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The Australian Attorney-General's Department and Portfolio

The Australian Attorney-General's Department (AGD) serves the people of Australia by providing essential expert support to the Government in the maintenance and improvement of Australia's system of law and justice and its national security and emergency management systems.

The Department is the central policy and coordinating element of the Attorney-General's portfolio, for which the Attorney-General and the Minister for Home Affairs are responsible. With the change in government in late 2008, a new Ministry for Home Affairs was created, replacing the Ministry for Justice and Customs.

The Attorney-General, the Hon Robert McClelland MP, is the First Law Officer of the Crown. His portfolio also includes the statutory office of the Solicitor-General, who is the Second Law Officer of the Commonwealth, along with other related bodies and the following portfolio agencies:

- Administrative Appeals Tribunal
- Attorney-General's Department
- Australian Commission for Law Enforcement Integrity
- Australian Crime Commission
- Australian Customs Service
- Australian Federal Police
- Australian Government Solicitor
- Australian Institute of Criminology
- Australian Law Reform Commission
- Australian Security Intelligence Organisation
- AUSTRAC (Australian Transaction Reports and Analysis Centre)
- Criminology Research Council
- CrimTrac
- Family Court of Australia
- Federal Court of Australia
- Federal Magistrates Court
- High Court of Australia
- Human Rights and Equal Opportunity Commission
- Insolvency and Trustee Service Australia
- National Capital Authority
- National Native Title Tribunal
- Office of the Director of Public Prosecutions, and
- Office of Parliamentary Counsel

AGD's mission is **achieving a just and secure society**. In pursuing this mission, the Department works towards achieving three outcomes:

Outcome 1: An equitable and accessible system of federal civil justice

Outcome 2: Coordinated federal criminal justice, security and emergency management activity, for a safer Australia, and

Outcome 3: Assisting regions to manage their own futures.

Under the Secretary, Roger Wilkins AO, the Department is divided into five groups each of which is managed by a Deputy Secretary or General Manager. They are:

- Civil Justice and Legal Services Group
- National Security and Criminal Justice Group
- Corporate Services Group
- Information and Knowledge Services Group
- Financial Services Group.

An organisational chart for AGD is at **Annex 1**.

For further information on AGD and the Attorney-General's portfolio, please contact the Pacific Section:

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Australian involvement in the Pacific law and justice sector

Australian Government overseas aid

Through the Australian Agency for International Development (AusAID) and other agencies, Australia seeks to encourage a more integrated approach to law and justice in the Pacific, working through bilateral and regional programs. This includes:

- promoting approaches that seek to support the sector as a whole
- linking and strengthening both formal and traditional/informal justice systems
- cooperation between whole-of-government partners, governments and donors, and
- incorporating gender analysis into law and justice programs.

Australia's investment to improve law and justice in the Pacific continues through support to both regional and bilateral development work in the sector. AusAID supports policing projects at the regional level through the Pacific Regional Policing Initiative and bilaterally in Samoa, Tonga (under development), Vanuatu and Solomon Islands. In 2009 the Regional Policing Initiative will transition to the new Pacific Police Development Program, a joint initiative of the Australian Federal Police (AFP) and AGD.

AusAID is taking a more integrated approach to law and justice by supporting the broader sector through the Pacific Judicial Development Program, the Pacific Legal Information Institute and bilateral law and justice programs in Solomon Islands (as part of the Regional Assistance Mission to Solomon Islands (RAMSI)), Samoa (under development with the Government of Samoa) and Vanuatu. Australia provides \$30 million in assistance to the Papua New Guinea (PNG) Government's law and justice sectoral program. Additionally, Australia is engaged in an innovative Community Justice Program in Fiji that targets justice needs at the local level. The World Bank and AusAID are currently in the process of expanding their 'Justice for the Poor' program, which will improve integration between formal and informal approaches at the community level through both bilateral and regional projects in the Pacific and East Asia.

The small grants scheme of AusAID's Law and Justice Program is also funding the inaugural Samoa Law Society and Judiciary Workshop/Seminar to be held from 12-14 December 2007. The Workshop is designed to be a step towards establishing a continuing legal education program for private and public sector lawyers in Samoa. The Attorney-General of Samoa, members of the Samoan judiciary and public and private sector lawyers will attend the Workshop. AGD will present papers and field questions on private international law and copyright law and attend for the duration of the Workshop.

In PNG, AusAID's Law and Justice Program is supporting a comprehensive program to improve the efficiency of the court system. Judicial development is a key component of this support. AusAID supports a professional development program for judges and magistrates focusing on judgement writing and ethics. The development of AusAID supported partnerships between the PNG judiciary, the Judicial Commission of New South Wales and the National Judicial College of Australia has enhanced these programs. The partnerships involve Australian judicial officers training and mentoring their PNG counterparts.

AusAID's assistance is also improving the judiciary's access to legal information through enhanced access to PNG legislation, court decisions and related material including online on PacLII.

AusAID support is also leading to improving the quality of training provided to new lawyers through support to the Legal Training Institute (LTI). LTI has now expanded its curriculum to include new courses on mediation, civil law and advocacy skills training. Students are also able to put their new skills into practice through participating in the LTI's Legal Aid clinic recently established through AusAID support.

Through the Vanuatu Legal Sector Strengthening Project Australia provides support to Vanuatu's State Law Office, the Public Prosecutor's Office and the Public Solicitor's Office since 2000. The project aims to improve public access to, and confidence in, the justice system of Vanuatu. Mechanisms will be put in place to access training and technical assistance funds to meet priority needs. All activities aim to ensure the long-term sustainability of all three offices.

AusAID commissioned a Mid Term Review in July 2008 which also looked more broadly at Vanuatu's law and justice sector. The purpose of the review was to assess the contribution of the Vanuatu Legal Sector Strengthening Project to Vanuatu's law and justice sector since 2000 and to identify opportunities for maximizing the effectiveness of ongoing support.

The Vanuatu Police Force Capacity Building Project aims to improve crime prevention and detection through improved police and community relations. AusAID is implementing the project with technical support from AFP. The project has resulted in an increased visible police presence and an extended reach of police operations in Port Vila, Luganville and some islands. The project re-established the Force Training Wing and recruits have joined the Vanuatu Police Force for the first time since 1997, with 60 new police joining in 2006, of which 16 were women.

A Mid Term Review of the Project is planned for the second week of December 2008 aimed at assessing the contribution of the Project to Vanuatu's law and justice sector and identifying opportunities for maximising the effectiveness of ongoing support.

Strongim Gavman Program

The Governments of PNG and Australia agreed at the April 2008 Ministerial Forum in Madang to implement the Strongim Gavman Program (SGP), a revised successor to the Enhanced Cooperation Program (ECP).

Similar to ECP, the SGP is a whole-of-government engagement program involving ten Australian Government agencies and counterpart PNG Government agencies. Senior Australian Public Service officials are placed in PNG Government agencies for two to three years to provide specific public service technical assistance, advice and capacity development.

The SGP builds on the strengths of ECP and will have a capacity building focus with an emphasis on skills transfer, identifying PNG counterparts who will be mentored by Australian Government officials and clear linkages to twinning and short-term staff exchanges. It also builds on program management arrangements that reflect the signing of the PNG Commitment on Aid Effectiveness.

PNG and Australian officials in Port Moresby are currently working in partnership to progress the SGP Implementation Plan endorsed by the Ministerial Forum. This Plan sets out a series of actions and accountabilities for the transition period from ECP to SGP (to be completed by December 2008).

Law and justice remains a priority sector under the new program. While the full program of support to the sector has yet to be finalised, SGP officials will remain in the Office of Public Prosecutor assisting with prosecutions including support for Leadership cases under the Leadership Code, supporting continuing legal education programs for lawyers, mentoring senior managers and advising on matters relating to international crime.

SGP officials will also continue to work with the Department of Justice and Attorney-General (DJAG) with a particular focus on supporting the effective functioning of the Office of the Solicitor General in defending claims against the state. They will also support DJAG's legal policy branch to improve its general capacity to handle a wider range of legal policy issues including legislative development. This work is a fundamental component of DJAG's major organisational re-structure, which is being supported by AusAID's Law and Justice Sector Program.

Regional Assistance Mission to Solomon Islands

Australia remains firmly committed to supporting Solomon Islands achieve a more prosperous and secure future, through its bilateral assistance program and the Regional Assistance Mission to Solomon Islands (RAMSI). Australia is pleased with the close and cooperative working relationship between RAMSI and the current Solomon Islands Government, led by Prime Minister Sikua. At the 2008 Pacific Islands Forum Leaders' meeting in Niue, leaders noted the positive relationship that has developed between RAMSI and the Solomon Islands Government, and welcomed the progress made to date in developing a partnership framework.

In addition to strong government support for RAMSI, the 2008 annual People's Survey, an independent nationwide survey of Solomon Islanders, indicated continued popular support for the mission, with 89 per cent of survey respondents supporting RAMSI's presence in Solomon Islands.

National security, law and order remained stable over the last year, with no major civil disturbances or security incidents and no reports of gun-related crime. Leadership, planning and sound management by the Solomon Islands Police Force, supported by the Participating Police Force and Combined Task Force, ensured that the Parliamentary vote of no confidence and change of government in December 2007 did not give rise to violence. The 2008 People's Survey indicated a general perception of security improving in the country. The number of people who thought violence would return if RAMSI left declined from 54 per cent in 2007 to 46 per cent in 2008.

With the completion of a number of tension trials (31 completed, six outstanding), the focus in the justice sector is on the longer term. All legal institutions are now headed by Solomon Islanders and the number of expatriate lawyers in Solomon Islands' public offices has reduced. The *Correctional Services Act 2007* came into force in April 2008 and sets a new direction for the Correctional Services of Solomon Islands (CSSI). In a series of moves to strengthen institutional capacity, the positions of Superintendent Operations (Security) and Superintendent Operations (Accommodation) were localised. Median remand times at Rove Central Prison reduced from 14.5 months in June 2007 to four months in June 2008, and the CSSI was judged to be meeting UN Minimum Standards for the Treatment of Prisoners.

Australia welcomes the current Solomon Islands Parliament's Foreign Relations Committee Review of RAMSI. The Australia High Commission made a submission and appeared before the Review Committee on 16 September 2008. The Committee plans to report formally to the Solomon Islands Parliament in early 2009, and has close and cooperative relations with the Office of the RAMSI Special Coordinator. Many submissions to the Committee have questioned RAMSI's legal underpinning, in particular privileges and immunities for RAMSI personnel. Australia considers that RAMSI's legal framework is poorly understood.

The *Facilitation of International Assistance Act* (FIA Act) is the key Solomon Islands legislation that underpins RAMSI's presence in Solomon Islands. It reflects the RAMSI Treaty as agreed by Solomon Islands and contributing Pacific island countries in July 2003 and implements the RAMSI Treaty in Solomon Islands domestic law. It provides the basis for RAMSI's operations in Solomon Islands and grants the powers, privileges and immunities essential for the mission's effective functioning. It is important that RAMSI personnel continue to have immunities as provided under the FIA Act. The immunities applicable to RAMSI personnel reflect standard international and regional practice. Similar immunities are typically provided for international organisations and missions such as the United Nations operation in East Timor.

RAMSI immunities only cover conduct within official duties. RAMSI personnel are not immune for actions not connected or incidental to their official duties. The Solomon Islands High Court has found that these immunities are consistent with the

Solomon Islands Constitution, and do not infringe upon the fundamental rights and freedoms provided for under the Constitution. Removal of these core legal protections would mark a significant departure from both international and regional practice. Any amendment to the RAMSI Treaty to mirror changes to the FIA Act would require fresh agreement by the fifteen contributing Pacific island countries, as outlined in the 2007 Pacific Islands Forum RAMSI Task Force report.

RAMSI has made considerable gains and will continue to work with the Solomon Islands Government to build the country's capacity to manage and govern its own affairs. Indigenous capacity development is firmly the focus of RAMSI's work. It is important to note, however, that significant new gains by RAMSI are unlikely to be delivered as quickly as successes to date, as capacity development requires a long-term commitment.

Combating corruption

Corruption continues to be a major impediment to economic growth, poverty reduction and aid effectiveness in the Asia-Pacific region. Corruption also has a disproportionate impact on the poor. The Australian Government is strongly committed to addressing corruption through Australia's international development assistance program. In 2008-09, ongoing funding of an estimated \$15 million is being spent on specific anti-corruption initiatives through key country and global programs. Wherever possible Australia works closely with partner governments to support their own efforts to tackle corruption and improve transparency and accountability in government.

Australia's *Anti-Corruption for Development Policy: Tackling Corruption for Growth and Development* (March 2007) provides a framework for planning, resourcing and reviewing anti-corruption activities on a country and global basis. This policy was developed by AusAID with contributions from AGD, AFP and other Australian Government agencies. The policy focuses on three mutually reinforcing elements:

- building constituencies for anti-corruption reform: working with leaders and institutions in partner countries to foster good leadership and working with coalitions and communities to increase demand for anti-corruption reforms
- reducing opportunities for corruption: working to improve public financial management and procurement systems, as well as support for developing effective legal and regulatory frameworks so that corrupt activities are more difficult to undertake, and more easily identified and prosecuted, and
- changing incentives for corrupt behaviour: supporting the development of both positive and negative incentives to discourage leaders, public officials and those in the private sector from engaging in corruption. These include strengthening investigation and prosecution capabilities as well as developing merit and performance systems within the public service.

Australia requires Anti-Corruption Action Plans for all country programs, and priority has been given to establishing plans and support for high priority anti-corruption activities in Indonesia, the Philippines, East Timor, PNG, Solomon Islands and Vanuatu. In East Timor, Australia supports the capacity development of law and justice oversight institutions and non-governmental organisations working in the justice sector. In PNG, Australia is assisting in strengthening audit and accountability systems.

This anti-corruption work builds on existing support for effective governance. In 2008-09, approximately 22 per cent of Australia's estimated \$3.7 billion in international aid will be spent on governance activities.

Separate from Overseas Development Assistance, Australia provides direct training and assistance to improve governance in the Pacific. This includes:

- financial investigation training and the identification and seizure of the proceeds of crime
- developing law and justice leadership capacity in the Solomon Islands, Timor-Leste, Nauru, Tonga and Vanuatu
- supporting improved public sector management in Vanuatu, Samoa, Kiribati, Tuvalu, Solomon Islands and PNG
- supporting accountability and oversight institutions in a number of Pacific countries, and
- the development of Pacific financial intelligence capability and information technology capacity.

Australia also supports key regional and global anti-corruption initiatives, including the implementation of the United Nations Convention against Corruption and the Organisation for Economic Cooperation and Development (OECD) Anti-Bribery Convention, a regional partnership with Transparency International, the Asian Development Bank–OECD Anti-Corruption Initiative for Asia-Pacific and the Asia-Pacific Economic Cooperation.

People Trafficking—Regional Cooperation

While this section primarily focuses on Australia's efforts against people trafficking, Australia is conscious of other forms of transnational crime within the Asia-Pacific region which fall under the umbrella of the *United Nations Convention against Transnational Organized Crime* (UNTOC) such as people smuggling, illicit timber trafficking and illegal fishing.

The Bali Process

Australia, with Indonesia, is co-founder and co-chair of the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*. The Bali Process brings participants together to work on practical measures to help combat people smuggling, trafficking in persons and related transnational crimes in the

Asia-Pacific region. At the United Nations Global Initiative to Fight Human Trafficking (UNGIFT) in Vienna in February 2008, Australia successfully brokered a side event on the Bali Process. Australia also funded representatives from Tonga and Palau to attend a UNGIFT regional workshop held in Bangkok in October 2007.

Assistance on people trafficking issues

Australia supports a number of aid projects in the region that aim to encourage cooperation on people trafficking issues, including on the prevention of trafficking, protection of victims of trafficking and on punishing offenders.

Attorney-General's Portfolio Assistance Programs in the Pacific

AGD's Pacific Section

AGD has recently established a new Pacific Section which offers Pacific island countries assistance to review, develop and draft police and criminal justice legislation as part of Australia's Pacific Police Development Programme.

The new team of legal policy advisors is available to assist with police and criminal justice policy and legislative issues. The team aims to work closely with local officials to provide tailored assistance, taking account of local needs and building local capacity. The Department can also provide legislative drafting assistance to implement the reforms identified through its Office of Legislative Drafting and Publication.

Assistance is available in a range of police and crime-related areas including:

- modernising legislation dealing with police forces, criminal offences and criminal procedures to take account of issues like drugs, transnational crime, advances in technology and modern practices
- updating other criminal justice legislation (for example, legislation governing prisons and coronial investigations), and
- strengthening international crime cooperation legislation including laws on mutual legal assistance, extradition, transfer of prisoners and proceeds of crime.

Each project is tailored to local needs. For example, assistance could include:

- advice, guidance and mentoring on policy issues and policy development
- assistance reviewing legislation and developing recommendations for reform
- legislative drafting to implement reforms
- working with local officers to implement reforms, and
- providing workshops and training for local officials.

The Pacific Section can assist where review or reform of priority areas would otherwise be difficult to carry out within existing resources. We also aim to build local capacity by working closely with local officials on legal policy and legislative projects.

Requests for assistance can be made:

- by writing to the Australian Attorney-General
- by contacting the Pacific Section at pacific@ag.gov.au, or

- through an Australian Embassy or High Commission.

The Section is already working with Tuvalu and the Pacific Regional Policing Initiative to review Tuvalu's police legislation. Officers are available to visit Pacific island countries, meet with agencies and stakeholders to discuss the assistance available and assist in the identification of suitable projects before a request is made.

AGD's Anti-Money Laundering Assistance Team (AMLAT)

AMLAT has continued to provide bilateral and regional assistance to countries in the Pacific to develop systems to combat money laundering and terrorist financing. Since December 2007, AMLAT has:

- continued to provide assistance to establish and strengthen financial intelligence units (FIUs) in PNG and the Solomon Islands
- provided training to Solomon Islands police and prosecutors in proceeds of crime and mutual assistance in November 2008 with the Australian Federal Police and the Commonwealth Director of Public Prosecutions
- delivered training to Solomon Island customs officials on border cash reporting with the Oceania Customs Organisation and UNODC
- developed new financial transaction reporting guidelines with the Solomon Islands and Vanuatu
- assisted Palau with the implementation of border currency reporting in June 2008
- arranged pairing placements for prosecutors from Vanuatu and the Solomon Islands with the Commonwealth Director of Public Prosecutions under a bi-annual pairing program – both were mentored in taking proceeds of crime action over two months
- provided ongoing mentoring to the Fiji Police on money laundering investigations
- delivered a regional workshop for Pacific financial intelligence units in June 2008 focussing on anti-money laundering risk assessment
- co-hosted a workshop on the regulation of non-profit organisations in the Pacific with the Asia-Pacific Group on Money Laundering, the IMF and the Pacific Anti-Money Laundering Program
- presented a workshop for FIUs and Transnational Crime Units with the Australian Federal Police in November 2008 in Sydney, and
- arranged training by the Australian Transaction Reports and Analysis Centre for several Pacific FIUs on the analysis of suspicious financial transactions in November 2008.

Over the next six months, AMLAT has a number of activities planned. These include:

- further assistance to FIUs in the region, including bilateral support and a regional workshop

- assistance to the Vanuatu and Tongan FIUs with stakeholder workshops
- training in AML compliance for several countries
- provision of mentoring support for police in Fiji, provision of in-country law enforcement training in PNG
- regional training for prosecutors, police and the judiciary on proceeds of crime, and
- continued work on the implementation of border currency reporting in the region.

AMLAT remains keen to work together with Pacific island countries to identify and address gaps in anti-money laundering and counter financing of terrorism systems.

South Pacific Precursor Control Forum Legal Workshop

On 30 September 2008, AGD and the Office of the Attorney General of Samoa held a South Pacific Precursor Control Forum (SPPCF) Legal Workshop in Apia, Samoa. This is the third SPPCF event hosted by Australia, following on from two successful meetings held last year in Australia and New Zealand. The broad aim of SPPCF is to support a regional approach to preventing the diversion of chemicals into synthetic drug production.

The workshop made significant advances in:

- facilitating a regional dialogue on the need for drugs legislation reform
- raising awareness of the threat of synthetic drug manufacture and trafficking, including the need for the regulation of chemicals to prevent diversion into illicit drug production, and
- highlighting the need for a whole of government response to illicit drug issues.

Participants identified gaps and vulnerabilities in current domestic drugs legislation and developed Action Plans for undertaking legislative reform to address these issues. These Action Plans will be an important reference tool for SPPCF members when progressing or promoting the need for legislative reform.

The importance of regional compliance with the United Nations drug conventions was recognised by participants in the workshop resolutions, as well as the need for adequate domestic legislation to address incidences of illicit drug trafficking manufacture and the diversion of chemicals into synthetic drug production.

The workshop was facilitated by officers of AGD's Criminal Justice Division and attended by representatives from Samoa, Vanuatu, Nauru, PNG, Palau, Tonga, Fiji and New Zealand. Representatives from the United Nations Office on Drugs and Crime, the Pacific Islands Forum Secretariat, the Pacific Islands Chiefs of Police and the Pacific Transnational Crime Coordination Centre also participated.

The workshop provided an excellent opportunity for policy and legal officers to build stronger relationships with their counterparts in other Pacific countries and with regional organisations. The positive feedback from participants indicates that the

workshop was very successful in providing a forum for participants to develop tangible measures to address illicit drugs issues.

It is expected that the next SPPCF event will be held in mid 2009.

AFP involvement in the region

The AFP has adopted a holistic strategy of Pacific engagement consistent with Australia's broader commitment to strengthening Pacific partnerships. The Australian Government recognises that Pacific island nations face ongoing rule of law challenges and understands that weak rule of law adversely affects human development and economic growth while increasing vulnerability to transnational crime and instability.

The AFP's International Network operates in four locations throughout the Pacific (Port Moresby, Suva, Honiara and Port Vila) where AFP officers work in close partnership with host country police services to combat regional and transnational crime. The AFP has an additional officer positioned in the Pacific Islands Chiefs of Police Secretariat in NZ.

The International Network also supports regional transnational criminal intelligence and investigative capabilities through the Pacific Transnational Crime Network. With the Pacific Transnational Crime Coordination Centre (PTCCC) in Samoa at its nucleus, the network is comprised of seven Transnational Crime Units (TCU) located in Fiji (Suva and Nadi), Samoa, Tonga, Vanuatu, PNG and the Federated States of Micronesia. These TCUs contribute to and receive criminal intelligence from the PTCCC. This network, while benefiting law enforcement efforts at a regional level, also provides valuable experience and development opportunities for those police officers seconded to the network and, in turn, the capacity of their respective police services.

The AFP International Deployment Group (IDG) is developing partnerships with all member countries of the Pacific Island Forum (except Fiji) in support of police capacity development and institutional reform. The AFP and the AGD will deliver the Pacific Police Development Program (PPDP) to support the development of Pacific police forces. Commencing from July 2008, the program will complement existing programs within Solomon Islands and Vanuatu and replace existing bilateral programs of support to Nauru and Samoa, in addition to facilitating a renewed program of support to PNG. A new regional policing program will further develop Australia's ongoing support to other members of the Pacific Island Forum, such as Kiribati, Tuvalu, Marshal Islands, Palau, Cook Islands, and Federated States of Micronesia, when the AusAID funded Pacific Regional Policing Initiative (PRPI) expires in December 2008.

This regional program will:

- have a strong emphasis on multilateral engagement and provide a regional framework for supporting Pacific police
- include a range of options for the enhancement of police engagement over the entire region

- facilitate organisational reform and institutional strengthening
- address human capacity issues such as vocational training and educational attainment, and
- provide support to Pacific Islands Forum countries but will expand to broader coverage through the development of relationships with other Pacific partners.

Under Phase 1 of the new PNG-Australia Police Partnership (PNGAPP) 11 AFP members will deploy to PNG as advisors to the Royal Papua New Guinea Constabulary (RPNGC). The first two members, including the mission Commander, commenced work in PNG in late September 2008. The full contingent of 11 members is expected to be in country by early 2009.

In addition to the PPDP, AusAID and the AFP have facilitated a \$2.6m program of support for the Tonga Police Force for 2008-09.

Overseas judicial assistance

Australian courts assist the Pacific, with current and former judges holding commissions in courts of Pacific countries. Assistance is also provided through workshops, judicial training, and other activities aimed at judicial development.

Federal Court of Australia Justice Michael Moore holds a commission as a judge of the Tonga Court of Appeal. Retired Federal Court Justices Burchett and von Doussa hold commissions in Tonga and Vanuatu respectively. Retired Federal Court or High Court Judges have held commissions as judges in jurisdictions in the Pacific, including Justices Sheppard and Davies in Fiji, former High Court Justice Toohey (Fiji and Kiribati), and former Chief Justices of the High Court Mason (Fiji and Solomon Islands) and Brennan (Fiji).

Representatives of the High Court and the Federal Court are involved in the Secretariat of the Asia Pacific Judicial Reform Forum, which is a network of superior courts and justice sector agencies from 49 countries across the Asia-Pacific region, including the Pacific. The Forum is currently developing a Judicial Reform Handbook, which will provide practical know-how based on an analysis of actual reform experiences from within the region.

Judicial officers from PNG and Solomon Islands participated in judicial orientation programs run by the National Judicial College of Australia with funding provided by AusAID through the PNG Law and Justice Sector Program and the RAMSI Law and Justice Program.

Federal Court of Australia assistance in the Pacific

The Federal Court has been involved in judicial development, education and support programs in the Pacific region since September 2005. The Pacific Judicial Development Program commenced in 2007. It is jointly funded by AusAID and NZAID. The Program aims to improve governance, the rule of law and access to

justice by increasing the professionalism of judicial and court officers and the systems and processes that they use. There are 15 participating Pacific Island countries, including the Federated States of Micronesia, the Fiji Islands, Kiribati, the Marshall Islands, Tonga and Vanuatu. The Federal Court assists in the delivery of the Program and has been working with countries in the South Pacific by providing workshops and training, assisting in the development of new policies and procedures and providing technical assistance.

Activities conducted as part of the program include:

- judicial orientation training in Kiribati and Nauru
- educators training workshop in FSM and Marshall Islands
- translation of benchbooks in Kiribati and Tuvalu
- assisted dispute resolution workshops in Samoa and the FSM
- family law workshops for judicial officers in the Marshall Islands
- decision-making workshops for judicial officers in the Cook Islands, Samoa and FSM
- court and judicial administration diagnostic work in Kiribati, Niue and Marshall Islands
- strategic planning for the Supreme Court of Tonga
- criminal law and civil law procedure training in Niue
- Regional Judicial Leadership Workshop, and
- a Regional National Coordinators Workshop.

Pacific Legal Knowledge Program

The Pacific Legal Knowledge Program (PLKP) has continued in 2008. In April 2008, AGD ran an International Crime Cooperation workshop in Brisbane. Presenters and mentors included representatives from the Australian Crime Commission, the Australian Customs Service, the Fiji Police Force, the New Zealand Police, New Zealand Crown Law, AGD, the AFP and the Commonwealth Director of Public Prosecutions.

The workshop brought together police officers and prosecutors from across the Pacific and aimed to increase awareness of pre-cursor drugs and enhance capacity to initiate and respond to proceeds of crime, extradition and mutual assistance matters. Police and prosecutors worked together throughout the workshop; this facilitated communication and strengthened relationships between agencies, both domestically and internationally. Thirty-seven delegates representing all Pacific Islands Forum member countries participated in the workshop.

The workshop was based around a hypothetical scenario where delegates launched mock proceeds of crime action relating to a suspicious importation and exportation of pre-cursor drugs. As part of the Workshop police delegates charted the hypothetical

scenario, drafted investigation plans and drafted affidavits. Legal delegates, with the support of their police colleagues, drafted court applications and supporting documents under their own domestic legislation. They then presented these applications before sitting judges in Queensland. Police and legal delegates also used the hypothetical pre-cursor scenario to draft mutual assistance and extradition requests.

In 2007, AGD developed the Legislative Drafting Pairing Program as part of the PLKP. The program involves a Pacific island drafter undertaking a placement with AGD's Office of Legislative Drafting and Publishing in the Attorney-General's Department. The purpose of the placement is to improve the drafter's knowledge and capacity in drafting, through practical experience, training and mentoring. AGD funds travel, accommodation and living expenses while the legislative drafter takes part in the program. An officer of the Attorney General's Office of Tuvalu participated in the Pairing Program, spending 12 weeks in the Department from February to May 2008. An officer from Tonga's Crown Law Department is currently undertaking a placement with the Pairing Program, spending 12 weeks in the Department from September to December 2008.

If funding allows it is planned to continue hosting two placements per year.

Legislative drafting services

The Office of Legislative Drafting and Publishing (OLDP) within AGD is funded to draft Commonwealth regulations, proclamations and rules of court. The OLDP undertakes other drafting work and training—including for PILON members—subject to workload and funding.

Over the last year, OLDP has undertaken several projects in support of the Action Plan for Sustainable Legislative Drafting Capacity Building endorsed by Pacific legal drafters and stakeholders in November 2006. These projects fall into two broad categories:

- General support for capability-building initiatives: OLDP has offered to assist the University of the South Pacific (USP) to present its Diploma in Legislative Drafting course. This assistance has not been required to-date. An OLDP drafter presented a five-day legislative drafting course to Samoan Government officials in August 2008. This course was held in Samoa and funded by New Zealand Aid.
- Targeted support for individual Pacific drafters and drafting offices under the PLKP Legislative Drafting Pairing Program.

OLDP is seeking ongoing funding to enable the provision of more timely and strategic assistance. If granted, this assistance would be used to continue and expand the above activities; provide drafters for projects that are beyond the capacity of local drafting offices; and support PacLII/AustLII to work with individual nations to build a comprehensive online repository of key legal documents.

Twining of Law Libraries Program

In 2007, the Information Services Branch of AGD agreed to take on the role of coordinator of the Pacific Law Libraries Twining Program. As such, AGD's Lionel Murphy Library provides information, guidelines and assistance to the 23 Australian Government agencies that are 'twinned' with 14 agencies and libraries within the Pacific law and justice sector. This program provides assistance with library materials, legal research, skills transfer and training.

The program includes a yearly scholarship funded by the Australian Law Librarian's Association for a Pacific Law Library staff member to spend time in an Australian law library and attend the association's annual conference. The conference was held in Perth and this year's scholarship winner was the Republic of Nauru Department of Justice Librarian.

To provide support to AGD's own 'twinned' agencies, staff from the Information Services Branch travelled to Samoa and Tonga in April 2008 to conduct Word, Excel and legal research training. The legal research training was undertaken in conjunction with PacLII to promote the Pacific Legal Gateway. The training was held over one week in each jurisdiction and was delivered to both public and private legal sector staff, including legal professionals, judiciary, para-professionals, court staff and law enforcement officers with approximately 130 attendees. A review of the record keeping activities of the Samoa Attorney-General's Office was undertaken by a staff member from the Information Service Branch during April. A report including 23 recommendations has been provided to the Office.

Commonwealth Director of Public Prosecutions

Meeting of Australian and Pacific Chief Prosecutors

The second meeting of Australian and Pacific Chief Prosecutors was held in Sydney in June 2008, following a successful meeting last year. The meeting was co-hosted by the CDPP and the NSW Office of the Director of Public Prosecutions. The meeting brought together the heads of prosecution services and senior prosecutors from ten Pacific Island Forum countries, as well as the heads of four of Australia's State and Territory prosecution services.

Participants committed to maintaining and strengthening a Pacific Prosecutor's Network, recognising the benefits of closer liaison between prosecutors, particularly in relation to emerging areas such as money laundering and proceeds of crime action.

The meeting identified the fundamental importance of conducting prosecutions in accordance with a Prosecution Policy and the importance of the prosecution discretion being exercised consistently in accordance with an articulated test. Participants analysed the important elements of effective case management systems and their potential application in the Pacific environment of agencies operating with limited resources.

The meeting also affirmed the importance of developing effective working relationships with client agencies and identified strategies to assist with developing and maintaining these relationships. Support for the meeting was provided by AusAID through its Pacific Governance Support Program.

Prosecutors' Pairing Program

The Prosecutors' Pairing Program is a joint initiative of the CDPP and AGD's Anti-Money Laundering Assistance Team (AMLAT) which places a prosecutor from a Pacific Islands Forum country in one of the CDPP's proceeds of crime teams. The purpose of the program is to strengthen the capacity of prosecution services in Pacific countries to conduct effective proceeds of crime action, through practical experience, training and mentoring. In 2007–2008 the program included the following three placements:

- a prosecutor from the PNG of the Public Prosecutor was based in the Criminal Assets Branch of the Brisbane Office for a period of three months
- a prosecutor from the Vanuatu Office of the Public Prosecutor was based in the Criminal Assets Branch of the Melbourne Office for a similar period, and
- a prosecutor from the Solomon Islands Office of the Director of Public Prosecutions commenced a two-month placement with the Criminal Assets Branch of the Brisbane Office on 18 June 2008.

CDPP cases of interest

Money Laundering: Peter Clarence Foster

This matter involved fraud on an overseas bank with money being laundered to Australia. It involved assistance from the Republic of Fiji and the Federated States of Micronesia.

In 2006, the defendant, acting on behalf of a company called Kai Viti Liku Beach Ltd ("KVLB"), obtained a loan of USD\$580,000 from the Bank of the Federated States of Micronesia. The loan was by way of a line of credit and was secured by a mortgage over a leasehold property owned by KVLB in Fiji. The purpose of the loan was to develop the leasehold property as a resort.

It was agreed as a condition of the loan that before the funds could be drawn down KVLB was required to supply written instructions with documentation from the third party payees. On nine occasions between 4 August 2006 and 13 October 2006 the defendant sent email requests to the bank to pay three third party entities, reportedly doing work on behalf of KVLB in development of the resort.

No work was performed by these entities for the resort. The bank acted on the applicant's misrepresentations and forwarded funds, at the defendant's direction, to accounts in Australia. Eight of the nine payments forwarded to Australian accounts were used for expenses not associated with the resort development and the ninth payment was returned to the bank after steps were taken to recover it.

The defendant pleaded guilty to an offence of money laundering a total amount of \$306,772.58 which related to the fraud committed by the defendant on an overseas bank which was then transferred from the proceeds of foreign indictable offences to Australia. On 7 December 2007 the defendant was sentenced to 4 ½ years imprisonment with a non-parole period of 2 years and 3 months. The defendant's appeal to the Queensland Court of Appeal against the severity of the sentence was dismissed.

Child Sex Tourism: Frederick Arthur Martens

The defendant was an Australian pilot who flew planes carrying passengers and cargo to and from Bensbach Wildlife Lodge in the Western Province of PNG. He had a business relationship with a traditional land owner of that area and had offered to arrange for the education of his 14-year-old daughter in Australia. The defendant flew the girl to Port Moresby where he took her to a club and then back to his house in Port Moresby where he had sexual intercourse with her on a date between 10 September and 16 September 2001. The girl was a virgin at the time.

After the incident the defendant took the girl to her father who was staying in Port Moresby and returned to see whether the girl would fly with him back to the Western Province, but she refused. The defendant later returned to the Western Province where he again contacted the girl and asked if she would come to Australia with him, but she refused and he retained her passport.

The matter was referred to the AFP by the PNG police. The defendant pleaded not guilty and required full evidence from all witnesses, including a number of witnesses from PNG, at both the committal and the Supreme Court trial. He denied having sexual intercourse with the girl.

A jury found the defendant guilty of engaging in sexual intercourse with a person who was under 16 years old, while outside Australia, contrary to section 50BA of the *Crimes Act*.

On 30 October 2006 the defendant was sentenced to five and a half years imprisonment with a non-parole period of 3 years.

The defendant appealed against both his conviction and his sentence. On 20 April 2007 the Queensland Court of Appeal dismissed the appeal against conviction and refused leave to appeal against sentence.

Australian Law Reform Commission

Australasian Law Reform Agencies Conference (ALRAC) 2008 in Vila

Five ALRC Commissioners and staff attended this year's ALRAC meeting in Port Vila, Vanuatu, on 10-12 September 2008. Over 80 delegates attended the conference, which was organised by USP Law School, and involved a large number of delegates from Pacific island nations, including Vanuatu, PNG, Solomon Islands, Samoa, Kiribati and Nauru. Key issues included the role of customary laws and human rights

in the Pacific region, the importance of community participation in law reform processes, and collaboration between law reform bodies. ALRC President Professor David Weisbrot spoke on regional cooperation (with an emphasis on the ALRC's relationship with PNG and Solomon Islands law reform bodies) and Research Manager Jonathan Dobinson spoke about the role of information technology in legal research. The papers are available at <<http://www.paclii.org/>>. At the conference it was decided to establish a listserv to facilitate collaboration among law reform agency executive officers in the Asia-Pacific region, Canada and the United Kingdom.

Solomon Islands Law Reform Commission

The ALRC hosted a study visit by the Executive Officer and three Legal Officers from the Solomon Islands Law Reform Commission (SILRC) from 27 November – 6 December 2007. Workshops and information sessions were presented by ALRC Commissioners and staff on the history, role and functions of the ALRC; communications and publications; research functions; legal research techniques; management issues; running a law reform inquiry; and writing law reform publications. The ALRC also arranged for the SILRC participants to visit other state and federal government agencies. During 2008, the ALRC provided regular advice and information to the SILRC.

PNG Constitutional and Law Reform Commission (PNG CLRC)

Following an earlier study visit in Sydney, ALRC President Prof David Weisbrot and Research Manager Lani Blackman travelled to Port Moresby in Feb 2007 to provide training and expert advice to the Chair, members and staff of the PNG CLRC. The presence of the President—a former Dean of Law at UPNG—attracted significant local media attention, and helped to promote within PNG the concept of law reform, and boost the profile of the PNG CLRC. In 2008, the ALRC has continued to provide regular advice and information to the PNG CLRC.

Other activities

The ALRC takes an active interest in law and development issues in the Pacific region and is committed to exploring opportunities to provide assistance to the region. The ALRC President attended a presentation by Dame Carol Kidu, PNG Minister for Community Development, on 'The Power of partnerships in addressing Papua New Guinea's social challenges', in Sydney in May 2008. In July 2008, Prof Weisbrot met with UN Ambassadors the Hon Robert Aisi (PNG) and the Hon Robert Hill (Australia), to brief them on the ALRC's recent work program and activities, especially in relation to the Pacific region. In 2008, the ALRC has provided publications and legal materials to the National University of Samoa, and to the new Samoa Law Reform Commission.

International Legal Developments

International crime cooperation

Extradition and mutual assistance reviews

Australia's Country Report for 2007 noted that Australia was conducting major policy reviews of its international extradition and mutual assistance in criminal matters arrangements. The Australian Government is considering options to improve Australia's extradition and mutual assistance legislation in order to strengthen Australia's ability to combat transnational crime. The proposals for change are directed to reducing delays, and enhancing Australia's ability to cooperate with other countries in fighting crime.

International crime cooperation treaties

Australia considers having effective arrangements in place for crime cooperation between countries to be a high priority. In the past year, Australia signed treaties with India on extradition and mutual assistance and with Vietnam on the transfer of prisoners. These treaties will come into effect when both countries have completed their respective domestic processes for entry into force. For Australia, this involves tabling the treaties in Parliament, review by a parliamentary committee and the making of regulations. Australia also continues to progress an extensive program of bilateral negotiations on extradition, mutual legal assistance and prisoner transfer treaties that was approved by the new Government during the year.

Supporting ratification of the International Criminal Court Treaty

Building on a successful regional seminar on this issue last year, Australia has taken opportunities to provide information to countries in our region about the International Criminal Court, and encouraged their participation in the Court. Australia is open to exploring further opportunities to assist countries in our region to enhance their criminal justice legislation, including assistance to implement the Rome Statute within their domestic legal systems.

Private international law

Activities of the Hague Conference on Private International Law

In September 2008, the Permanent Bureau of the Hague Conference and the Hong Kong Special Administrative Region of the People's Republic of China jointly hosted the 3rd Asia Pacific Regional Conference of the Hague Conference. Delegates from 27 Asia Pacific countries discussed the latest work of the Hague Conference and the implementation and operation of Hague Conventions in the Asia Pacific. The Regional Conference built on the Regional Meeting hosted by Australia in June 2007. Participants agreed that the Conference was a great success.

Australia plans to participate in the Hague Conference Special Commission on the practical operation of the Hague Apostille, Service, Evidence and Access to Justice Conventions, to be held in February 2009.

The Hague Convention on Choice of Court Agreements 2005

Australia has commenced consultation on the possibility of acceding to this Convention. The Convention provides for the recognition of exclusive choice of court agreements in business-to-business contracts and the recognition and enforcement, in participating countries, of judgments made by a chosen court.

Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters 1965

The Standing Committee of Attorneys-General has agreed on the final steps necessary for Australia to accede to this Convention. Australia plans to commence formal procedures to accede in early 2009. The Convention will establish streamlined and effective channels of transmission for documents for service in trans-national litigation.

Trans-Tasman treaty on Court Proceedings and Regulatory Enforcement

On 24 July 2008, Australia and New Zealand signed the Agreement between the Government of Australia and Government of New Zealand on Trans-Tasman Court Proceedings and Regulatory Enforcement. The treaty provides a more streamlined approach to the service of process, broadens the range of judgments that can be registered and enforced in the two countries, and supports the wider use of teleconference and video link technology.

The reforms are designed to reduce barriers to trade and provide a more effective and cheaper avenue for resolving disputes between businesses and individuals in the two countries. Both countries are currently working on domestic legislation to implement the treaty obligations.

Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption 2003

Australia is committed, as a party to the Convention, to following Convention principles to ensure intercountry adoptions take place in the best interests of the child. Although not all countries with which Australia has adoption programs are

signatories, the Australian Government works to ensure that all programs meet Convention standards.

The Fiji–Australia program was established in 1986 and operates under a bilateral agreement (as Fiji is not a signatory to the Convention). While the program is small, Australia is committed to assisting Fiji to find families for children in need. In 2006, the Fijian Department of Social Welfare advised that new policies were being developed for the delivery of children’s care services. In accordance with the Convention, Australia fully supports these efforts to enable children to remain with their families or in the care of their country of origin.

Criminal Justice in Australia

Federal Criminal Justice Forum

The Federal Criminal Justice Forum was held in Canberra on 29 September 2008. As the Minister responsible for federal criminal justice, the Minister for Home Affairs convened the Forum to enable a wide range of voices to be heard in formulating ideas for reform. The Forum brought together a diverse group of over 150 participants from the judiciary, the legal profession, law enforcement and government, academia, business, unions and community organisations.

Ideas raised during the forum included simplifying extradition and mutual assistance procedures, implementing recommendations from the ALRC's 2006 report on sentencing, and discussion around the need to redress Indigenous disadvantage in the criminal justice system by coordinating efforts at the State, Territory and Commonwealth levels.

Over the coming months, the Minister will consider which proposals raised during the day and during the pre-Forum activities can be taken forward. The Minister will make public his reform priorities for the next year or two and how these draw on the proposals raised at the Forum.

Identity Crime

On 28 March 2008, the Standing Committee of Attorneys-General released the Model Criminal Law Officers Committee's (MCLOC) Final Report on Identity Crime. The Report recommended that all jurisdictions enact legislation containing specific identity crime offences. In addition, MCLOC recommended that victims of identity crime be able to obtain a certificate from their local or magistrate's court, stating that they were victims of identity crime. Victims may then use these certificates to mitigate the effects of the identity crime; eg to assist them to re-establish their credit history. The Government is considering MCLOC's recommendations.

Victims of crime

The Minister for Home Affairs, the Hon Bob Debus MP, announced a range of measures to support and empower victims of Commonwealth crime in February 2008. These reforms include provision for victim impact statements in the sentencing of federal offenders, protections for vulnerable and disadvantaged witnesses, and a Charter of Victims' Rights. The scope of Commonwealth criminal law has expanded over recent years to include a wide range of offences that have identifiable victims, including child sex tourism, sexual servitude, people trafficking and terrorism.

In the past, the Commonwealth has relied on the protections that exist at the State and Territory level. Implementing these reforms will resolve the inconsistencies between State and Territory provisions when hearing Commonwealth criminal matters.

Counter-terrorism

Australia's counter-terrorism arrangements involve State and Territory Governments and most law enforcement, security, intelligence, emergency management and justice agencies. Its activities focus on prevention, preparedness, response and recovery mechanisms, as well as better communication and decision-making matrixes.

Recent counter-terrorism cases

Since PILON last met, a number of high profile Australian counter-terrorism prosecutions have concluded. The case of *R v Benbrika & ors*, an 8 month trial that involved 13 accused, concluded in September in Melbourne. It was the first time a number of the Commonwealth terrorism offences had been prosecuted. Overall, the trial resulted in the conviction of eight men. Two further related trials will commence in 2009. The case of Mr Bilal Khazaal also concluded in September 2008, with the defendant being found guilty of making a document in connection with the engagement of a person in a terrorist act.

Listing of terrorist organisations

In 2008, Australia has re-listed seven organisations as terrorist organisations under the Criminal Code as the Attorney-General continued to be satisfied on reasonable grounds that the organisations are directly or indirectly engaged in preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur). The re-listings ensure that all offence provisions under the Criminal Code continue to apply to these organisations.

Federal Sentencing Review

The Department is undertaking a review of federal sentencing legislation in response to the 2006 Australian Law Reform Commission report, *Same Crime, Same Time: Sentencing of Federal Offenders*. The Department is developing detailed proposals for sentencing and offender management reform. The focus of the reforms is the development of a coherent and comprehensive set of principles to be applied in sentencing, administration and release of federal offenders. The reform package will draw on the ALRC recommendations, as well as consultations with States and Territories, interested groups and individuals outside of government.

The main element of the current reform package is a separate federal Sentencing and Offender Management Act. The Act will consolidate all provisions that deal with the sentencing, administration and release of federal offenders, and will:

- clarify a range of technical sentencing issues
- enact streamlined and practical provisions for the release of federal offenders
- ensure federal juvenile offenders are treated consistently around Australia

- provide additional sentencing options for corporations, and
- create more efficient laws and processes for the enforcement of Commonwealth fines.

People trafficking—domestic measures

Australia ratified the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* in 2005. Australia has a whole-of-government anti-people trafficking strategy that includes a strong focus on regional cooperation.

Following an initial commitment of \$20 million in 2003, the Australian Government announced an additional \$38.3 million in May 2007 for anti-people trafficking measures. The funding is aimed at increasing Australia's capacity to prevent, detect, investigate and prosecute people traffickers and support victims of people trafficking. This includes:

- dedicated AFP teams to investigate people trafficking operations
- visa arrangements for potentially trafficked persons
- victim support measures to assist victims of trafficking
- specialist immigration officers posted in the region to prevent trafficking in source countries
- improved legislation to combat trafficking in persons
- increased regional cooperation to combat people smuggling and trafficking in persons
- support for the Commonwealth Director of Public Prosecutions to prosecute trafficking matters
- research into trafficking trends in our region, including labour trafficking, and
- return and reintegration support for victims of trafficking returning to their countries of origin.

Since Australia's last PILON country report in 2007, the Australian Government has also strengthened relationships between NGOs and the Government. In June 2008, the Minister for Home Affairs convened the first meeting of the National Roundtable on People Trafficking, which brings together representatives from government and non-government agencies to discuss and resolve issues in people trafficking. In October 2008, the Minister for Home Affairs also announced over \$1 million in funding to support the work of a number of key anti-people trafficking NGOs in Australia.

The High Court also handed down its decision in the *R v Wei Tang* matter on 28 August 2008, upholding the slavery conviction of Melbourne brothel owner Wei Tang. The Court's decision confirms the validity of Australia's federal slavery offences.

A key challenge for all countries is accumulating high quality, current data on trafficking. The Government has provided \$2.4 million over four years for the Australian Institute of Criminology to conduct research to monitor trends in human trafficking in the Asia-Pacific region. The Pacific, as a region, is not immune to the threat of transnational crime, as demonstrated by the recent people trafficking case in Palau. Recently, the AIC held a Pacific roundtable in Apia, Samoa, on 21 and 22 August 2008. The aim was to bring together government agencies, non-government organisations and academics from New Zealand, Fiji, Samoa, Solomon Islands, Thailand and Palau to discuss trafficking in persons and other relevant issues in the Pacific region. Key priorities identified at the conference were:

- evidence-based research guiding policy within the region
- improved information sharing to avoid duplication of work
- the importance of interagency collaboration, as well as government and non-government collaboration where possible within the region
- establishing regional definitions on the distinction between trafficking and smuggling, and
- the need to collect data more rigorously in the Pacific with clarity around definitions.

Civil Justice in Australia

Australian Law Reform Commission (ALRC)

Secrecy laws

In August, the Attorney-General of Australia asked the ALRC to review laws and practices on the protection of Commonwealth information, including those relating to secrecy and confidentiality. The ALRC is required to deliver its final report by 31 October 2009.

Information Privacy

The ALRC's review of the *Privacy Act 1988* (Cth) culminated on 11 August 2008 with the launch of the three volume report *For Your Information: Australian Privacy Law and Practice* (ALRC 108). The report is the product of the largest public consultation program ever undertaken by the ALRC, and contains 295 recommendations for reform. Key recommendations include: simplification and greater harmonisation of Australian privacy laws; limiting the number of exemptions; increased enforcement powers for the Privacy Commissioner; the introduction of data breach notification laws and a statutory cause of action for a serious invasion of privacy; a more comprehensive credit reporting regime; and new rules for regulating cross-border data flows.

Client Legal Privilege

The ALRC examined the application of client legal privilege (a.k.a. legal professional privilege) within the context of federal investigations and Royal Commissions. The final report, *Privilege in Perspective* (ALRC 107), was tabled in Parliament in February 2008. The central theme of the ALRC's recommendations is that client legal privilege is a doctrine of fundamental importance in the common law, and should only be abrogated or modified in exceptional circumstances. As the problems arising are often matters of practice and procedure, the ALRC also recommends a framework for making and resolving claims of privilege in federal investigations.

Intellectual property

The Australian Government is addressing intellectual property (IP) enforcement through a multi-pronged approach that includes effective laws; enforcement action; coordination between law enforcement, government agencies and IP industries; strong border control measures; public awareness; and international cooperation.

In 2007, the AFP and the CDPP received a \$12.4 million funding package over two years to enable them to more effectively target trade mark counterfeiting and copyright piracy. This funding has resulted in an increase in IP crime investigations, prosecutions and related proceeds of crime actions. There have been developments in

intelligence gathering, as well as in cooperation activities between law enforcement, Government agencies and industry. The Australian Federal Police has also engaged in international cooperation and capacity building activities in the Asia-Pacific region through the appointment of an Asia-Pacific IP Project Officer, and the hosting of an IP Crime Workshop in Bangkok in June 2008. A second workshop is planned to be held in Hong Kong in November 2008.

These new initiatives are in addition to the ongoing work of interdepartmental committees and stakeholder forums to improve cooperation and strategies on IP enforcement issues.

The Australian Government is also aware of the key importance of addressing public attitudes to IP as a means of reducing infringement. In August 2008, AGD and Crime Stoppers Australia released an animated educational video as part of a campaign to raise awareness about copyright and, in particular, the impact on the music industry. The video was launched together with a schools competition and was designed to educate students aged 9-15 years about copyright laws and foster respect for the effort that is invested in creative products.

In recognition of the trans-national nature of IP crime Australia remains active in the international arena, with involvement in a number of multilateral fora including the Asia-Pacific Economic Cooperation, the World Trade Organisation Trade-Related Aspects of Intellectual Property Rights Council and the World Intellectual Property Organisation. Australia is also currently engaged together with a large number of other countries in the negotiation of the proposed plurilateral Anti-Counterfeiting Trade Agreement which aims to develop standards to address the growth in piracy and counterfeiting worldwide.

Disability discrimination

Australia has had national disability discrimination legislation since 1992. Various changes have been progressively made to develop the legislation and the overall policy to help ensure that people with disabilities are given assistance and treated with dignity, respecting their human rights.

In July, Australia ratified the *Convention on the Rights of Persons with Disabilities* which came into force in April this year. The Disabilities Convention focuses on the human rights of people with disabilities and measures to have these respected and enforced. Consistent with provisions in the Convention to provide more focus in development assistance on disability the Government has committed \$45 million over two years to address avoidable blindness and develop a comprehensive disability strategy to guide Australia's aid program. The draft strategy can be found at www.usaid.gov/Keyaid/pdf/draft_disability_strategy_09to14.pdf.

AusAID provides funding support to the Asia Pacific Forum (APF), which seeks to promote human rights in Asia and in the Pacific. The APF was involved in the development of the Convention. In early 2009, the APF, in conjunction with the United Nations, will hold a regional workshop of Pacific States to examine the establishment of national human rights mechanisms to implement and monitor

international and domestic human rights obligations, including those contained in the CRPD.

The objectives of the Convention provide the benchmark for a new National Disability Strategy in Australia. The Australian Government is also developing Standards for access to premises which will make it clear how buildings and their surroundings should be upgraded to allow those with disabilities to access premises in appropriate and dignified ways.

Australia's ratification of the Optional Protocol to the Disabilities Convention – which would permit complaints directly to the Committee of the Convention – is currently under consideration.

Professor Ron McCallum, Professor of Law at Sydney University, has been elected as one of the 12 members of the Committee of the Convention.

Northern Territory Emergency Response

On 21 June 2007, the previous Australian Government announced a range of immediate and broad-ranging measures to stabilise Aboriginal communities in the Northern Territory in response to the report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Child Abuse, 2007, *Little Children Are Sacred*. The current Australian Government is continuing to provide funding to the Northern Territory Emergency Response (NTER).

Response measures include:

- promoting law and order
- improving child and family health
- enhancing education
- welfare reforms and increased employment
- supporting families, and
- housing and land reform.

AGD administers law and order measures under the Emergency Response.

Promoting law and order: Additional police have been deployed to ensure community safety freedom from violence, and investigation of allegations of violence and sexual abuse.

Night patrols: Community night patrols are being established in the 73 prescribed communities to reduce contact with the criminal justice system, empower Indigenous people to take charge of their own communities and provide local employment opportunities.

National Indigenous Intelligence Task Force: The Australian Crime Commission's National Indigenous Intelligence Task Force is receiving additional resources for intelligence collection and analysis of child abuse and violence in Indigenous communities.

Pornography bans: The possession and supply of pornography in prescribed areas is banned. Police are able to seize or destroy prohibited material. Measures are now in place for all publicly funded computers to be checked for illegal material.

Alcohol restrictions: The sale, possession, transportation and consumption of alcohol are banned in prescribed areas.

The Attorney-General's Department: AGD is continuing to expand and improve the three existing Indigenous programs: the Northern Territory Night Patrol Program, the Northern Territory Aboriginal Interpreter Service and Legal Services for Indigenous Australians to meet increased need in the Northern Territory.

NTER Review Report

On 13 October 2008, the Australian Government released an independent report by the NTER Review Board of the first 12 months of Intervention measures. The Review Board concluded that the circumstances in remote Northern Territory communities justified a national emergency and determined that NTER measures should continue.

The Review Board made three overarching recommendations acknowledged and accepted by the Australian Government that:

1. The Australian and Northern Territory Governments recognise as a matter of urgent national significance the continuing need to address the unacceptably high level of disadvantage and social dislocation experienced by remote communities and town camps in the Northern Territory.
2. Governments reset their relationship with Indigenous people based on genuine consultation, engagement and partnership.
3. Government actions respect Australia's human rights obligations and conform with the Racial Discrimination Act (RDA) 1975.

Native Title

Legislative developments

Native title is recognised and protected by the Commonwealth *Native Title Act 1993*. In September 2005, the previous Australian Government announced a package of coordinated measures to improve the performance of the native title system. The reforms are designed to ensure the native title system delivers better and more expeditious outcomes for all parties. The reforms do not affect the fundamental principles of native title. As part of the reform package, the Australian Parliament passed the *Native Title Amendment (Technical Amendments) Act 2007* and the *Native Title Amendment Act 2007* in early 2007.

Judicial developments

The number of determinations resolving native title claims continues to increase. As at 7 November 2008, there had been 115 registered determinations of native title of which 82 recognised native title over all or part of the determination area. There remain some 482 claimant applications to be resolved.

This year has seen the continued development of native title jurisprudence. Decisions handed down this year by the Full Federal Court confirmed the existence of native title for the Rubibi people in and around Broome and overturned the decision that native title may exist over Perth, which has been remitted back to the Federal Court.

On 15 November 2007, the High Court heard an appeal challenging the power of the Northern Territory Government to compulsorily acquire native title. The appeal raised issues about the operation of lands acquisition regimes around the country and the Australian, New South Wales and Western Australian Governments intervened in the proceeding. In May 2008, the High Court found the acquisition passed the 'freehold test' under section 24MB of the *Native Title Act (1993)* Cth and extinguished native title by operation of section 24MD. On the basis the land in question could have been compulsorily acquired by the Northern Territory Government had it been held by the native title holders in freehold title, and there being no discriminatory disadvantage to the native title holders, the Court upheld the compulsory acquisition.

Annex 1

Attorney-General's Department Organisational Chart

Attorney-General
The Hon Robert McClelland MP

Minister for Home Affairs
The Hon Bob Debus MP

Senior Executive Adviser: Matt Hall
Executive Adviser: Paul Pfitzner*
Assistant: Samantha Smart

Secretary: Roger Wilkins AO
Executive Assistant: *Charlotte McAuliffe*

CIVIL JUSTICE AND LEGAL SERVICES GROUP Deputy Secretary Ian Govey Executive Assistant: Nicola Cowan							NATIONAL SECURITY AND CRIMINAL JUSTICE Deputy Secretary Mike Jordana Executive Assistant: My-Hanh Rusk						INFORMATION AND KNOWLEDGE SERVICES Gen Mgr Sue Chapman*	CORPORATE SERVICES Gen Mgr Julian Yates*	FINANCIAL SERVICES Gen Mgr Stephen Lutze
Group Financial Manager: David O'Brien							Group Financial Manager: Warwick Bray						EA Deidre Lewis*	EA: Barbara Howard*	EA: Renae Harvey*
Civil Justice	Classification, Human Rights & Copyright	Indigenous Justice & Legal Assistance	Legal Services & Personal Property Securities	Office of International Law	Territoriae & Native Title	Office of Legislative Drafting & Publishing	Security & Critical Infrastructure	Criminal Justice	International Crime Cooperation	Protective Security Coordination Centre	Emergency Management Australia	AusCheck	Business Manager Brendan Wilson*	Business Manager Wendy Jones	Business Manager Daniel Korob
FAS Kathy Leigh	FAS Philepa Lynch	FAS Katherine Jones	FAS James Poppo	FAS Bill Campbell QC	FAS Iain Anderson	FAS James Graham	FAS Geoff McDonald	FAS Elizabeth Kelly	FAS Maggie Jackson	Exec Director Martin Studdert	Director-General Tony Pearce	Executive Director Catherine Smith*			
Federal Courts Branch AS Sandra Power	Human Rights AS Peter Amaudo	Indigenous Policy and Service Delivery AS John Boersig	PPS AS Richard Glenn	Senior Counsel Mark Jennings	Claims & Legislation AS Jeff Murphy*	Legislative Drafting Unit 1 AS Leigh Schneider	Security Law AS Annette Willing	Criminal Law AS Susan Cochrane*	Mutual Assistance and Extradition AS Anna Hamer	Security Coordination AS Diana Williams	Emergency Management Policy & Liaison AS David Prestipino*	Operations AS Emma Appleton*	Information & Communications Technology AS Meng Ngai	Human Resources AS Jan Blomfield	Financial Management AS Trevor Kennedy
Family Law AS Cathy Rainsford*	Copyright Law AS Heien Daniels	Legal Assistance AS Albin Smrdel	OLSC AS Janette Davis	Senior Counsel Mark Zanker	Future Acts & System Coordination AS Greg Manning	Drafting Unit 2 AS Marjorie Todd	Critical Infrastructure Protection AS Michael Jerks	National Law Enforcement Policy AS Craig Harris	Int'l Assistance and Treaties AS Steven Marshall	Policy & Services AS Leonie Horrocks	Community and Sector Development AS Peter Channels	Business Development & Governance AS Frances Brown*	Information Services AS Garry Anderson*	Public Affairs AS David Finlayson	Budgets & Financial Reporting Director Tanya Gersbach
Family Pathways Suzann Thomas*	Classification Policy AS Amanda Davies	Indigenous and Community Legal Services AS Kym Duggan	OLSC Special Advisor Janet Power	International Security & Human Rights AS Geoff Skillen*	Territoriae West AS Julian Yates	Drafting Unit 3 AS Patrick Dodgson	Tele-communications and Surveillance Law Branch AS Lionel Markey*	Identity Security AS Sheridan Evans	Counter Terrorism AS Mike Nomis	Information Coordination AS Helaine Hallahan*	Capability and Operational Coordination AS Karl Kent	Secure Services AS Tony Haydon	Ministerial & Parliamentary Services Director Alison Green	Financial Systems & Accounting Operations Director Kevin Rowley	
Dispute Management Family Pathways AS Toni Pirani	Classification Operations AS Kelly Williams		Conet. Policy Unit AS Jim Faulkner	Territoriae East AS Andrew Henderson	International Law & Trade AS Stephen Bouwhuis	Legislative Services & Publications AS Noel Bugeia	National Security Policy AS Belinda Moss	Strategic Policy Coordination AS Dianne Heriot	Information Coordination AS Helaine Hallahan*	Business and Governance Aig Director Kathy Hilgert*			Corporate Governance & Coordination Director Tim Hainsworth	Financial Framework Director Jennifer Buchan	
Administrative Law & Civil Procedure AS Cat Fitch*							E-Security Policy & Coordination AS Mike Rothery						Property & Support Services Director Nan Lecomte	Strategic Financial Management Director Simon Aitchison	
Intercountry Adoption AS Vicki Parker							Chemical Security Branch AS Alex Wbling*						Freedom of Information Director Malcolm Bennett		
													10 November 2008		

Annex 1