court sits in Rockhampton once a month.

In the Murri Court process, victims are given an opportunity to provide a statement to the court through the police prosecutor as to the effect that the offence has had on them. Community concerns are expressed to the court by the community justice group and the elders express their concerns and views directly to the offenders in court. This can be quite a confronting exercise for offenders, even those used to appearing in courts. The authority of the elders and the combined atmosphere of the support of the community justice group coupled with condemnation of the offending behaviour are palpable in the courtroom.
The court, through this process, acknowledges one of the basic tenets of traditional indigenous law and community values – the authority of and respect for the elders of the community. Whilst other customary actions such as banishment from various areas or places, apologies and reparation are taken into account, it is the involvement of the elders which makes the process so worthwhile. Their wisdom and knowledge are a constant inspiration. The community justice group and the community corrections officers put in many hours interviewing defendants and preparing reports. Post-sentence assistance continues eg by assisting offenders with referral to courses and programs.

Feedback indicates that the most significant impact on offenders in the Murri Court process is the possibility of reconnection with their local community and the support this offers them. Those who choose to take advantage of the support offered by the elders and the justice group tend to successfully complete their orders and make valuable changes to their lives. Offenders are also finding that they have a better understanding of the process in the Murri Court.

As can be seen from the table below, 34 offenders have been dealt with by the Rockhampton Murri Court, to date. All but two of the offenders dealt with had significant criminal history. Successful completion of orders for recidivist offenders has been positive reinforcement for the participants. A further five offenders failed to appear on the scheduled court day.

<table>
<thead>
<tr>
<th>Order</th>
<th>Number of defendants</th>
<th>Defendants re-offending</th>
<th>Successfully completed orders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Term of Imprisonment</td>
<td>5</td>
<td>3</td>
<td>40%</td>
</tr>
<tr>
<td>Suspended Imprisonment</td>
<td>7</td>
<td>1</td>
<td>86%</td>
</tr>
<tr>
<td>Intensive Correction Order</td>
<td>2</td>
<td>0</td>
<td>100%</td>
</tr>
<tr>
<td>Probation Order</td>
<td>14</td>
<td>2</td>
<td>86%</td>
</tr>
<tr>
<td>Community Service</td>
<td>3</td>
<td>1</td>
<td>67%</td>
</tr>
<tr>
<td>Fine</td>
<td>3</td>
<td>0</td>
<td>100%</td>
</tr>
<tr>
<td>Total</td>
<td>34</td>
<td>7</td>
<td>79%</td>
</tr>
</tbody>
</table>
Mount Isa Murri Court

The Murri Court commenced in Mount Isa on 10 February 2004 and sits on every second Tuesday. The magistrate is assisted by elders from the community and outlying regions. The Murri Court is based along the same lines as the Murri Court in Brisbane with a male and a female elder sitting with the magistrate on the bench. The 17 elders are also members of the local community justice group.

When a matter is referred to the Murri Court, a written submission is ordered to be prepared by the community justice group in conjunction with Corrective Services. In preparing the report, the group meets not only with the offender, but also the victim and, if the victim consents, the victim’s family and the offender’s family and extended family.

There have been 28 offenders dealt with in the Murri Court and the table below shows the orders that were made in each case. There has been only one breach to date.

<table>
<thead>
<tr>
<th>Order</th>
<th>Number of defendants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Term of Imprisonment</td>
<td>1</td>
</tr>
<tr>
<td>Suspended Imprisonment</td>
<td>4</td>
</tr>
<tr>
<td>Intensive Correction Order</td>
<td>3</td>
</tr>
<tr>
<td>Probation Order</td>
<td>14</td>
</tr>
<tr>
<td>Combination of Orders</td>
<td>3</td>
</tr>
<tr>
<td>Fine</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>28</td>
</tr>
</tbody>
</table>

The sentencing process in the Murri Court involves a significant degree of “shaming” whereby the elders explain to the offender how their continued offending behaviour adversely impacts not only upon themselves as an Aboriginal person, but any victim, the offender’s own family, the local Aboriginal community and the community at large.

Interpreters are sometimes required to assist the elders and the magistrate to communicate with the offenders who come from diverse groups.

The elders have commented positively how the Murri Court has given them an avenue to have input into the sentencing process and the implementation of more culturally appropriate programs.

After court, the elders meet regularly with the offender and their family to ensure that the offender is complying with any community-based orders. The elders see this as very important and this may well explain why there has been only one breach to date.

Brisbane Youth Murri Court

The establishment of the Youth Murri Court in Brisbane is reported within the following Childrens Court section of this Annual Report.
Childrens Court

The jurisdiction of the Childrens Court has been set out in detail in previous Annual Reports. In brief, the court in its criminal jurisdiction deals with the offending behaviour of persons aged under 17 years (“young persons”) who appear 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 Childrens Court in its criminal jurisdiction are set out in Appendix 1.

Youth Murri Court

The Youth Murri Court commenced in the Brisbane Childrens Court this year. This was a major innovation for the Childrens Court and is believed to be the first of such courts in Australia to deal exclusively with indigenous youth.

The Youth Murri Court was opened on 30 March 2004 before a capacity audience including the Childrens Court President, Chief Magistrate, Minister for Aboriginal and Torres Strait Islander Policy, Minister for Communities, as well as representatives of elders and respected persons from Aboriginal communities in Brisbane and surrounding areas.

A didgeridoo performance by Craig Kemp was part of the opening celebrations for the Youth Murri Court.
The establishment of the Youth Murri Court was the result of a number of public meetings and discussions between the Childrens Court Magistrate Tony Pascoe, members of the Department of Communities and representatives of a number of interest groups. The purpose of this court is to provide a better opportunity for the magistrate to hear submissions from culturally appropriate persons before sentencing using the principles under the *Juvenile Justice Act 1992*.

The court at present sits once a month. Unlike the usual court setting, where a magistrate presides at a raised bench, the magistrate sits on the same level as the defendant. There are two elders or respected persons who sit with the magistrate. After hearing from the prosecutor, defence and the department representative, the elders or respected persons have a chance to talk to the defendant. The defendant’s family also has an opportunity to address the magistrate and the elders or respected persons.

The elders or respected persons then have an opportunity to talk to the magistrate about culturally relevant issues and the magistrate may seek their views regarding an appropriate sentence. It may be that a probation order is being considered and that there is a culturally appropriate program for the defendant to take part in. The elders or respected persons do not impose sentences on the defendant. The magistrate makes the final decision and orders the appropriate sentence.

The courtroom in which the court sits has an Aboriginal flag and a Torres Strait Islander flag hung behind the bench. The walls of the courtroom are adorned with paintings generously prepared and donated by young people held in detention at the Brisbane Youth Detention Centre.

It is too early to gauge the success of this new venture. However, all participants to date have expressed confidence in the process being implemented.

**Youth Justice Conferencing**

Since 1 July 2004, the consent of the victim to a Youth Justice Conference (formerly Community Conference) is no longer essential before such a conference may be ordered by the court. As a result there has been a large increase in the number of juveniles referred to this conference process. In Brisbane, for example, in 2002-2003 there were 98 conferences compared to 348 in 2003-2004. Youth Justice Conferencing is now available as a sentencing alternative throughout Queensland. It continues to be a most successful alternative to the traditional sentencing options.
Drug Diversion

The Brisbane Childrens Court continues to participate in diverting eligible young drug offenders to a drug diversion and educational program. At the present time this diversionary option is only available in Brisbane. Diversion to a drug education session following a plea of guilty is an alternative to the traditional sentence which could leave the young person with a drug conviction. Last year there were 50 referrals for offences including minor drug possession and possession of implements associated with minor drug use. The program organiser reports a 93% favourable completion rate.

Child Protection Issues

The Childrens Court in Brisbane deals with child protection applications every afternoon. Temporary assessment applications are dealt with in magistrates’ chambers, as and when required, state-wide.

Upon notice of contest, the application for a child protection order proceeds by way of court hearing and the application must first be referred to a pre-court conference. Mr Paul Malone, conference chairman, continues to travel around Queensland convening these conferences. A conference is attended by the department representatives, the parents, the legal representatives and support persons who may contribute to the attempts to resolve the matters in conflict. Where agreement is reached, this is reported to the Childrens Court for consideration before making the final order. This process continues to be very successful and enables matters to be determined without the trauma of a complex and emotional court proceeding. Where no agreement is reached, the Childrens Court must conduct a full hearing of the application. As a result of a large increase (46%) in pre-court conferences a second conference chairperson, Mr Rob Turra, has been appointed to keep waiting to an acceptable timeframe.

There has been an increase in all types of applications being dealt with this year. It is anticipated that following creation of the Department of Child Safety, which will be responsible solely for child protection matters, the courts will continue to see an increase in applications being lodged.
International Visitors

A delegation of prosecutors from the Chongquin Justice Department in China visited the Brisbane Childrens Court earlier this year. The delegation consisted of 12 prosecutors including the Prosecutor General, Chongquin Peoples Prosecutions and one interpreter. Childrens Court Magistrate Mr Tony Pascoe addressed the delegation on the principles and application of juvenile justice in Queensland. There appeared to be some similarities in the approach taken to offending behaviour in both countries.

Mr Qin Xinlian, Prosecutor General, Chonqing Peoples Prosecutions and Mr Tony Pascoe, Childrens Court Magistrate, Queensland Magistrates Court.
Domestic and Family Violence Protection

In March 2003 there were substantial and progressive amendments to what is now known as the Domestic and Family Violence Protection Act 1989. It was previously known as the Domestic Violence (Family Protection) Act 1989. Since March 2003 “domestic violence” has been extended to cover abuse between family members, abuse of people by their informal carers and abuse in some dating relationships. The parties are now known as the “aggrieved” and the “respondent”. The Magistrates Court remains the only court with jurisdiction to deal with applications for protection orders under the above Act.

Initiating Applications

A common precursor to an application for a protection order is when 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, or a person who is acting under an enduring power of attorney may, in certain circumstances, make application on behalf of an aggrieved.

Temporary Protection Orders and Protection Orders

On the first date in court, 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.
Breach of an Order

Failing to comply with the court order is called a breach of the order. A breach of an order in circumstances where the respondent was present in court, served 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.

An alternative, if certain pre-conditions are satisfied, is that 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.

Breadth of Jurisdiction

Domestic violence includes acts that a person has committed against another, eg 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 such conduct. The type of wilful injury to which a person can be subjected includes physical, emotional, psychological or sexual abuse.

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 de facto 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, Aboriginal and Torres Strait Islander communities. “Informal care relationships” extend 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 is that (apart from members of the armed services on duty, federal police, Australian Customs or Protective Services) no respondent to a domestic violence order will be able to possess a weapon or weapons licence for any purpose including work.
Impact of Jurisdiction on our Court Workers

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

Court assistance workers are of considerable support in many courts. They have a working knowledge of the Act and of the support services that are available within the particular community in which they operate. The role of the court assistance worker is primarily that of a support person for the aggrieved in a domestic violence matter.

The volume of work in the Magistrates Courts in this area has increased enormously in the year 2003-2004 following the amendments which came into effect on 10 March 2003. Appendix 3 provides the number of domestic violence applications and protection orders made throughout the state.

Domestic Violence Applications have increased by 75.8% and Domestic Violence Orders have increased by 29.7% when comparing statistics from 2002-2003 to 2003-2004.

Although the statistics are not detailed enough to reveal this trait, there is anecdotal evidence that the number of younger unrepresented respondents has increased significantly since the amendments and this of necessity also increases the workload of the presiding magistrate who has to be satisfied that it is proper to make a protection order.

Domestic Violence Applications

<table>
<thead>
<tr>
<th>Month</th>
<th>2002-03</th>
<th>2003-04</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aug</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sept</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oct</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nov</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jan</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Feb</td>
<td></td>
<td></td>
</tr>
<tr>
<td>March</td>
<td></td>
<td></td>
</tr>
<tr>
<td>April</td>
<td></td>
<td></td>
</tr>
<tr>
<td>May</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Although the statistics are not detailed enough to reveal this trait, there is anecdotal evidence that the number of younger unrepresented respondents has increased significantly since the amendments and this of necessity also increases the workload of the presiding magistrate who has to be satisfied that it is proper to make a protection order.
Queensland Drug Court Pilot Program

The first stage of the Drug Court pilot program commenced in south east Queensland (at Beenleigh, Ipswich and Southport) on 13 June 2000. The second stage commenced in November 2002 at Cairns and Townsville.

Different rules are being trialled in northern Queensland. Initially, the rule was that defendants who have had a previous sentence of six months imprisonment or more were automatically disqualified. Further, once an intensive drug rehabilitation order (IDRO) was made defendants were required to report back to court for supervision monthly. This differs from what occurs in the south east Drug Courts where defendants are firstly required to report weekly which diminishes to fortnightly and then monthly.

During 2003, the legislation was amended to ease the disqualifying period from a previous sentence of six months imprisonment or more to a previous sentence of 12 months imprisonment or more. However, the target of 40 concurrent participants for northern Queensland had not been reached by the time the evaluation process commenced this year.

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).

The training program for Drug Court magistrates announced in last year’s Annual Report has been extended (for the second year in a row) to include an annual session following the magistrates’ annual conference. This year a full day was devoted to this so all Drug Court magistrates could share their experiences and learn about recent developments in drug testing and rehabilitation treatment services.

Between 13 June 2000 and 30 June 2004, 877 referrals were made to the five Drug Courts requiring the assessment of each individual’s suitability for rehabilitation under the Drug Rehabilitation (Court Diversion) Act.
Outcome of referrals to the Drug Courts as at 30 June 2004

<table>
<thead>
<tr>
<th>Outcome</th>
<th>South East Queensland</th>
<th>Townsville</th>
<th>Cairns</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intensive Drug Rehabilitation Order made</td>
<td>355</td>
<td>57</td>
<td>39</td>
</tr>
<tr>
<td>Defendants awaiting a Drug Court decision on eligibility or for residential beds to become available</td>
<td>22</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Defendants who absconded before receiving an IDRO</td>
<td>20</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>Ineligible defendants who were remitted to the Magistrates Court or sentenced in the Drug Court</td>
<td>292</td>
<td>40</td>
<td>30</td>
</tr>
<tr>
<td>Total</td>
<td>689</td>
<td>104</td>
<td>84</td>
</tr>
</tbody>
</table>

Outcome of Intensive Drug Rehabilitation Orders

<table>
<thead>
<tr>
<th>Outcome</th>
<th>South East Queensland</th>
<th>Townsville</th>
<th>Cairns</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defendants failed to appear and are at-large (IDROs not yet terminated)</td>
<td>14</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Defendants removed from the program, including those who have been removed at their own request</td>
<td>182</td>
<td>18</td>
<td>13</td>
</tr>
<tr>
<td>Defendants actively participating in the IDRO</td>
<td>67</td>
<td>28</td>
<td>18</td>
</tr>
<tr>
<td>Defendants graduated from program</td>
<td>92</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>355</td>
<td>57</td>
<td>39</td>
</tr>
</tbody>
</table>

Statistics also show that where defendants fail to appear, about one in four returns voluntarily to the Drug Court and the remainder are usually returned within 4 weeks.

Three defendants died before completing the program.

The remaining active participants are in residential or outpatient programs according to their individual rehabilitation needs.
In May 2004, Magistrate Costanzo visited the northern Drug Courts and conducted information sessions for the local stakeholders. In Cairns and Townsville several lawyers stressed the need to do away with the disqualifying criteria referred to above and stated they had clients they would otherwise send to the Drug Court. Magistrate Costanzo also met with the local Drug Court teams and shared his experience in establishing and developing the south east Queensland Drug Courts and discussed several methods which could be adopted to address localised issues.

The Drug Court celebrated its fourth year and also its 100th graduate in June 2004. The Gold Coast Drug Council Inc (Mirikai) hosted a morning tea function attended by the Attorney-General, past and present Drug Court participants and graduates and representatives of each of the government and non-government treatment service providers. A former graduate gave a gripping speech about his struggle with addiction and how the Drug Court saved his life.

The Annual Report in 2003 included summaries of an independent evaluation by Dr Makkai of the Australian Institute of Criminology (AIC) and of Magistrate Costanzo’s Final Report and evaluation as required under section 46 of the Drug Rehabilitation (Court Diversion) Act. In July 2003 each report was published, delivered to the Attorney-General and tabled in Parliament.

The AIC found:

- Recidivism is significantly reduced for those who successfully complete the drug court program;
- Few of the graduates re-offend once they complete the program;
- Where offending does occur, the average time to re-offend is longer than for the comparison groups;
- Reductions in offending before and after the program are greater for the drug court graduates than the comparison groups.

Latest available statistics about recidivism among drug court graduates show that, as at the end of April 2004, out of 95 graduates:

- 58 graduates (61%) had not re-offended;
- 37 graduates (39%) re-offended, but their offences resulted in:
  - 15 fines and community based orders;
  - 3 suspended sentences;
  - 3 (only 3.2%) were imprisoned; and
- 16 had not been finalised.

Indeed, no-one was imprisoned in 2 years until May 2004, when a fourth person had his matter finalised with a term of imprisonment.

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1 The 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

2 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
Graduate numbers have markedly increased over time. At the time referrals to the Drug Court stopped in December 2002, for the purposes of the evaluation, there were 44 graduates. By the time Magistrate Costanzo published his Final Report in July 2003 there were 67 graduates. As at July 2004 there have been 105 graduates.

For the purpose of the evaluation, referrals to the south east Drug Courts were stopped by the government in December 2002. As a result of these subsequent evaluations the government announced the south east Queensland Drug Courts would again receive referrals from 22 August 2003. Since then the south east Drug Courts have been working to rebuild numbers back toward the cap of 140 concurrent participants. The government has advised it will extend the Drug Court pilot program (in north and south east Queensland) until December 2005 and a budget of $9.1 million has been allocated to the agencies involved in the pilot program for this purpose. The government is still considering the recommendations made by Dr Makkai and by Magistrate Costanzo.

Meanwhile the Drug Court magistrates and staff continue to implement innovations to improve outcomes. Each south east Queensland Drug Court participant now has additional requirements to be achieved for advancement through the stages of the rehabilitation program. These include building, documenting and updating support networks and inventories of their drug-related and life issues for counselling. The south east Drug Courts have also successfully piloted a new referral mechanism whereby the Drug Court magistrate makes the referral orders instead of other magistrates. This practice maximises use of the expertise and knowledge built up in the Drug Court teams and shortens the time it takes to get the person assessed for suitability and into treatment. This is also consistent with other Drug Court evaluations which show that early initiation into treatment is one of the few predictors of engagement and success. This practice also saves resources from being spent on assessing defendants who are found to be ineligible for the rehabilitation program.

Two events, which occurred after 30 June 2004, are worth noting and are included in this 2003-2004 report.

On 9 July 2004, the Queensland Drug Courts hosted a national Drug Court Conference in Brisbane, following on from the first national conference held in Sydney over a year earlier. The conference was held to coincide with the end of the annual Winter School conducted by the Alcohol and Drug Foundation (Qld) (ADFQ). With the assistance of the ADFQ, the conference was well attended by over 120 participants and by presenters from all over Australia. The conference provided a very good means by which Drug Court staff and rehabilitation experts from all around the country could network and learn from each others’ experiences.

The Attorney-General told the Estimates Committee on 14 July 2004 that:

‘Research tells that about three in every four crimes, particularly property crimes, is drug related. So every successful rehabilitation means there are fewer crimes being committed.’
The Coroners Court

Coroners, with the help of forensic pathologists, detectives and assorted technical experts, investigate sudden and unnatural deaths and if necessary convene an inquest to ascertain how and why a death has occurred. They have been doing so since the 13th century but recent changes to legislation have modernised the jurisdiction and largely brought Queensland into line with the rest of the country.

In 2003, there were 2,672 deaths reported to coroners around the state with Brisbane carrying the heaviest workload having received 734 new matters. Details of these deaths were not entered onto any central database. Consequently, it is very difficult to provide any statistical analysis of their causes or of the work done by coroners to resolve the issues the deaths may have raised. In future years, the changes detailed below will address this shortcoming.

Introduction of a New Coroners Act

The Coroners Act 2003 introduces far-reaching changes aimed at increasing accountability and consistency in the coronial system, providing opportunities for family members to participate in decisions about coronial investigations, strengthening the preventive focus of coronial inquiries and reinforcing the judicial independence of coroners.

Magistrate Michael Barnes was appointed the first State Coroner on 1 July 2003 and Magistrate Christine Clements was later appointed as the Deputy State Coroner. The newly created Office of the State Coroner is designed to ensure that for the first time in Queensland there is a central point of accountability responsible for ensuring uniformity and consistency across the jurisdiction.

The new regime addresses these issues by requiring the State Coroner to issue guidelines to local coroners stipulating how matters should be investigated and allowing people dissatisfied with decisions made by a local coroner to have them reviewed by the State Coroner. The new Act gives relatives a right to be heard in relation to such issues as whether an autopsy should be undertaken, whether an inquest should be held and what findings should be made at the inquest.

Deaths that occur in correctional settings or that involve vulnerable children or adults have received special attention with widened definitions for “death in care” and “death in custody”.

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Coronial Work a Judicial Duty
The new Act also gives greater recognition to the importance of the work of the Coroners Court by confining the role to magistrates. Under the previous legislation, registrars and acting registrars of the Magistrates Court were, by virtue of their office, also coroners. Having regard to the gravitas of the work and the right of family members and other interested parties to appeal decisions made by coroners, the legislators considered that the role should be exercised only by judicial officers. No doubt the many experienced registrars around the state will continue to assist magistrates in this area of their jurisdiction but the responsibility for managing the investigation and making the findings, from now on, will be solely with the magistrate.

The new Act also removes the anomaly that existed under the previous legislation whereby a coroner’s decision not to hold an inquest could be overturned by the Director-General of JAG.

Recommendations about Prevention of Avoidable Deaths
The prevention of avoidable deaths has been given greater emphasis under the new Act. Coroners have always been able to make “riders” aimed at reducing the incidence of similar deaths, but these were seen as very much subsidiary to the formal findings; indeed the previous Act had provided specifically that riders were not part of the findings and would be reduced to writing only if “the coroner thinks fit”. The new Act enhances the role of the coroner as a contributor to public health and safety. Coroners are obliged to provide copies of their preventive recommendations to all parties and any government agency having administrative responsibility for the area of activity to which the recommendations relate. Further, a coroner can now seek submissions from all parties to assist with the framing of such recommendations.

Coroners are now equipped with access to data from the National Coronial Information System, a database containing the detailed findings and expert reports relating to approximately 85,000 coronial cases from around the country. No longer will coroners need to rely on memory or word of mouth when considering how a matter should be investigated or which expert could critique the evidence and advise on preventive strategies.

The information coroners collect will also now be put to more good use. The new Act enables researchers to be given standing approval to access coronial data. So far, the Australian Institute of Suicide Research and Prevention, the Queensland Injury Surveillance Unit, the Queensland Trauma Registry, the Queensland Maternal and Perinatal Quality Council, the Queensland Paediatric Quality Council and the Queensland Health Committee to Enquire into Peri-operative Deaths have been approved to receive this information.
So, while the general framework of “reportable deaths” being sent to coroners for investigation remains the same, the focus and emphasis have changed significantly. Local coroners will case-manage matters more actively than has sometimes been the case in the past with a view to ensuring the simple, straightforward matters are dealt with expeditiously while those matters that can generate improvements, eg in industrial procedures, medical practice or the justice system, will have more resources devoted to them to maximise potential benefits.

The only downside of these reforms is the extra work they create for magistrates. These changes all add to the workload of magistrates and if they are to be properly implemented, coroners’ cases will have to be given priority over other matters.

This year has been even more demanding of coroners as they have been required to learn the new system and work with the old and the new systems. Only in Brisbane is there a full-time coroner. In all other centres the local magistrates have to fit in the urgent demands of the coroner’s role with their general court work.

The State Coroner will continue to monitor these demands with a view to negotiating with the Chief Magistrate and/or the Attorney-General and Minister for Justice for an increase in the resources allocated to coronial work.
The Small Claims Tribunal

The Small Claims Tribunal was established in 1973 to deal with disputes between consumers and traders. On 2 May 2000 section 26 (schedule 1, item 6) of the Civil Justice Reform Act 1998 No 20 amended the prescribed amount from $5,000 to $7,500. The monetary limit for this jurisdiction has since remained at $7,500.

Initially, one referee sat on the tribunal and had statewide responsibility for dealing with all claims. There was one registry situated in Brisbane. Later, as the number of claims increased, all magistrates in Queensland were legislated to be referees and all Magistrates Courts registries now process small claims. As there was a registry already set up in Brisbane, this central registry processed and still processes, all small claims within the Brisbane metropolitan area. Consequently, small claims hearings are not dealt with in the Magistrates Courts at Redcliffe, Sandgate, Wynnum, Cleveland, Beenleigh, Holland Park and Inala.

Magistrate Bill Randall continues to sit at Brisbane as the full-time referee. A second magistrate assists the small claims referee on a regular basis for three out of five days each week.

As provided in section 10 of the Small Claims Tribunal Act 1973, the primary function of the small claims referee is to attempt to bring the parties to a settlement acceptable to them. Where this cannot be achieved the referee proceeds to a hearing of the dispute and then makes orders that are fair and equitable. A settlement or order made by the tribunal is final and binding on all parties. The only rights of appeal relate to a complaint that there is no jurisdiction conferred on the tribunal to hear the matter or that a denial of natural justice has occurred. No legal representation is allowed before 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.

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 motor vehicle;
- 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.

Variations to the Jurisdiction

The workload of the tribunal has consistently grown until last year. In 1996 the Brisbane tribunal processed just over 3,500 claims and by 2001 the number had risen to 7,884. In 2003 the number of claims filed dropped to slightly under 7,000. One or two variations to the jurisdiction may account for this.
The Commercial and Consumer Tribunal

The Commercial and Consumer Tribunal became operational on 1 July 2003 and has the responsibility of overseeing the licensing and operation of aspects of various industries including some building disputes, retirement villages and *Liquor Act 1992* appeals. That tribunal has assumed responsibility for two areas which were previously in the domain of the Small Claims Tribunal, namely domestic building disputes and disputes involving mobile home agreements.

Residential Tenancy Matters

On the other hand, the tribunal now deals with all residential tenancy disputes, rather than just rental bond disputes.

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

The non-urgent claims are all those not 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 a “notice of unresolved dispute” and this document must be produced by the claimant before a claim can be filed in the tribunal.

The urgent 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 breach by tenant;
- claims by a tenant for emergency repairs;
- claims by either the lessor or the tenant to terminate the tenancy due to excessive hardship; and
- claims by a tenant to be removed from a tenant database.

The average time between lodgement and hearing ranges from seven to 14 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.

From 1 August 2003, the residential tenancy workload has increased due to expansion of the tribunal’s jurisdiction as legislative amendment has enabled residential tenants to apply to have their names removed from tenancy databases. Over 100 claims have been lodged in the Brisbane registry, with over 95% of these applications being successful.
Communication and Consultation

In order to increase community understanding of the work of the tribunal, Mr Randall contributes articles to each issue of the RTA magazine. In the past 12 months, he has also addressed the Tenants’ Union, the Property Owners’ Association and the Tenant Advice and Advocacy Service. With the Chief Magistrate, he has met with representatives of the RTA, the Tenants’ Union and the Property Owners’ Association to discuss issues arising from their interaction with the tribunal.

International Visitors

On 9 June 2004, the Chief Magistrate and other magistrates familiar with the work of the Small Claims Tribunal met with Madam Noor Azian Binti Shaari and Mr Wee Hoo Juan, the Chairperson and Secretary respectively for the Tribunal for Consumer Claims and Ministry of Domestic Trade and Consumer Affairs, Malaysia.

Chairperson Madam Noor Azian Binti Shaari and Queensland Magistrates Noel Nunan, Bill McKay and Judge Irwin.
The Industrial Magistrates Court

The Industrial Magistrates Court is constituted pursuant to Chapter 8 of the Industrial Relations Act 1999. It is a court of record and has civil and criminal jurisdiction.

An industrial magistrate can be any magistrate or acting magistrate. The sheer volume of work in Brisbane dictates the necessity for the appointment of a full-time industrial magistrate responsible for all work in the industrial jurisdiction and Commonwealth prosecutions and applications other than family law matters.

The vast majority of cases are dealt with in Brisbane where there is a permanent industrial magistrate. However, all magistrates can operate in the jurisdiction and do so throughout the state as part of their normal work as a magistrate.

The industrial magistrates' jurisdiction covers three broad categories:

- Claims for workers' compensation;
- Claims for recovery of money; and
- Prosecutions of offences committed at the workplace.

Claims for Workers' Compensation

The Legislature created an insurance scheme, a workers' compensation scheme, whereby an injured worker was entitled to compensation for injuries sustained at work or going to or from work. The current legislation continuing this entitlement is the Workers' Compensation and Rehabilitation Act 2003. This Act continues the jurisdiction of the industrial magistrate to hear appeals from decisions made by various bodies set up pursuant to that Act to administer the scheme.

Broadly speaking an injured worker makes a claim for compensation from WorkCover. That decision can be reviewed by Q-Comp on application by the claimant or the employer. Those decisions are the subject of appeal in the Industrial Magistrates Court and it is those cases which most dominate the work performed by the industrial magistrate. Generally the issues considered are whether there has been an injury, whether the employment is a significant contributing factor causing the injury and whether the claimant is a worker. The appeals are hearing “de novo” (hearings afresh). They are full trials and are commonly quite lengthy.

As was noted in last year’s Annual Report, a very noticeable trend in the area of WorkCover appeals is that more and more “stress” claims are coming before the Industrial Magistrates Court and, because of the issues involved, such hearings are usually lengthy. That reality has significant resource implications.
Claims for Recovery of Money

Recovery of Wages
The jurisdiction arises pursuant to the *Industrial Relations Act*. Now claims for less than $20,000 can be pursued in the Industrial Relations Commission and because of this the number of claims pursued in the Industrial Magistrates Court for recovery of wages has decreased.

In both jurisdictions the application must be made within six years after the amount claimed became payable.

Jurisdiction is also conferred under the *Workplace Relations Act 1996*. This allows for magistrates to hear disputes concerning recovery of wages in the federal award area. A claimant may choose small claims' procedures in the Industrial Magistrates Court if the amount pursued is not more than $10,000. This is a more informal procedure, wherein the parties are not bound by the rules of evidence and the magistrate may act without regard to legal forms and technicalities.

Recovery of Charges, Fees or Premiums
Some statutory bodies, such as WorkCover Queensland, are empowered to recover charges, fees or premiums in the Industrial Magistrates Court. This includes premiums payable pursuant to the *Workers’ Compensation and Rehabilitation Act* and appeals from decisions made by WorkCover concerning the premium payable by an individual employer.

Prosecution of Offences Committed at the Workplace
There are a number of Acts that create offences which are prosecuted in the Industrial Magistrates Court. The areas covered include fraudulent claims for workers’ compensation, failure to pay award wages and benefits, failure to keep wage records and failure to ensure the workplace health and safety of employees. The penalties imposed in these areas are significant.

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 (JAG). The position is supported by a small Magistrates Court Head Office team who administer training, systems and procedures (including information technology) and overall financial and human resource management for the Magistrates Courts throughout Queensland.
Court Administrator

The administrative functions of these courts are handled regionally by 10 area managers (who are also registrars and clerks of the court) at major locations throughout Queensland. The area managers each 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 a number of rural and remote courthouses and provide clients with access to services offered by many state and Commonwealth agencies.

The Court Administrator works 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 is supplied to the Magistrates Court by other sections of the department.

Significant Events during 2003-2004

South East Queensland Drug Court Pilot Program

The Drug Court pilot program resumed successful operation from 22 August after an hiatus during which receipt of referrals was suspended for evaluation. In south east Queensland, as at 30 June 2004, 689 referrals had been received and assessed, 355 intensive drug rehabilitation orders had been made and 92 persons had graduated since the commencement of the program in June 2000.

North Queensland Drug Court Pilot Program

The Drug Court trial was expanded into north Queensland through trials in Cairns and Townsville. As at 30 June 2004, 188 referrals have been received and assessed, 96 intensive drug rehabilitation orders have been made and 11 persons have graduated since its commencement in November 2002.
Illicit Drugs Court Diversion Program
The Illicit Drugs Court Diversion Program commenced as a 12-month trial in March 2003. This program continues, having received additional Commonwealth funding, until 30 September 2004. It is based at the Brisbane Central Magistrates Courts and the Brisbane Childrens Court. The program is aimed at diverting minor drug offenders into assessment, education and treatment. It targets persons in possession of small amounts of illicit drugs. As at the end of the financial year 1,027 offenders have been diverted, including 57 juveniles. A final report by Health Outcomes International Pty Ltd has determined that the program is effectively and efficiently implemented and continues to have a compliance rate of approximately 93%.

The Office of the State Coroner
The Office of the State Coroner commenced operation during the financial year. The aim of the new system is to support the delivery of high quality coronial services including comprehensive coronial investigations, better detection of trends in particular deaths and the provision of informed recommendations with the aim of preventing future similar deaths.

Closed Circuit Television Facilities
Installation of CCTV facilities throughout Queensland's courts has continued as part of an ongoing works program to improve access to justice by vulnerable witnesses including children and sexual assault and domestic violence victims. The installation of CCTV facilities is included in the construction of the new courthouses at Brisbane and Mackay and in the refurbishment of the courthouses at Bowen and Cooktown.

Civil Listing and Information Management System
The Civil Case Register System (CRS) is being transferred from its existing operation on a CITEC owner-server to one owned and operated by the JAG. The new version of CRS will be renamed CLAIMS (Civil Listing and Information Management System) and will be accessed via the intranet. This will result in considerable savings to the department, especially in transaction costs and software licensing fees. The cost of any future expansion of CLAIMS to other Magistrates Courts will also be reduced.
Construction and Upgrades of Magistrates Court Buildings

Bowen Magistrates Court
Design work has commenced on an upgrade of the historic Bowen Courthouse. The upgrade will provide an elevator and improved access for the disabled. The upgrade of the courtroom will retain but refurbish the existing court furniture. Also, there is to be provision of a dedicated room for victims of domestic violence and child witnesses with a CCTV system to assist giving evidence through monitors to the courtroom. There will be improved public waiting and toilet areas.

Caloundra Magistrates Court
JAG has purchased land in Gregson Place adjacent to the existing police station as the site for a new Caloundra Courthouse. The new Caloundra Courthouse will provide the following facilities:
- two courtrooms and chambers;
- mediation/conference room;
- holding facilities;
- registry office;
- public waiting areas including interview rooms;
- day rooms for external agencies such as Community Corrections and Family Services;
- facilities for child witnesses and victims of domestic violence and videoconferencing facilities.

The new courthouse will be designed to be expanded up to six courtrooms and it is expected to be operational in June 2005.

Cooktown Magistrates Court
The Cooktown Magistrates Court building upgrade and extension was completed in September 2003. The building was originally built in 1937. The upgrade has provided improved facilities for magistrates, staff and clients. As indicated above, CCTV facilities were included in the refurbishment. The extension was built to complement the existing building. An electronic security system has been installed with 24-hour monitoring by the State Government Security Service.

Hervey Bay Magistrates Court
Construction has commenced on a $2 million upgrade to the Hervey Bay Courthouse to provide a new courtroom complete with chambers, jury room facilities, public gallery and a holding cell. The courtroom will be used for circuit sittings of the District Court—easing the load on the Maryborough court. It will incorporate the latest technology such as CCTV facilities to enable child witnesses and sexual assault victims to give evidence from a separate room in the court precinct. There will also be new interview rooms to provide privacy for victims of domestic violence and videoconferencing facilities.
Mackay Magistrates Court
The first stage of the new Mackay Courthouse was completed in March 2004. The final stage of this project will see the refurbishment of the existing courthouse building, which was built more than 60 years ago. The $11.4 million courts complex will ensure Mackay Courthouse is a modern judicial centre thereby providing better access to justice for Queenslanders. The redevelopment will include CCTV, new interview rooms, improved facilities for victims of domestic violence and improved amenities for the public and for court staff, including disabled access.

Murgon Magistrates Court
Design work has commenced on an upgrade of the Murgon Courthouse. This is a Department of Public Works project and no funding by JAG is involved. The upgrade provides improved facilities in the registry with a new counter, furniture, carpets and finishes, as well as improved public waiting areas with new carpets and finishes. There will also be improved access for persons with disabilities.

Northern Districts Magistrates Court
Funding was approved in the 2004-2005 Budget for the purchase of land and construction of a new Northern Districts Courthouse. The department is examining six possible sites for the new courthouse.

Thursday Island Magistrates Court
The provision of a new courthouse on Thursday Island will provide for a courtroom, interview rooms, conference room, magistrate’s chamber, registry office, staff facilities and amenities, public toilets, covered public waiting areas and an external dispute resolution area. Facilities for vulnerable witnesses and victims of domestic violence will also be provided. The facility will have dedicated disabled access.

CCTV facilities will be installed in the room for vulnerable witnesses and victims of domestic violence and will be linked to courtroom monitors. The monitors will allow vulnerable witnesses and victims of domestic violence to remain outside the courtroom during proceedings.

Construction is anticipated to commence in August 2004 and be operational in March 2005.
Western Districts Magistrates Court
The Western Districts Magistrates Court, a new $4.5 million court complex, was built at Richlands to service Brisbane’s western suburbs and will open in July 2004. It will house two Magistrates Courts, mediation facilities, a registry office, two holding cells, duty rooms for solicitors to meet with their clients and improved amenities for the public. The court complex will have CCTV facilities enabling vulnerable witnesses such as children, sexual assault victims and victims of domestic violence to give evidence from a separate location. The Queensland Police Service will also build a purpose-built watch house on site. It will replace the existing court at Inala which has been in service since 1965.

Significant Events Planned for 2004-2005

Brisbane Magistrates Court
The move into the new Brisbane Magistrates Court, scheduled for November 2004, will herald a new era for client and justice service delivery for the community. A combined registry will operate on the ground level, bringing together the operations of the small claims, civil, general and fines registries, providing a single point for all counter service.

Drug Court Pilot Programs
The Drug Courts in south east and north Queensland will continue to operate in 2004-2005. The north Queensland program will be evaluated in early 2005 by the Australian Institute of Criminology. The government has advised that it will extend the Drug Court pilot program in these areas until December 2005 and a budget of $9.1 million has been allocated for this purpose.

Closed Circuit Television Facilities
CCTV facilities will continue to be introduced throughout Queensland’s courts as part of an ongoing works program to improve access to justice by vulnerable witnesses including children and sexual assault victims. Installation of CCTV facilities in 12 Magistrates Courts will commence in the near future.
Information Technology

This year saw the end of a three-year upgrade of all magistrates’ personal computers and printers in their chambers. These machines are much faster than the previous ones that were approximately six to eight years old.

Magistrates have access to the internet and are able to conduct electronic legal research. Having the newer and more powerful machines enables much faster searching and retrieval of information. This has helped magistrates, especially in courts outside Brisbane, to have the latest information available within a reasonable time. Magistrates have access to such sites as Butterworths, Law Book Company, CCH, AUSTLII and many more, which allows magistrates to access the latest state and Commonwealth legislation and Hansard reports. Appendix 9 lists legislation commonly dealt with in the Magistrates Court. The length of the list alone shows that magistrates need efficient access to the law to help them deal with the complexities of the jurisdiction.

Ability to access e-mail also assists magistrates “fast-manage” their day. All letters from the Chief Magistrate containing information, practice directions and other matters are sent by e-mail. Magistrates from the far-flung centres of the state are able to readily contact the Chief Magistrate, the Deputy Chief Magistrate or Regional Coordinators and court clerks in relation to court arrangements.

Magistrates on circuit are provided with a notebook computer and printer linking them into the Magistrates’ Online Intranet Resource (MOIR), a secure web site for the use of magistrates only, as well as the internet to obtain legislation and conduct legal research and also to access e-mail while on circuit.

Magistrates are also able to access databases on comparative sentencing at the Legal Aid Office Queensland and the Director of Public Prosecutions Queensland. This, together with access to all the latest cases from other courts, enables magistrates to have the most up-to-date information on sentencing available.

A pilot test is currently under way for “secure remote access” allowing magistrates access to their web site and all other information from anywhere in the world over the internet. There have been many teething problems with this technology and the pilot is progressing rather slowly at this stage.

It is envisaged that in the near future each magistrate will have a computer on the bench for access to the latest Queensland and interstate legislation and cases while sitting in court. Laptop computers have been installed on the bench in Brisbane Arrest Courts 1 and 3 during July 2004. Computer connections in court will achieve the same result as if in chambers.

We are indebted once again to Sue Rigney, Manager, Library Services, JAG and her staff for providing training to magistrates across the state. Without training, provision of new technology would be wasted. Training is conducted in such matters as legal research, word processing and use of e-mails. Library Services also provide a back-up service for magistrates trying to access legislation and case law in a busy court.

The Information Technology Committee meets to consider the information technology requirements of magistrates. In the near future, the committee will consider such matters as the provision of ID tokens for secure remote access, computers on benches, equipment upgrading and further training needs for magistrates. The committee will then draft a submission to the government for further funding for the perceived priorities for technology requirements.
Videoconferencing/Closed Circuit Television

CCTV enables children and other witnesses, such as sexual assault and domestic violence victims, to give evidence from a protected room without confronting the defendant in the courtroom. This is particularly important in implementing the amendment to the *Evidence Act 1977* made by the *Evidence (Protection of Children) Amendment Act 2003* which introduced special measures for a child witness. This includes the child’s evidence being pre-recorded in the presence of a judicial officer, but in advance of a proceeding, or if this is not possible, the child’s evidence at the proceeding being given by way of audiovisual link or with the benefit of a screen.

The videoconferencing equipment enables witnesses in distant locations to give evidence without travelling to the courtroom. This reduces the cost of court proceedings and delays otherwise caused due to the unavailability of witnesses required to travel to court eg it will enable forensic scientists who are based in Brisbane to give evidence without the need to travel to a remote location. This will make the justice system faster and more efficient.

Part 6A of the *Justices Act 1986* enables the use of video link proceedings where a person is in custody at a correctional institution and video link facilities exist between the court and the institution. A proceeding for the detainee’s bail or remand must be conducted using video link facilities, unless the court, in the interests of justice, otherwise orders. In any other proceeding about an offence with which the detainee is charged, the court may order the proceeding to be conducted using these facilities if all parties consent.

It is anticipated that the rollout of videoconferencing and CCTV facilities in the Magistrates Courts will be a catalyst to an increasing use of such technology to take evidence from persons at remote locations and thereby enhance the efficiency of the criminal justice system.

The State Government has announced that it will spend $1.4 million in the 2004-2005 financial year to install videoconferencing and CCTV in courthouses around Queensland.

This equipment will be installed in 12 Magistrates Courts – Beenleigh, Cairns, Hervey Bay, Ipswich, Mackay, Maroochydore, Maryborough, Rockhampton, Southport, Toowoomba, Townsville and the Childrens Court in Brisbane.

CCTV systems are already installed and operating in one court at the Brisbane Central Court complex and in one court at the Arrest Court at Roma Street and also at the Magistrates Courts at Caboolture and Wynnum.

In other parts of Queensland, the Magistrates Courts can have access to systems installed in District Courts which are within the same courthouses. For example, extensive use is being made of these facilities in Mount Isa.

Videoconferencing and CCTV facilities will also be installed in seven courtrooms in the new Brisbane Magistrates Court and in the new courthouse proposed at Caloundra. Cooktown’s newly refurbished courthouse also incorporates the CCTV facilities, as will the refurbished Bowen Courthouse and the new courthouse at Thursday Island.
Legal Education in the Magistrates Courts

Queensland magistrates recognise the fundamental importance of professional legal education and training within the ranks of those seeking admission to the legal profession. The magistracy is delighted to have contributed again to such education and training.

The Bar Practice Course

During the year, Brisbane magistrates continued to assist the Bar Practice Centre, a joint venture between the Bar Association of Queensland and the Queensland University of Technology. Law degree holders who wish to become barristers must complete a six-week Bar Practice Course conducted by the Bar Practice Centre. This is the only course for aspiring barristers in this state. As part of the course, students participate in mock hearings in the Magistrates Court at Brisbane. The mock or moot trials involve criminal and civil matters and are presided over by magistrates during three-hour sessions.

Professional Legal Education and Training (PLEAT) Program

If a final-year law student or a law degree holder seeks admission as a solicitor of the Supreme Court of Queensland, he or she may enrol in the Professional Legal Education and Training (PLEAT) program conducted by the TC Beirne School of Law at the University of Queensland. Alternatively, he or she may enrol in the Legal Practice Course (the Graduate Diploma in Legal Practice) conducted by the Faculty of Law at the Queensland University of Technology.

The University of Queensland’s PLEAT program includes a 15-week professional legal education phase and a 12-week professional work placement in a legal practice-based environment, undertaken at any of the following:

- a private law practice;
- a government department or statutory authority which provides legal services;
- the legal department of a corporation;
- a community legal centre; or
- as an associate to a member of a court.

The PLEAT program is assisted by the contribution and involvement of practitioners and guest instructors, including two magistrates. As of yet, no magistrate has acted as a mentor in the professional work placement phase of the PLEAT program. The Chief Magistrate fully endorses the assistance given by magistrates to the PLEAT program, having participated directly in the program himself.
Women and the Law (WATL) Work Experience Program

Another level of involvement by the magistracy during the year was participation in the Women and the Law Society (WATL) program. WATL is an active organisation within the TC Beirne School of Law at the University of Queensland. It has a diverse membership and includes females and males, law and non-law students and professionals within the law and in other fields. The aim and objectives of WATL seek to improve and enhance legal education and to maintain a dynamic relationship between the organisation and its members, the law school, staff, sponsors and the legal profession.

During May and June 2004, a 10-week WATL work experience program was conducted with the Magistrates Court. The program was open only to members of WATL who had completed two years of a law degree or specified legal subjects. Six magistrates in Brisbane, including the Chief Magistrate and the Deputy Chief Magistrate, as well as one magistrate at Ipswich, participated in the program.

The work experience exercise was intended to be a mutually beneficial program whereby the seven participating students could observe and learn about the operations of the Magistrates Court whilst providing research and other assistance to magistrates. Students spent one day a week with a magistrate doing a variety of tasks ranging from research to administrative work. They also sat in on court proceedings.

It seems clear from a letter received by the Chief Magistrate from a male student that the program was beneficial. That letter states:

Recently I completed the Women and the Law (WATL) Magistrates Work Experience program. I am writing to express my gratitude to the Magistrates and staff of the Brisbane Magistrates Courts for allowing me to participate in this program and gain firsthand experience of the inner workings of the judicial system.

In particular I would like to thank the following individuals: Judge Irwin and of course Narelle, Mr Hine, Mr McLaughlin, Mr Nunan, Ms Tynan and Ms Houston for organising and administering this program.

I found this program to be a valuable educational experience as it allowed me to gain deeper and more practical understanding of the Magistrates Courts system. Consequently, it has complemented the theoretical side of my law degree.

I look forward to working with you in a professional capacity in the future.

A number of WATL students voluntarily returned to spend further time with the courts after the expiration of the 10-week program. The Townsville Magistrates Court also provided a work experience opportunity for a local law student during the year.
General Legal and Advanced Family Law Clinics

During the year, the magistracy continued to support the Griffith University Law School General Legal Clinics and Advanced Family Law Clinics. By arrangement, university students involved in the clinics are granted leave to appear in the Magistrates Court on behalf of clients of the Caxton Legal Centre Inc. The teaching staff involved and the supervising family law practitioners from the Caxton Legal Centre appreciate this continuing support.

The Chief Magistrate has been informed that previous students involved with the clinics have invariably found their appearances in the Magistrates Court extremely valuable in enhancing their appreciation and understanding of the practical operations of the legal process.

The most recent appearance of Griffith University law students participating in the Advanced Family Law Clinics occurred on 28 May 2004. Six students appeared in family law or child support matters on behalf of clients of the Caxton Legal Centre. Each student appeared in a separate matter, each appearing that day in Brisbane Magistrates Court No 10, before the Deputy Chief Magistrate.

The magistracy is keen to continue with its contribution to the beneficial clinical program. With the participants, the magistracy also acknowledges and expresses its appreciation for the assistance given to the students and their supervisors, by the court registry in the filing and listing of matters for the student court appearances.

Likewise in Townsville, magistrates continue to assist students and are keen to do so in the future, especially law students from the James Cook University of north Queensland in their preparations for moot hearings.
Police Recruit Occupational Vocational Education (PROVE) Program

Another level of assistance provided by magistrates in south east Queensland is their participation in the Police Recruit Occupational Vocational Education (PROVE) program conducted by the Queensland Police Service at its academy in Brisbane. The PROVE program aims to develop competent, ethical, effective and efficient police officers who are motivated, responsible and aware of community needs.

Magistrates have a limited participation with the PROVE program in lecturing police recruits. Further, where practicable, recruits are required to spend one shift in Module 2 (Station Duty) in a Magistrates Court.

The Chief Magistrate is keen to increase the participation of magistrates in the PROVE program as well as the PACE program. The latter is for police recruits who have had previous policing experience.

While Townsville magistrates have not yet participated in the PROVE program at the North Queensland Academy, they are keen to participate in the future. The Chief Magistrate fully endorses any such participation.
OUR PEOPLE

Magistrates

New Appointments

Mr Trevor Arnold—Magistrate Holland Park

Mr Trevor Arnold was sworn in as a magistrate on 3 November 2003 and commenced duty at Holland Park Magistrates Court on 5 November 2003.

Mr Arnold’s appointment as a magistrate came after 32 years of service in the Magistrates Courts in rural, regional and city locations around Queensland and in recent years, with various periods as an acting magistrate. He completed his Bachelor of Laws in 1991 from the Queensland University of Technology.

Mr Michael Barnes—State Coroner, Brisbane

Mr Michael Barnes was sworn in as Queensland’s first State Coroner on 1 July 2003. This historic appointment arose from wide legislative changes which modernised Queensland’s coronial system.

Prior to his appointment as State Coroner, Mr Barnes was head of the School of Justice Studies at the Queensland University of Technology from 2000. He had worked with the Criminal Justice Commission (CJC) in the Complaints Section for 10 years before that, including eight years as the Chief Officer. He completed his Bachelor of Laws at the University of Queensland in 1982 and worked as a solicitor before joining the CJC.

Ms Linda Bradford-Morgan—Magistrate Brisbane

Queensland’s first two part-time magistrates were sworn in on 12 January 2004. Prior to her appointment as a magistrate in Brisbane, Ms Linda Bradford-Morgan, along with Ms Christine Roney, was joint Deputy Chairperson of the Queensland Building Tribunal.

Ms Bradford-Morgan was appointed to the Tribunal in 1994 and, prior to that, was a solicitor in private practice, specialising in commercial litigation, and ran a practice as an arbitrator, mediator and case appraiser. She was also appointed as an arbitrator and mediator been by the Queensland Law Society and had experience as a Panel Mediator for disputes under the Sugar Industry Act 1999.

Her experience also includes working as a general counsel in the Commercial and Consumer Division of Telstra. She completed her Bachelor of Arts and Laws at the University of Queensland in 1984 and her Master of Laws at the Queensland University of Technology in 1996.
Mr John Costello—Magistrate Southport

Mr John Costello was sworn in on 5 January and commenced duty in Southport where he has been appointed for 12 months. Following this initial period, Mr Costello will transfer to Charleville for three years.

Mr Costello was admitted to the Queensland Bar in 1976. He has practiced at the bar in Rockhampton and Brisbane. His experience includes working as in-house counsel for MIM Holdings Limited and also three years experience as an acting mining warden from 1995 to 1998.

Mr Costello is an accredited mediator and case appraiser with experience mediating for the Queensland Building Tribunal. He has undertaken voluntary work for the Toowoomba Community Legal Aid Office and was also involved in the running of a halfway house for alcoholics.

Judge Marshall Irwin—Chief Magistrate, Brisbane

Judge Marshall Irwin was sworn in as Chief Magistrate on 15 September 2003 following his appointment as a District Court judge. He is the first Chief Magistrate in Queensland to hold such a commission.

Judge Irwin graduated with honours from the University of Queensland in 1976 and was admitted to the Queensland Bar soon after. In 1978, he was appointed as a Crown Prosecutor and worked in Brisbane before transferring to Rockhampton and then to Townsville where, in 1985, he was appointed Deputy Director of Prosecutions, North Queensland.

In 1987 he moved to Melbourne to join the National Crime Authority and returned to Brisbane in 1989 as senior counsel assisting the Fitzgerald Inquiry in its final months. He was involved in the establishment of the Criminal Justice Commission (CJC), and took on the position of General Counsel until 1994 when he established his own private practice in Brisbane, specialising in criminal, administrative, family and workers’ compensation law.

In 1998, Judge Irwin was appointed as a Member of the National Crime Authority for four years. During that time he guided the Authority’s strategic direction and held significant legal and management responsibilities, before re-establishing his own practice in early 2003.

He is the co-author of the leading text *Carter’s Criminal Law of Queensland*. 
Mr Athol Kennedy—Magistrate Maroochydore

Mr Athol Kennedy was sworn in as a magistrate on 3 November 2003. Mr Kennedy’s initial appointment is to Maroochydore, following which he will transfer to Emerald.

Prior to his appointment, Mr Kennedy was the Principal Solicitor and Coordinator of the South West Brisbane Community Legal Centre at Inala for six years. With 20 years experience, he has worked as a solicitor and partner in firms in Bowen and has practiced in Brisbane. He was the first solicitor for the Consumer Credit Legal Service in Perth and has worked for the Legal Aid Commission in Western Australia.

Mr Kennedy completed his Bachelor of Laws in 1982 through the University of Queensland.

Mr Matthew McLaughlin—Magistrate Brisbane

Mr Matthew McLaughlin was sworn in on 18 November 2003 in Cairns and moved to Brisbane to take up his duties as a magistrate.

Mr McLaughlin had been admitted to practice as a solicitor in Queensland 21 years earlier and was working in Cairns as a solicitor at the time of his appointment. For 10 years preceding his appointment as a magistrate, he had been retained as the solicitor for the Njiku Jowan Legal Service.

Mr McLaughlin was awarded his Bachelor of Arts and Laws from the University of Queensland in 1980.

Ms Christine Roney—Magistrate Brisbane

Ms Christine Roney was appointed one of Queensland’s first part-time magistrates on 12 January 2004. She and Ms Bradford-Morgan had proven their ability to work together in a job-share arrangement in their role as Deputy Chairperson of the Queensland Building Tribunal prior to their appointment as magistrates.

Ms Roney was admitted as a solicitor 17 years ago and prior to her role with the Tribunal had practiced as a solicitor specialising in building and construction law. Her career has included a broad range of experience in other areas of law and she holds a Certificate in Mediation Training.

Ms Roney was awarded her Bachelor of Laws from the University of Queensland in 1985.
Ms Joan White—Magistrate Brisbane

Ms Joan White was sworn in on 12 January 2004 and took up duties in Brisbane for 12 months. Her initial appointment will be followed by a 12 month appointment in Southport.

Ms White was working as a solicitor-in-charge at the Ipswich office of Legal Aid Queensland (LAQ) at the time of her appointment. She has worked in other LAQ offices, as well as with the Public Defender’s Office, and as a Deputy Registrar with the Supreme Court. She has also managed her own legal consultancy.

Ms White was admitted as a solicitor of the Supreme Court of Queensland in 1984.

Milestones

While the appointments of magistrates continue to bring new experiences and viewpoints to the Court, the magistracy has built up a great depth of experience which is of real benefit to the court. During the financial year, the following magistrates attained various milestones throughout Queensland.

25 years

- Mr William Mackay

20 years

- Mr Tom Bradshaw

15 years

- Mr Andy Cridland
- Mr Brian Smith
- Mr Ross Woodford

10 years

- Mr James Gordon
- Ms Elizabeth Hall
- Mr Jim Herlihy
- Mr Greg McIntyre
- Mr Errol Wessling
Retirements

Mr John Bloxsom
19 November 1987 to 31 August 2003

Mr Kerry Dillon
26 November 1998 to 6 August 2003

Ms Diane Fingleton
28 November 1995 to 1 July 2003

Mr Barry McCormack
18 April 1991 to 21 March 2004

Mr James Mould
8 April 1991 to 21 April 2004

Mr Christopher Owens
28 June 1994 to 4 April 2004
The Life of a Circuit Magistrate

by Magistrate Ian Rose, Dalby

While I am presently assigned as Magistrate, Dalby, this can be a little misleading, as half of my sitting days are spent in courts scattered north, south and west of the Dalby region. Those places are Chinchilla and Taroom on the north western line; Oakey, Pittsworth and Millmerran to the south; and St George and Dirranbandi to the south west. Taroom and Chinchilla incorporate the now closed places for holding courts at Wandoan and Miles.

While these centres have a range of industries, the common thread is a typical Australian rural community where crops and cattle merge into the general field of agriculture. Apart from the usual summary criminal matters, traffic breaches and domestic violence matters, these courts are also confronted with a wide range of prosecutions brought about by modern legislation addressing environmental concerns such as land clearing, Water Act 2000 breaches and the like; dangerous overloading of vehicles; as well as RSPCA prosecutions involving the relatively new Animal Care and Protection Act 2001.

The Dalby circuit has grown geographically in recent years. In the pre-nineties era, magistrates were assigned to Roma and Goondiwindi. As a result of the removal of magistrates’ headquarters in those towns, Charleville, Dalby and Warwick magistrates have been called upon to share the increased workload and, probably more to the point, the additional travel. I would suggest that Dalby and Charleville have borne the brunt, because apart from Warwick’s circuit taking in the deep south, there are only two magistrates serving the huge area west of Toowoomba to the border between South Australia and Queensland. Having been assigned to Charleville and Dalby in the last six years, I feel “at home” in this part of the country.

The constant travel, packing and unpacking with each trip, is tiring. I have learnt to pack my magistrate’s “stuff” to a bare minimum. As all courts on circuit do not have tape recording facilities, part of the packing on each occasion includes the mobile court recording equipment. There are some courtrooms on circuit that are above ground level, which necessitates heavy lifting, done by my chivalrous and workplace health and safety-conscious self, as I certainly draw the line in expecting the female staff to carry heavy silver cases. I take the view that it is good exercise for the ageing frame.

This week, as I put pen to paper, I have just completed my second visit for the year to Taroom. Having driven for six hours and attended to four hours of court business, I am satisfied that I have done a full day’s work. However, I had the assistance of a very competent driver in the form of my clerk and that really makes all the difference.

I visit most courts in my circuit on a monthly basis to do a general callover on one day with hearings set for the following day. This helps to minimise the packing and unpacking syndrome. Learning from my Charleville experience, I have set the itinerary to be in “headquarters” each alternate week. It is only
when we travel to St George that we spend nights away from home and that is usually three nights. This is important, because never in my career have I ever been bitten by the dog upon my homecoming.

I would like to share some knowledge I have gained in my travels. When another court day is over and there isn’t a lot going through your mind, when the endless road stretches before you, should your attention be drawn to an emu that has decided to take part in a road race, watch him carefully, because as soon as he dips his head, that is a sure sign that he is going to change direction and race across your path.

The Queensland magistrate is called upon to serve in diverse settings. Some of us sit in the same courtroom day after day, week after week. However, as part of my duties, I see a lot of country from ground level, in all seasons, in drought and sometimes in flood. I enjoy living in such a large, decentralised part of the country. The local people in each town are always welcoming, respectful and hospitable to their visiting magistrate. In this setting I feel at home. This country style is for me.
The Phoenix Program

by Magistrate Matthew McLaughlin, Brisbane and Magistrate Leanne O’Shea, Ipswich

The Phoenix Program was held this year at Broadbeach on the Gold Coast from 10-14 May 2004. The program is run by the National Judicial College of Australia and is held in a different state each year. It aims to bring together a mix of experienced magistrates and recent appointees to share information and experiences on a broad range of topics relevant to the magistracy.

This year there were 20 delegates with 7 from Queensland; 4 from South Australia; 3 from Western Australia; 2 from the Northern Territory and 1 each from New South Wales, Tasmania, the Australian Capital Territory and Papua New Guinea. This included the Chief Magistrates from South Australia, the Northern Territory and Papua New Guinea.

With such a small number, the conference focuses on interaction between the delegates rather than the common format of everyone simply listening to a number of presenters. This provides a real opportunity for each delegate to raise questions and for general discussion to take place to find answers. Seating was in a circle with a daily change of position for each delegate, again encouraging more interaction.

A brief outline of the sessions is presented below.

Judicial Ethics
Presented by the Honourable Justice Doyle, Chief Justice of South Australia and Professor Greg Reinhardt, Executive Director of the Australian Institute of Judicial Administration, participants discussed ethical issues arising from a number of realistic and practical scenarios circulated in advance.

Challenges Faced by Magistrates
The Chief Magistrate of South Australia, Mr Kelvyn Prescott, presented this session which involved a discussion of ongoing issues for the magistracy, entrenched problems and issues for new magistrates.

Cultural Awareness, Diversity and Cultural Change
This was a fascinating presentation by Maria Dimopoulos from Myriad Consultants, Melbourne. It was designed to alert participants to questions of race, ethnicity, gender, disability and cultural difficulties, which may arise in the course of proceedings.

Management
This session was presented by experienced Queensland Magistrates Trevor Black and Basil Gribbin and dealt with topics including list and diary management, managing reserve judgements, time management, principles of listing and techniques for managing a busy court.
Decision-making

The Honourable Justice Atkinson, Judge of the Supreme Court of Queensland, Mr Kelvyn Prescott, Chief Magistrate of South Australia and Mr Ian Gray, Chief Magistrate of Victoria; were involved in presenting this session. It provided tips on delivery of *extemore* decisions, writing judgements and preparations during the course of a trial for writing the judgement.

Judicial Independence

This was an open discussion involving a number of scenarios circulated in advance and dealing with relations between chief magistrates and magistrates; boundaries between administrative issues and an independent judiciary; and the handling of complaints against magistrates.

Civil Litigation

Dr Andrew Cannon, Deputy Chief Magistrate of South Australia, presented this topic which dealt with recent changes and advances in civil jurisdictions around Australia; courts using their own experts; the proper role of judicial officers in alternative dispute resolution (ADR); and policies to control access to court databases.

Sentencing

His Honour, Judge Robertson, of the Queensland District Court, addressed this topic. He outlined differing and often conflicting principles for consideration in the task of dealing with each case as it appears on the facts and circumstances as they occur. He also encouraged ongoing self-reflection in our own sentencing processes to enable us to improve our skills in this area.

Alternative Dispute Resolution

Professor Laurence Boulle, from Bond University, made various interesting comments on what cases were most suitable for ADR and the procedures in civil matters which made them useful.

Stress, Health and Lifestyle

This session provided participants with an insight into purposeful management of one’s own life to maintain good and well-balanced physical and mental health.

The Media and the Courts

This was an interesting address from the media officer of the Supreme Court of Victoria into ways that the court has been able to work with the media to accurately place matters before the community for information and discussion.
A Day in the Life of the Magistrates Court

This was a series of role plays involving participants which highlighted many of the day-to-day difficulties faced by magistrates. Professor George Hampel QC, a former Judge of the Victorian Supreme Court, critiqued these activities in an enlightened and entertaining manner, sharing with us his enormous wealth of experience on the bench. Issues covered included dealing with difficult counsel, allegations of bias, requests to disqualify and litigants in person.

Children and the Courts

This paper, presented by Dr Brett McDermott, provided an insight into how children report as witnesses and the differences in the way that children respond to questions. Dr McDermott gave an insight into the child’s perception of the courtroom.

Conclusion

Friendships and networks were formed among magistrates from around the country. Conference participants were able to compare different court practices. Delegates were unanimous in their assessment of the week as being of real value and as particularly educational for recent appointees.

Magistrates from around Australia attended the Phoenix Program at Broadbeach in Queensland on 10-14 May 2004.
The VII Biennial Conference of the International Association of Women Judges

By Magistrate Wendy Cull, Ipswich

The VII Biennial Conference of the International Association of Women Judges (IAWJ) was held from 9–13 May 2004 in Entebbe, about one hour’s drive west of Kampala in Uganda. The theme of “Access to Justice” was explored in the context of African culture and history, with particular reference to human rights and the role of women as judicial officers and educators.

The conference was relatively small, having 100 delegates by contrast with the 400 delegates in Dublin in 2002. The biggest contingent of 22 came from Canada, with representatives from the UK, USA and countries as diverse as Norway, Ireland, Costa Rica, Philippines, South Korea, Iceland, Argentina, China, Netherlands and New Zealand and of course, many African nations. The Australian contingent of five consisted of Queensland magistrates Tina Previtera and me, District Court Judge Bradley and Justices Mathews and Beazley, of the New South Wales Supreme Court and Court of Appeal respectively, paving the way for the VIII Biennial Conference to be held in Sydney from 3–7 May 2006.

Hon Gertrude Mongella, President of the Pan African Parliament, in the keynote address, “Women’s Slow and Winding Road to Justice”, asked whether “justice” is a learned or natural behaviour. Her analysis of the role of female decision makers in a clan-based society where laws have traditionally been made and interpreted by men to protect a system of male inheritance was good-humoured and optimistic. She acknowledged a system where there is socialised acceptance that rape cannot exist in marriage and language cannot constitute abuse and introduced the recurring messages of the conference that human rights conventions can be adopted by decision makers to achieve just outcomes and that women judges can achieve these outcomes by introducing new concepts in co-operation with their male counterparts, rather than by head-on confrontation.

These notions were effectively demonstrated when President Yoweri Museveni officially opened the conference, a day later than expected, on the second day of proceedings. The President, wrongly advised that he was addressing a conference of African judges, astonished the delegates and dignitaries by delivering an off-the-cuff two-hour dissertation on the place of Africa in world history, significantly as the birthplace of all members of the human race. He summarised the impact of various “returnees”, particularly Europeans and British, before listing the reforms introduced by his political movement since the fall of Idi Amin and then Milton Obote. Those reforms are, on the whole, consistent with international declarations of human rights. The President observed that women in resistance against dictators were more resolute than men.
Uganda’s politics today are dominated by President Museveni’s determination to amend the constitution to enable him to serve another term as leader. Ultimately the judges will determine the validity of steps he takes to achieve his goal. As his address came to an end with an attack on “superficial” western influences and the failure of international human rights conventions to recognise African social history, he challenged the Ugandan judges to justify recent rulings that rape can be proved without corroboration. Justice Julie Sebutinde responded “Rape does not occur in the presence of witnesses. Judges do not accept that corroboration is essential.” “How not?” asked the President, who was met with the measured response: “It is a shameful admission by a woman. We listen and we analyse the evidence. We are careful.” This open debate was inspiring and reassuring.

The conference offered many insights into the practical application of the rule of law. Many African countries are confronted with the response of mob revenge to crimes such as theft and dangerous driving. Trust in and access to the courts is critical to stop mob violence. Corruption is recognised as a huge obstacle to justice. Ugandan Magistrate David Batema, affectionately referred to as “Sister” Batema, spoke of the need for gender sensitivity and recognition of the almost insurmountable task for some people of getting to court and of practical steps taken to assist litigants in person confronted by assertive, if not aggressive, lawyers. Kenyan Justice Roselyn Wendoh described setbacks caused by illiteracy, ignorance of rights and registry clerks who tampered with exhibits or drafted defective documents and explained how she deals with such issues, allowing adjournments, asking questions and preferring substance over form. Judge Wang Yu of China described her country’s Juvenile Tribunal, which has elements in common with our Childrens Court, but detains children more often and sets very great emphasis on “repentance” and remorse for wrongdoing.
We visited several Magistrates Courts and saw the limited resources available, particularly the lack of computer technology and recording facilities in the lower courts. Magistrate Joy Bahinguza took us to her court in Entebbe, where defendant and witnesses alike stand throughout the proceedings in small concrete enclosures, family members wait to bring food to prisoners and clerks type up to four copies of documents using sheets of carbon paper.

There was no room for complacency as papers addressed issues of judicial independence, appointment and discipline, with a Canadian speaker singling out Australia as the only country in the world where judicial appointments are solely in the hands of politicians. IAWJ sponsors the “Jurisprudence of Equality Program” (JEP) which trains members of the judiciary from all over the world in ways of resolving cases involving discrimination or violence against women. We were challenged by the adoption and use of international conventions in most countries and the difficulty of using that law in our decisions, notwithstanding that Australia is a signatory to the conventions.

Representatives of geographical chapters of IAWJ spoke of their goals in 2002 and achievements since then. The comment of a representative from Liberia that “it has been impossible to do anything except look for peace”, and a representative from Nigeria that “we have done little as a group because we sit on regional tribunals for months at a time and the internet is mostly not working”, reminded us of the privileges we enjoy, in terms of political stability and material resources.

In review, the conference was relevant to our practice because as magistrates we see disempowered people every day. We were reminded that violence is universal and endemic throughout the world and that the role we play as first-contact decision makers is crucial in engendering respect for and recognition of the rule of law.

On a lighter note, some highlights of the conference included being the first guests to stay in an unfinished 5 star hotel on the shores of Lake Victoria, surrounded by scaffolding and stranded concrete crocodiles destined for landscaping at some future date and nightly entertainment with spectacular African music and dancing. The conference bus outing to the source of the Nile at Jinja involved travel in a high-speed bus convoy through market places and peak hour traffic, led by an open truck of police armed with semiautomatic rifles. We were further protected by the Deputy Inspector of Police from Kampala, Helen, who recited the rosary as she sat on a jump seat in the aisle, blocking all prospects of escape in the event of an accident. As we pushed legitimate traffic aside one American judge was heard to mutter, “I think this is the first time I have been guilty of judicial abuse of power.”

I am not sure how the Sydney conference can compete, but I commend the VIII Biennial Conference on “An Independent Judiciary”. It was a privilege to meet so many committed and resourceful judicial officers and it is our hope that as many as possible will join us in Australia in May 2006.
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## APPENDIX 1

### Magistrates Court–Criminal Lodgements

<table>
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<th>Charges</th>
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## APPENDIX 4

### Magistrates Circuits

**BOWEN**  
Mackay  
Proserpine  
Longreach  
Moranbah  
Springsure  
Winton

**BUNDABERG**  
Childers  
GLADSTONE  
Biloela  
Monto  
Maryborough

**CAIRNS**  
Aurukun  
Badu Island  
Bamaga  
Coen  
Cooktown  
Kowanyama  
Lockhart River  
Pormpuraaw  
Thursday Island  
Weipa  
GYMPIE  
Maryborough

**CHARLEVILLE**  
Cunnumulla  
Mitchell  
Quilpie  
Roma  
Tambo  
KINGAROY  
Gayndah  
Murgon  
Nanango  
Toogoolawah

**DALBY**  
Chinchilla  
Dirranbandi  
Millmerran  
Oakey  
Pittsworth  
St George  
Taroom  
MACKAY  
Sarina

**EMERALD**  
Alpha  
Barcaldine  
Blackall  
Blackwater  
Clermont  
MAROOCHYDORE  
Caloundra  
Hervey Bay  
Maryborough  
Nambour  
Noosa

**GLADSTONE**  
Maryborough

**INNISFAIL**  
Tully  
Yarabah

**KINGAROY**  
Gayndah  
Murgon  
Nanango  
Toogoolawah

**MACKAY**  
Sarina

**MAREEBA**  
Atherton  
Georgetown  
Mossman  
Mount Garnet

**MAROOCHYDORE**  
Caloundra  
Hervey Bay  
Maryborough  
Nambour  
Noosa

**MOUNT ISA**  
Birdsville  
Boulia  
Burketown  
Camooweal  
Cloncurry  
Dajarra  
Doomadgee  
Julia Creek  
Mornington Island  
Normanton

**ROCKHAMPTON**  
Bundaberg  
Duaringa  
Mackay  
Woorabinda  
Yeppoon

**SOUTHPORT**  
Beaudesert  
Coolangatta

**TOOWOOMBA**  
Gatton

**TOWNSVILLE**  
Ayr  
Charters Towers  
Hughenden  
Ingham  
Palm Island  
Richmond

**WARWICK**  
Goondiwindi  
Inglewood  
Stanthorpe

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**Please note:** Magistrates visit other centres on a needs basis eg the Magistrate at Emerald visits Rolleston, Isisford, Jundah, Muttaburra, Windorah and Yaraka.
APPENDIX 5

Places for Holding Magistrates Courts

Note: Magistrate is Resident in Centres underlined.
Conferences

**Inhalant Use and Disorder**
The Australian Institute of Criminology
7-8 July 2003, Townsville
- D Glasgow
- A Hennessy

**Phoenix Program**
National Judicial College of Australia
4-8 August 2003, Canberra
- D MacCallum
- B Callaghan
- R Spencer

**Northern Territory Magistrates Conference**
Northern Territory Magistrates Court
17-19 August 2003, Jabiru
- A Cridland

**Family Law Residential**
Queensland Law Society Inc
5 September 2003, Surfers Paradise
- S Tonkin

**Annual Conference**
North Queensland Law Association
3-5 October 2003, Mackay
- M Irwin
- R Risson
- R Spencer

**Annual Conference**
Central Queensland Law Association
7-9 November 2003, Yeppoon
- A Hennessy
- M Irwin

**41st International Meeting**
The International Association of Forensic Toxicologists
16-20 November 2003, Melbourne
- J Costanzo

**NSW Magistrates Orientation Program**
Judicial Commission of New South Wales
23-28 November 2003, Katoomba
- J Daley
- J Lock

**Symposium 2004**
Queensland Law Society
5-6 March 2004, Coolum
- M Irwin

**World Bar Conference**
International Bar Association
12-14 April 2004, Capetown
- M Irwin

**The VII Biennial Conference**
International Association of Women Judges
9-13 May 2004, Entebbe
- W Cull
- T Previtera

**Phoenix Program**
National Judicial College of Australia
10-14 May 2004, Broadbeach
- T Black
- J Costello
- B Gribbin
- A Kennedy
- M McLaughlin
- L O’Shea
- J White

**AAM Biennial Conference**
Australian Association of Magistrates
11-14 June 2004, Hobart
- J Batts
- T Black
- T Bradshaw
- S Cornack
- G Dean
- W Ehrich
- D Glasgow
- B Gribbin
- B Hine
- L O’Shea
- C Proctor
- W Randall
- S Tonkin
- L Verra
- D Wilkinson
APPENDIX 7

Magistrates’ Participation on External Bodies

Australasian Coroners Society
- M Barnes (State Coroner)
- C Clements (Deputy State Coroner)

Australian Institute of Judicial Administration Governing Council
- A Hennessy

Council of Chief Magistrates
- M Irwin (Chief Magistrate)
- B Hine (Deputy Chief Magistrate)
- R Micola (A/g Court Administrator)

Judicial Conference of Australia Governing Council
- D MacCallum

Police Education Advisory Council
- M Barnes (State Coroner)
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.
APPENDIX 9

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 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

Annual Report 2003-2004
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

Education (General Provisions) Act 1989
Electoral Act 1992
Electrical Safety Act 2002
Electricity Act 1994
Environmental Protections Act 1994
Evidence Act 1977
Evidence on Commission Act 1988
Explosives Act 1999

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
Appendices

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
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
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 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
Practice Directions

No. 1B of 2003
Rule 975B of the Uniform Civil Procedure Rules 1999 defines “approved entity” as meaning an entity that ...

(a) is either—
   (i) a solicitor or firm of solicitors; or
   (ii) an entity approved by a practice direction to have documents electronically filed; and

(b) has an agreement with a service provider for the service provider to electronically file a document for the entity.

For the purposes of rule 975B(a)(ii) of the Uniform Civil Procedure Rules 1999, Bridgement Smith Qld Pty Ltd; Strata Collections Pty Ltd; and Ballantine Mercantile are approved to have documents electronically filed under this practice direction.

Judge MP Irwin
Chief Magistrate
26 September 2003

No. 1C of 2003
Rule 975B of the Uniform Civil Procedure Rules 1999 defines “approved entity” as meaning an entity that ...

(a) is either—
   (i) a solicitor or firm of solicitors; or
   (ii) an entity approved by a practice direction to have documents electronically filed; and

(b) has an agreement with a service provider for the service provider to electronically file a document for the entity.

For the purposes of rule 975B(a)(ii) of the Uniform Civil Procedure Rules 1999, Austall Pty Ltd, trading as Ringrose Credit Control is approved to have documents electronically filed under this practice direction.

Judge MP Irwin
Chief Magistrate
3 December 2003
Appendices

No. 2 of 2003

Uniform Civil Procedure Rules 1999

Part A – Designation of Court Holidays – Magistrates Courts Registries

Rule 976 of the Uniform Civil Procedure Rules provides that the Registry must be open on each day other than a Saturday, Sunday or court holiday. For the purposes of that rule, and in relation to the Magistrates Courts Registries, I designate the period 25 December to 1 January inclusive, as court holidays.

Part B – Deignation of Court Holiday 2004 – Magistrates Courts Registries

Rule 976 of the Uniform Civil Procedure Rules provides that the Registry must be open on each day other than a Saturday, Sunday or court holiday. For the purposes of that rule, and in relation to the Magistrates Courts Registries, I designate 2 January 2004 as a court holiday. This Part is to be read in conjunction with Part A of this Practice Direction.

Judge MP Irwin
Chief Magistrate
5 December 2003

No. 1 of 2004

Rule 975B of the Uniform Civil Procedure Rules 1999 defines “approved entity” as meaning an entity that ...

(a) is either—

(i) a solicitor or firm of solicitors; or

(ii) an entity approved by a practice direction to have documents electronically filed; and

(b) has an agreement with a service provider for the service provider to electronically file a document for the entity.

For the purposes of rule 975B(a)(ii) of the Uniform Civil Procedure Rules 1999, Forster Mercantile Collections Pty Ltd; and Cellnet Group Limited are approved to have documents electronically filed under this practice direction.

Judge MP Irwin
Chief Magistrate
2 March 2004
No. 1A of 2004

Rule 975B of the Uniform Civil Procedure Rules 1999 defines “approved entity” as meaning an entity that ...

(a) is either—
   (i) a solicitor or firm of solicitors; or
   (ii) an entity approved by a practice direction to have documents electronically filed; and

(b) has an agreement with a service provider for the service provider to electronically file a document for the entity.

For the purposes of rule 975B(a)(ii) of the Uniform Civil Procedure Rules 1999, Credit Corp Group Limited; AP Ford Pty Ltd; and Roverlawn Pty Ltd are approved to have documents electronically filed under this practice direction.

Judge MP Irwin
Chief Magistrate
29 June 2004

No. 1B of 2004

Rule 975B of the Uniform Civil Procedure Rules 1999 defines “approved entity” as meaning an entity that ...

(a) is either—
   (i) a solicitor or firm of solicitors; or
   (ii) an entity approved by a practice direction to have documents electronically filed; and

(b) has an agreement with a service provider for the service provider to electronically file a document for the entity.

For the purposes of rule 975B(a)(ii) of the Uniform Civil Procedure Rules 1999, Confidential Collections and Investigations; and Toowoomba City Council are approved to have documents electronically filed under this practice direction.

Judge MP Irwin
Chief Magistrate
6 September 2004
No. 2 of 2004

COMMITAL MATTERS REQUIRING EVIDENCE FROM CHILD AND INTELLECTUALLY IMPAIRED COMPLAINANTS OF SEXUAL ABUSE “FAST TRACKING”

The purpose of this Practice Direction is to clarify procedures in the Brisbane Central Magistrates Court for committal proceedings involving allegations of sexual abuse against children and intellectually impaired persons, and where persons in those categories will be called as witnesses. These persons are referred to as complainants.

An individual is a child witness if he/she is to give evidence for the proceeding at any time before turning 18 years.

An intellectually impaired person is an individual defined as an “intellectually impaired person” by s.3 of the Evidence Act 1977 (the Act) and may be of any age.

While there are systems in place to help protect children and intellectually impaired witnesses when giving evidence, it is also accepted that long adjournments or constant adjournments may affect the wellbeing of these witnesses. For example the general principles which apply when dealing with a child witness under 16 years include under section 9E(2)(d) of the Act that the proceeding should be resolved as quickly as possible and section 21AG(8)(d) of the Act recognises the need for committal proceedings to be conducted expeditiously.

To ensure that matters where such persons are involved as witnesses are expedited the following procedure will apply:

1. The Director of Public Prosecutions (Qld) or other relevant prosecuting authority will provide a complete brief of evidence (including such disclosure as required by Ch 62, Ch div 3 of the Criminal Code) to the legal representatives for the defendant two (2) weeks prior to the first Committal Mention date.

2. When the matter is first mentioned at the Committal Mention Callover Court on a Monday, the representative of the Director of Public Prosecutions (Qld) or other relevant prosecuting authority will advise the court:
   (a) whether a child or intellectually impaired complainant is required to give evidence at a forthcoming committal proceeding; or
   (b) as required by s.21AS(1) of the Act, where the complainant is an “affected child” as defined by s.21AC of the Act, that such a child may give evidence in the proceeding.

3. If the defendant is unrepresented when the matter is first mentioned at the Committal Mention Callover Court, the following will apply:
   (a) The representative of the Director of Public Prosecutions (Qld) or other relevant prosecuting authority will advise the court whether it is to be submitted a witness in the proceeding is a protected witness. If not the Directions at paragraph 4 will apply.
   (b) If the court rules that a person is a protected witness for the proceeding, the court will inform the defendant as required under s.21O(2) and (3) of the Act and adjourn the case for mention one (1) week later;
(c) At the mention, if the defendant has obtained representation, the court will direct the Director of Public Prosecutions (Qld) or other relevant prosecuting authority to provide the complete brief of evidence to the legal representative and the matter will be adjourned for two (2) weeks. Thereafter, the Directions at paragraph 4 will apply.

(d) If the defendant is still unrepresented, the court will act pursuant to section 210(4) of the Act and adjourn for 1 week. At the next mention the court will direct the Director of Public Prosecutions (Qld) or other relevant prosecuting authority to provide the complete brief of evidence to Legal Aid Queensland where it considers it necessary to do so in the interests of justice and adjourn the matter for two (2) weeks. Thereafter the Directions at paragraph 4 will apply.

4. The Magistrate will:
   (a) set the committal hearing date down to take place as soon as possible to ensure an early hearing, generally for six (6) weeks ahead;
   (b) if necessary set the matter down for a Direction Hearing under s.83A of the Justices Act 1886 on a date that will generally be two (2) weeks ahead;

5. At the Direction Hearing in the case of a complainant other than an “affected child” the magistrate may make directions which include but are not limited to:
   (a) Receiving evidence or submissions by telephone, audio visual link or other form of communication;
   (b) If the witness is permitted to give evidence by audio visual link, setting the matter down for hearing in a court where audio visual link facilities are available.

6. In the case of a complainant who is an “affected child” such directions may include, but are not limited to, determining any application that the child be cross-examined and if so whether the child’s evidence is to be taken under Subdivision 3 or under Subdivision 4 of Part 2, Division 4A of the Act, and how it is to be taken.

7. Any summons for documents issued in respect of the matter is to be made returnable at the Direction Hearing.

8. The Prosecution and Defence must advise the Court in writing at the earliest possible time of any reasons why the matter cannot proceed on the date for which the committal proceeding is set down or the date on which the matter has been set down for a Direction Hearing under s83A of the Justices Act.

This Practice Direction will apply to all matters when the first Committal Mention Date is on or after 16 February 2004 and will operate until further notice.

Paragraphs 2(b) and 6 of the Practice Direction will only apply if an originating step as defined by s137 of the Act is taken on or after 5 January 2004.

Judge MP Irwin
Chief Magistrate
2 April 2004
EX OFFICIO CALLOVERS – EX OFFICIO INDICTMENTS

The purpose of this practice direction is to clarify the procedures in the Brisbane Central Magistrates Court concerning matters that will lead to the presentation of ex officio indictments in higher courts.

(1) In matters that are to proceed by ex officio indictment practitioners should indicate that course of action to the Magistrate at a Mention Day in Court 1, (“the Advice Date”).

(2) On the Advice Date, the Magistrate in Court 1 will remand the matter to Court 5 on a Monday eight (8) weeks ahead (“the Remand Date”). This will allow practitioners to liaise with the Office of the Director of Public Prosecutions (Qld) or other relevant prosecuting authority during this period, to ensure that agreement is reached on all issues, so that the matter is ready to proceed to sentence in the higher court, upon presentation of an ex officio indictment.

(3) On the Remand Date in Court 5 the following procedures will apply –

a) Upon advice from the parties that a certificate of readiness has been signed on behalf of the Director of Public Prosecutions, and by the legal representatives of the accused, confirming that the factual basis for the intended plea of guilty has been agreed upon, the Magistrate will remand the Defendant to an ex officio Callover Day in Court 1 at least twelve (12) weeks ahead.

b) If such a certificate of readiness has not been signed, the Magistrate will set the matter for a hand up committal in accordance with section 110A of the Justices Act 1886 in Court 5 on a date four (4) weeks ahead.

4). At the ex officio Callover Day in Court 1 –

a) If the ex officio indictment has been presented, the Magistrate must be informed that this course has been taken. The Magistrate may then discharge the Defendant on these matters.

b) If no ex officio indictment has been presented, the Magistrate will set the matter for a hand up committal in accordance with section 110A of the Justices Act 1886 in Court 5 on a date four (4) weeks ahead.

5). The time periods specified in this Practice Direction will not be extended except:

a) by the Chief Magistrate or Deputy Chief Magistrate;

b) on written application made by or on behalf of the Director of Public Prosecutions (Qld) or other relevant prosecuting authority; and

c) in special circumstances.

This Practice Direction will apply to all matters when the Advice date is on or after the 2 February 2004 and will operate until further notice.

Judge MP Irwin
Chief Magistrate
2 April 2004
APPENDIX 10 continued

No. 4 of 2004

RECORDING DEVICES IN COURT ROOMS
1. Except with permission of the Magistrate (and save, obviously, for recording by officers of the Court under the Recording of Evidence Act 1962), any device capable of capturing or transmitting the proceedings of the court, aurally and/or visually, is not to be used for that purpose in a court room where proceedings are being conducted.

2. In the event of breach, a person designated by the presiding Magistrate is hereby authorised to take possession of the device and delete any recording, should the Magistrate require that.

3. Mobile phones, laptop computers, personal digital assistants and similar devices are to be switched off or muted throughout court proceedings, so that calls, alerts or alarms do not interrupt the proceedings. Should such a device interrupt proceedings, a person designated by the presiding Magistrate is hereby authorised to take possession of the device, should the presiding Magistrate require that.

Judge MP Irwin
Chief Magistrate
2 April 2004

No. 5 of 2004

The Uniform Civil Procedure Amendment Rule (No. 1) 2003, was made by the Governor in Council on 15 May 2003.


The purpose of the Rule is to enable the electronic filing of documents in Magistrates Courts.

For the purpose of rule 975C(1)(c), in addition to those registries listed at item 4 of Magistrates Courts Practice Direction 1 of 2003, documents may also be filed electronically at the following Magistrates Courts registries on and from 10 May 2004:

Cleveland;
Noosa; and
Petrie.

BP Hine
Acting Chief Magistrate
29 April 2004