



Victorian
Law Reform
Commission

Victorian Law Reform Commission

ANNUAL REPORT 2003–04





Victorian
Law Reform
Commission

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

Dear Attorney-General

I am pleased to present you with the Annual Report of the Victorian Law Reform Commission for the year ended 30 June 2004.

Highlights of the reporting year include:

- completion of the *Defences to Homicide Options Paper*;
- completion of the *Assisted Reproductive Technology and Adoption Consultation Paper*;
- completion of the *People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care Final Report*; and
- a review of internal structure and staffing.

Yours sincerely,

A handwritten signature in cursive script that reads "Marcia Neave".

Professor Marcia Neave
Chairperson

Contents

ANNUAL REPORT 2003–04



Chairperson's Foreword	2
Commissioner's Review	4
Our new Part-time Commissioner	5
Part-time Commissioners' Year in Review	6
Chief Executive Officer's Report	9
Organisational Chart	11
Our Functions, Vision and Objectives	12
Our Approach	13
References	
<i>Sexual Offences</i>	14
<i>Defences to Homicide</i>	16
<i>People with Intellectual</i>	
<i>Disabilities at Risk</i>	18
<i>Family Violence</i>	20
<i>Workplace Privacy</i>	22
<i>Assisted Reproductive Technology</i>	
<i>and Adoption</i>	23
Community Outreach and Education	24
Disclosures	27
Audit Committee	27
Financial Statements	29

Chairperson's Foreword

MARCIA NEAVE

The third year of the Commission's operations has been a time of development and change, but we have also spent time refining and consolidating the law reform processes established in our first two years.

The appointment of a new full-time commissioner, Ms Judith Peirce, formerly Vice-President of the Law Institute of Victoria, has strengthened the Commission's management team and provided new perspectives on ways of involving the community in our activities.

We have put particular effort into building our consultation and education activities. We are continuing to build cooperative relationships with the judiciary, the legal profession, the Law Foundation, the Judicial College of Victoria, non-government organisations, government departments and the Victoria Police, while maintaining our capacity to provide independent advice to government.

Judith Peirce's oversight of the reference on family violence has given us the opportunity to build awareness of the Commission's work throughout the state. She and her research team have had meetings in many rural areas as well as several metropolitan areas. Judith has also taken responsibility for expanding our capacity to deal with minor law reform proposals and we have established a cooperative relationship with the Young Lawyers group of the Law Institute of Victoria, whose members are interested in assisting us on some of these projects.

From the time of our establishment we have been committed to encouraging respectful debate about complex issues on which members of the community may hold a variety of opinions. This process helps build trust in public institutions. The processes of consultation and discussion we have put in place provide valuable information to the Commission and give participants the opportunity to hear other views about appropriate directions for reform.

Our references on Sexual Offences, Defences to Homicide and Family Violence have provided opportunities to develop and improve our consultation process. Following publication of our *Defences to Homicide Options Paper*, we ran information sessions for government, professionals and community agencies to highlight the main issues. We also invited experts to specialist round tables to debate and refine our recommendations on a number of technical issues, including changes to the rules of evidence and dealing with mentally impaired people who kill. We used a similar approach with our interim recommendations on sexual offences. We tested the recommendations through discussion with people involved in the practical operation of the law, as well as those working in organisations providing services to victims and their families.

We held a half-day workshop on our Assisted Reproduction and Adoption reference to explain problems with the present law and possible reform options. Participants broke into groups to discuss reform options for particular situations. This proved a useful way of identifying problems and the different views of participants, as well as alerting them to some of the legal issues which need to be resolved.

Since the Commission's establishment we have had a commitment to involve Indigenous people and people from culturally and linguistically diverse backgrounds in our law reform process. During the reporting year we held workshops with Indigenous groups and with the Department of Justice's Diversity Unit to explore cultural factors relevant to defences to homicide. We also funded an Indigenous workshop to address the high incidence of sexual assault in some Aboriginal communities.



One of the advantages of establishing a standing law reform commission is the capacity to bring together the people affected by law reforms and technical experts. I am very grateful for the generosity of all those who voluntarily contributed their knowledge and insights to our round tables on defences to homicide and sexual offences.

While much of our work in 2003–04 has focused on refining and developing our processes of community involvement and education, we have maintained an excellent publications record. The Commission has completed its lengthy *Sexual Offences Final Report* and almost completed the Defences to Homicide project. Both of these reports will be tabled in the spring session of Parliament. The Defences to Homicide project includes a draft Bill incorporating our recommendations. I am most grateful for the assistance of Chief Parliamentary Counsel Eamonn Moran and Parliamentary Counsel Diana Fagan for their assistance in writing this draft Bill.

In addition to reports on sexual offences and defences to homicide, the Commission has also completed a final report on *Compulsory Care of People with an Intellectual Disability*, published an Assisted Reproduction and Adoption consultation paper and made substantial progress towards the completion of a paper setting out options for workplace privacy reform. Recommendations in our report on *Failure to Appear in Court in Response to Bail* have been implemented in legislation.

We have been involved in a number of other projects being undertaken by law reform agencies or other bodies, including the Queensland Law Reform Commission's project on succession law reform.

The *Victorian Law Reform Commission Act* allows the Chairperson to constitute divisions of commissioners to take primary responsibility for framing recommendations. Divisions were not created immediately after the Commission was established because I believed in the early days of the Commission's work it was desirable to encourage all part-time commissioners to work as a team. Divisions have now been established for the Sexual Offences and Defences to Homicide references. This process has

increased the effectiveness of our work and given part-time commissioners the opportunity to become more involved in making judgments on matters of detail.

It is important for the Commission to retain a balance between stability and change. The Commission needs staff with experience in law reform methodology. It also needs sufficient flexibility to allow it to appoint researchers to work on particular projects which require specialist expertise. It became clear during the first two years of our operation that the internal staffing structure of the Commission required changes to support the volume of work which we were being asked to undertake. During the reporting year an external consultant reviewed our internal staffing structure. On the basis of that review, we made the decision to appoint two team leaders with experience in law reform to oversee planning and day-to-day management of the larger references, and two permanent research and policy officers.

Completion of our projects on Compulsory Care of People with an Intellectual Disability, Sexual Offences and Defences to Homicide provides the opportunity for the Commission to take on new references. The Commission is in a strong position to take on new work in the forthcoming year and to produce recommendations based on inclusive law reform processes which express the views and aspirations of the whole community.

In this Annual Report, it is appropriate to make a recommendation to improve the Commission's efficiency. Under the *Victorian Law Reform Commission Act 2000*, s 21 the Attorney-General is required to table Commission Reports in Parliament within 14 sitting days after they are received. It would be useful for the Act to be amended to allow Reports to be provided to Parliament out of session, so they can be made public as soon as possible after the Attorney-General receives them. Legislation already allows Reports of Parliamentary Committees to be tabled out of session. (*Parliamentary Committees Act 2003*, s 35).

Professor Marcia Neave AO
Chairperson

Commissioner's Review

JUDITH PEIRCE



In the twelve months since my appointment as a commissioner, I have come to understand that the Commission's three tenets: innovation, inclusiveness and independence are critical and fundamental to our approach and our work.

These principles require us to aim for new solutions to complex problems and to place emphasis on understanding and improving how the law operates in practice. Our key stakeholder is the Victorian public. Consultation with the public, as well as with organisations which have strategic and operational alliances with the Commission, is vital to our work. Independence from the political process is essential in the formulation of our recommendations.

The work of the Commission is largely, but not exclusively, concerned with the legal aspects of justice and therefore focused on improving substantive laws and the practice and processes in the legal system. When considering the references given to the Commission since its inception, it is clear they embrace highly contentious issues—defences to homicide, sexual offences, protection for people with intellectual disabilities, the boundaries of and access to assisted reproductive technology, workplace privacy and the review of the *Crimes (Family Violence) Act 1987*, which is my primary responsibility.

The Commission has an important role to play in the rigorous examination of the effect of the law and justice systems and its intersections with community standards and perceptions. The Commission must make sound and significant recommendations to the government based on thorough research and community consultation and testing. The business of law reform is to help law-makers focus on the needs and complexities of the law and ensure its processes are accessible for all.

In the family violence reference, our first consultations were with the police, courts, government and community agencies, and the family violence service sector. These extensive consultations across Victoria

have provided valuable opportunities to listen to the experiences and views of people whose daily work is to deal with the effects of family violence or have directly suffered its effects. In particular, we endeavoured to ensure that people from traditionally marginalised groups, including those in regional and remote areas, Indigenous peoples, people with disabilities and those from culturally and linguistically diverse backgrounds are given opportunities to express their views. We work closely with community groups, the legal profession and other research bodies, in addition to drawing on the initiatives and experiences of other states and countries. In this way, the research processes of the Commission contribute to the building of community trust in public institutions.

After a career working with the immediate demands of the practice of law and management, there is a significant privilege in being able to engage in the reflection necessary for research and being responsible for developing recommendations to improve access to justice for people experiencing family violence.

Since my appointment, I have had the opportunity to learn from the extensive knowledge and skills of my Commissioner colleagues. I am indebted to their experience and scholarship, and in particular to Chairperson Professor Neave and Paris Aristotle, who assists me in the family violence reference. Padma Raman, our CEO, and researchers Liana Buchanan and Angela Langan provide a depth and strength which is second to none. I look forward to another engrossing year in the company of fine minds.

A handwritten signature in blue ink that reads "Judith Peirce".

Judith Peirce
Commissioner

Our new Part-time Commissioner

DR IAN ROSS



“ Law reform plays a critical role in providing an opportunity to reflect on and, where necessary, further develop the law.”

Dr Iain Ross

AIRC Vice-President

I initially became involved in law reform in 1992 as a consultant on the Collective Investments reference conducted by the Australian Law Reform Commission.

Between March 1998 and December 2001 I was appointed a part-time Commissioner of the NSW Law Reform Commission. During that period, I was mainly involved in the Commission's work on its Surveillance reference. Since August 2003, I have been a part-time member of the Victorian Law Reform Commission.

My interest in law reform stems from a general interest in the intersection between law and social change. Law reform plays a critical role in providing an opportunity to reflect on and, where necessary, further develop the law. This assists in the law keeping pace with changes in society, and ensuring its continuing relevance.

To date, my involvement with the work of the Commission has primarily been in the area of workplace privacy. In that regard I have participated in a number of consultative forums with a range of interested stakeholders. This process has provided a solid foundation for the *Workplace Privacy Options Paper* which was due to be released in late 2004.

I have also had exposure to the work of other references before the Commission, which has allowed me the opportunity to be involved in diverse areas of law. I have found the entire process intellectually stimulating, and have appreciated the collegiate approach taken by the Commission staff and members.

Part-time Commissioners

YEAR IN REVIEW



“The perspectives brought by the new commissioners have added different and often challenging dimensions to the debates about our recommendations.”

Professor Felicity Hampel SC *Barrister*

Last year, I wrote about the enriching experiences provided by the opportunity to reflect about what the law was, and what it could or should be, of how I had seen at first hand the significance of the law to those affected by our reforms and of consulting them as well as legal experts, and my appreciation of the rigorous research carried out by the Commission's research and policy officers.

Has there been a difference in my experiences with the Commission this year compared to last? My admiration for the quality of the contributions of Marcia Neave, my fellow commissioners and the research and policy officers has, if anything, increased as a result of further contact with them. I consider myself privileged to have the opportunity to reflect upon the issues we have to deal with, informed by the high quality of the research and analysis produced by the policy and research officers. The perspectives brought by the new commissioners have added different and often challenging dimensions to the debates about our recommendations. These, to some extent, are differences of degree.

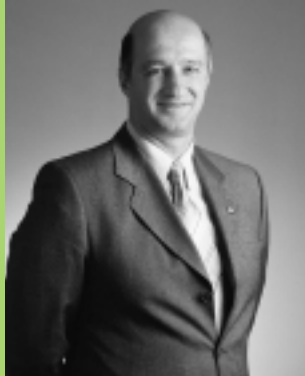
There were, however, new aspects to my work with the Commission this year. We trialled new ways of commissioners working with research and policy officers during the life of a reference. These increased our involvement in everything—the early project planning stages, the research and writing, development of recommendations and consultations. I have found the closer work with commissioners and the research and policy officers very rewarding. It has increased my knowledge, and the degree of involvement with all stages of a reference, and has

fostered a greater cohesiveness between part-time commissioners and Commission staff. I think this has resulted in better discussion of the issues, and improved the process of producing papers and reports.

Another new experience has been my participation in forums, community consultations and round table discussions with experts and representatives of the diverse interest groups affected by the references. The intensity of feeling expressed in these consultations demonstrates how passionately many people feel about the way the laws we are considering operate.

The intensive work on the references has made me more aware of the complexities of good law reform, of the importance of making recommendations which are conceptually rigorous, reflect the values which we as a community wish to live up to and take proper account of the often polarised views of those with a legitimate interest in the process. It is with a sense of pride that with that increased awareness of our responsibility we have completed, or all but completed, three references this year. In all three, I think we have come up with fair, balanced, logically consistent and workable final recommendations.

In completing these major references, and with work well under way in the others, the Commission has passed, almost without our realising it, from a fledgling organisation to a mature body which has developed a momentum of its own. I know I am not alone in taking pride in being part of the achievements of the Commission. While I am sometimes left gasping by the pace at which it moves, the opportunity to be part of its culture of intellectual vigour is one which makes it all worthwhile.



Paris Aristotle AM

Director

Victorian Foundation for the Survivors of Torture

Mr Aristotle joined the Commission in August 2002 and in the past year has worked on the Family Violence reference, which has been preparing a consultation paper due to be published at the end of 2004.

In the past financial year, he has also taken up a position on a new joint audit committee which includes representatives from the Office of the Public Advocate and the Equal Opportunities Commission. This annual report is the first the committee has overseen.

Mr Aristotle is currently the Director of the Victorian Foundation for Survivors of Torture. He has been a member of a number of official delegations to the UNHCR Executive Committee in Geneva and most recently, a member of the UNHCR Executive Committee on Resettlement and Integration. He is currently a member of the Commonwealth Immigration Detention Advisory Group, and the Refugee Resettlement Advisory Council, the Victorian State Settlement Planning Committee, and the Victorian Health Promotion Foundation Mental Health Prevention and Promotion Steering Group.

He is a past executive member of the International Society for Health and Human Rights, and past member of the National Mental Health Prevention and Promotion Working Group and Ministerial Multicultural Human Services Advisory Council.

In 2002 Mr Aristotle was made a Member of the Order of Australia and in 2003 was awarded an Australian Centenary Medal, both honours recognising his longstanding work with refugees, in particular survivors of torture.



The Honourable Justice David Harper

Supreme Court of Victoria

The past year may, I think, be seen as the year in which the Commission completed its establishment phase and assumed its position as one of Australia's foremost law reform bodies.

The structure of the Commission, while of course not set in stone, is appropriate to the Commission's role and responsibilities. The Commission's staff, whether in administration or research, are a body of which the Commission is justifiably proud.

The commissioners work very well together, to the extent that no hint of disharmony intrudes upon vigorous and rigorous debate. A methodology of law reform, and a structure for ensuring that it receives appropriate support, is in place. Work on difficult and extensive references has proceeded with no more than the inevitable hiccups and many more than the usual reasons for pride.

The results justify, I think, the assertion that the Commission has been true to its central purpose: to be inclusive, innovative and independent in striving for excellence. I have seen this at first hand with my particular involvement in two references. Both were difficult. Both demanded the application of scholarship of a very high order. The response of the researchers (Siobhan McCann, and Victoria Moore on Defences to Homicide and Hilary Little on Sexual Offences) has been superb. Their energy, initiative and enthusiasm has been inspiring. My participation from the sidelines has been a privilege and a pleasure.

Part-time Commissioners

YEAR IN REVIEW



Her Honour Judge Jennifer Coate

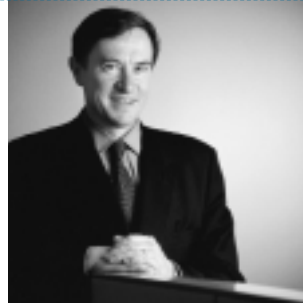
President, Children's Court of Victoria

Judge Coate has been a part-time commissioner since October 2001 when the Commission began operating. In the past year she has focused on the Sexual Offences reference, with the final report completed and tabled in the spring 2004 session of State Parliament.

Judge Coate was appointed a Judge of the County Court and President of the Children's Court in June 2000. She was appointed as a Magistrate in 1992 and was promoted to the position of Deputy Chief Magistrate in 1996. Prior to that she worked as a barrister, solicitor and academic and was actively involved in a range of groups and committees concerning social and legal policy.

She is currently the Chairperson of the Health Services for Abused Children Committee and is a member of the University of Melbourne's Criminal Justice and Forensic Psychology Advisory Board, the Family Violence Protocols Committee, and the Board and Council of the Australian Institute of Judicial Administration.

Her career beginnings as a teacher are utilised in the lectures she gives to the Leo Cussen Institute, the Bar Reader's Course and the Department of Human Services Induction Program for new child protection workers.



Professor Sam Ricketson

University of Melbourne, Barrister

Professor Ricketson has been with the Commission since its beginnings in 2001 and this year has worked on the Workplace Privacy reference, providing input to an Options Paper which was due to be released at the end of 2004.

Professor Ricketson is a member of the Law Faculty of the University of Melbourne and has written, taught and advised widely in the areas of intellectual property law, conflicts of law and corporate law. He has published a number of texts on these subjects and held academic teaching and research positions at the University of Melbourne (1977-91), the Centre for Commercial Law Studies in London (1984-6), and as the Sir Keith Aickin Professor of Commercial Law at Monash University (1991-2000). He also practises part-time at the Victorian Bar, principally in the area of intellectual property law.

He is currently a panel member of the World Intellectual Property Organisation's dispute resolution body in relation to domain names and editorial board member of the *Digital Technology Law Journal*, *Media and Arts Law Review* and *IP Forum*. He is also a Fellow of the Academy of Social Sciences in Australia.

Chief Executive Officer's Report

PADMA RAMAN



The 2003–04 financial year has been a period of expansion for the Commission.

In August 2003, Judith Peirce was appointed as a full-time commissioner to undertake the Family Violence reference. Judith has brought invaluable organisational and management skills which have enhanced the operation of the Commission. Other highlights for the year include completing two major references, instigating and implementing a structural review, implementing the new financial management compliance framework and continuing to build relationships with organisations and communities.

References

The Commission completed its major reference on Sexual Offences reform and made 201 recommendations to improve the system for victims. The report involved hard work and extreme dedication from Angela Langan, Nicky Friedman and Hilary Little.

The Final Report on *Compulsory Care of People with an Intellectual Disability* was tabled in Parliament in November 2003. The report dealt with decisions to detain people without their consent to provide them with services to reduce a significant risk that they might seriously harm others. The Commission consulted service providers and people with intellectual disabilities in framing its recommendations. The Commission published an easy-English version of its final report to explain its recommendations to people with intellectual disabilities.

Financial position and systems

As outlined in our financial statements, the Commission is funded by two separate sources. It receives approximately half its funds from consolidated revenue and the other half from the Legal Practice Board. The funds received from the Legal Practice Board are managed in a trust fund and administered separately.

The Commission came in close to budget at the end of the financial year with the net result from operating activities of \$114,960.

The financial management compliance framework came into effect 1 July 2003. Each Public Sector Agency was required by law to establish various procedures and policies to ensure compliance with the framework. The Commission has had a busy year meeting the compliance requirements and has implemented a financial code of practice, established robust and transparent financial governance policies and procedures, set up an Audit Committee and charter and ratified the appointment of the Chief Finance and Accounting Officer.

Like most public sector agencies, the Commission is partially compliant with the Department of Treasury and Finance certification checklist and will be fully compliant in the coming financial year. As a small agency, the requirements of the new framework have required a major effort. I would like to acknowledge the Commission's Operations Manager, Kathy Karlevski for her hard work and efficiency in organising the Commission's compliance with the framework.

Chief Executive Officer's Report

PADMA RAMAN

Staffing

The Commission has been operating for three years and in that time we have continually reviewed the way we work. Commissioners felt it was time to review our staffing and governance structures to ensure roles of commissioners and staff were clearly articulated and understood. To this end, the Commission engaged a consultant to undertake a structural review and considered her recommendations in determining appropriate structures. As a result of the review, the Commission will have a new tiered structure for research staff that includes team leaders. The Commission also recognised the need for a communications section and has appointed a communications officer. We have consolidated our administrative resources and established the rationale for ongoing and fixed-term employment. The governance role of the Commission has been clarified and roles and responsibilities of commissioners and all staff have been outlined and endorsed.

The process has been extremely useful and I would like to thank all staff for their patience and for accepting decisions that affected them with professionalism.

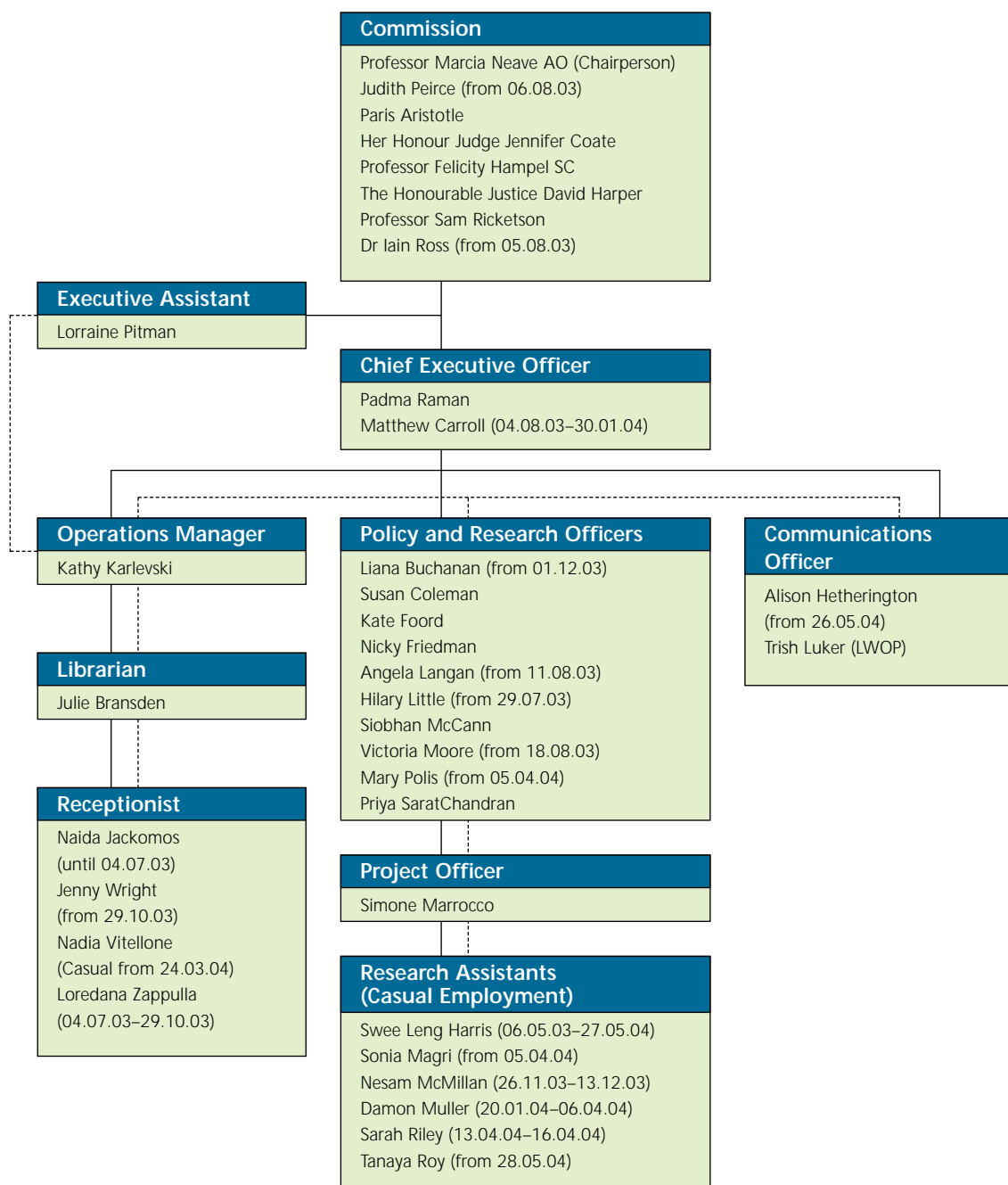
My report would not be complete without acknowledging the work of Matthew Carroll. I took maternity leave for six months and am indebted to Matthew, who acted in my role, for ensuring the Commission continued to function efficiently and for his ideas and perspectives on the CEO role. I would also like to thank all staff and commissioners for helping me make the transition back to full-time work and for coping with regular visits from my daughter.



Padma Raman
Chief Executive Officer

Victorian Law Reform Commission

ORGANISATIONAL CHART



Our Functions, Visions and Objectives

Our Functions

The functions of the Commission are:

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

Our Aspirations

The Commission will:

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

Our Objectives

The objectives and results of the Commission during the past year are:

<i>To provide the Attorney-General and Parliament with high quality, timely, responsive and effective advice on law reform which is independent of government agencies and of the political process.</i>	<ul style="list-style-type: none"> > Delivered papers and reports on schedule. > Employed and consulted experts in areas the references address. > Developed achievable recommendations but advised if major reforms were needed.
<i>To enhance the Commission's advice to the Attorney-General and Parliament by engaging the community in law reform processes.</i>	<ul style="list-style-type: none"> > Held a public forum for each reference during one of the consultation phases. > Provided information about key milestones in each reference to relevant media outlets.
<i>To promote the role of law reform and improve community understanding of law and legal processes relevant to the Commission's references.</i>	<ul style="list-style-type: none"> > Participated in relevant conferences, forums and other public events. > Consulted widely within the community for Sexual Offences, Defences to Homicide and Family Violence references.
<i>To co-ordinate law reform in Victoria and identify areas of emerging concern.</i>	<ul style="list-style-type: none"> > Appointed a commissioner to identify and pursue community law reform.
<i>To maintain efficient and effective administrative and financial systems and provide a safe and supportive working environment to support the law reform activities of the Commission.</i>	<ul style="list-style-type: none"> > Reviewed the staff and Commission structure to identify and implement a more effective model.

Our Approach

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

Inclusive

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

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

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

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

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

Innovative

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

We are aware of the need for law reform to take account of local needs and circumstances as well as being consistent with national and international standards.

We will work closely with community groups, the legal profession and other research bodies in addition to drawing on the initiatives and experience in other states and countries.

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

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

Independent

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

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

References

SEXUAL OFFENCES

In 2001 the Attorney-General referred a review of sexual offences to the Commission. The aim of the review was to decide what legislative, administrative and procedural changes should be made to make the criminal justice process more responsive to complainants of sexual offences.

Stage One

In November 2001, the Commission published a *Sexual Offences: Law and Procedure Discussion Paper*. This Paper compared Victorian sexual offences with the draft Model Criminal Code, asked a number of questions about law and procedure relating to sexual offences, and reported the findings of research on rape prosecutions.

Stage Two

Following publication of the Discussion Paper, the Commission conducted extensive consultations with service providers and stakeholder organisations, and with individual victim/survivors who approached the Commission. Further empirical work and extensive legal research were undertaken, and a lengthy Interim Report was prepared and published in June 2003.

Research for the Interim Report covered all aspects of the criminal justice process—disclosure, reporting, prosecution, trial and outcome. The Report acknowledges that changes to substantive law do not in themselves ensure effective change to practice and therefore to complainants' experiences. The recommendations covered both changes to substantive laws and a range of process issues as well as education for the stakeholders in the criminal justice process.

The Report made 107 interim recommendations and asked several questions. Recommendations were made for training of justice system participants such as police, Centre Against Sexual Assault counsellor advocates, prosecutors and the judiciary. We made a number of recommendations about aspects of giving evidence in sexual assault trials, including the need for all complainants to have the right to testify via closed-circuit television, for added restrictions on admission of testimony about complainants' prior sexual history and about further restricting access to confidential counselling communications. There was discussion on the mental element of rape, and a series of recommendations on the introduction of an objective element into the test for the accused's belief in consent. Judges directions about consent in rape trials were also discussed.

Work on this review has included a focus on the experiences of people who face particular barriers to accessing the criminal justice system. The Interim Report looked at the difficulties child victims of sexual offences encounter when giving evidence and researched best practice models in other jurisdictions. The Interim Report made recommendations about child witnesses and evidence, particularly about competence and hearsay. We consulted extensively with service providers who work with people with cognitive impairments about the barriers faced by complainants in sexual offence cases who have cognitive impairments. Interim recommendations aimed to extend and improve the offences which protect people with cognitive impairment from abuse.



Photo: Peter Glenane

Above: Chairperson Marcia Neave AO, launches the VLRC's Sexual Offences Final Report.

Right: Attorney-General Rob Hulls MP, and Chairperson Marcia Neave AO, field media questions after the launch.



Photo: Chris Casar

Stage Three

During the final phase of the reference, we focused on informing stakeholders about our interim recommendations and seeking their responses. We conducted a number of information sessions, consultations and round tables with different stakeholder organisations. In addition to issues for people with cognitive impairment, the Commission has focused throughout the review on the barriers to participation in the criminal justice system faced by Indigenous people and people from non-English speaking backgrounds (NESB) who have been victims of sexual offences. Two forums were held with representatives of organisations that work with NESB victims of sexual assault. The Commission hosted a forum to explore the issue of sexual assault within Indigenous communities and later supported an Indigenous-only round table which provided a response to our interim recommendations.

The Final Report of the review was forwarded to the Attorney-General on 30 June 2004.

The Final Report largely confirms the recommendations of the Interim Report. Several additional research projects were undertaken during this final phase of the reference.

- > Data was gathered from the Magistrates' Court about how often complainants are cross-examined at committal proceedings, and from the Magistrates' and County Courts about delays in sexual offence proceedings involving child complainants.

- > An examination of Court of Appeal decisions was made in relation to the separation of trials involving multiple complainants, which found that an amendment to the legislation in 1997 has achieved its purpose of making it easier for such matters to be heard together.
- > We undertook an analysis of rape prosecution outcomes over a two-year period to determine whether relationships between the complainant and the accused affected the outcome of the case.
- > A qualitative study of judge's directions on consent and delay in rape trials was undertaken, which also looked at the clarity and length of the directions.

The Final Report contains a number of new recommendations relating to this research. The principal areas where new recommendations have been made are:

- > Amendments to the current law relating to judges' directions to juries on consent, and the direction about delay in reporting;
- > The admission of expert evidence about sexual assault in sexual offence trials;
- > Changes to the mental element of consent;
- > A specialist approach to dealing with sexual offences in the Magistrates' and County Courts;
- > Protection from harassing cross-examination of certain witnesses;
- > Changes to committals; and
- > Recommendations about juvenile offenders.

References

DEFENCES TO HOMICIDE

The aim of the Commission's Defences to Homicide reference has been to determine whether it is necessary to reform, narrow or extend defences or partial excuses to homicide. In addition to this, the Commission has looked at possible procedural reform as well as reforms to plea and sentencing practices.

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

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

Issues Paper and Occasional Paper

In June 2002, the Commission published a *Defences to Homicide Issues Paper* and commissioned an Occasional Paper, *Who Kills Whom and Why: Looking beyond legal categories*.

The Issues Paper explained the law in relation to defences to homicide. It also analysed the existing empirical research and highlighted which areas lacked data and needed more research. The Commission also foreshadowed its intention to undertake research about defences to homicide to better understand how the law works in practice.

Professor Jenny Morgan wrote the Occasional Paper, which summarises the Australian homicide data and argues that social problems rather than legal categories best inform our thinking about law reform in this area.

Options Paper and Homicide Prosecutions Study

After completing the first stage of the reference, the Commission began an empirical research project to collect detailed information about homicides occurring in Victoria over a four-year period. The Commission examined prosecutions of Victorian homicides between 1 July 1997 and 30 June 2001. The sample selected included all cases which proceeded beyond the committal stage on a charge of murder, manslaughter or infanticide. The study drew on data collected from three main sources: demographic data from the Australian Institute of Criminology's National Homicide Monitoring Program data, files kept by the Office of Public Prosecutions, and publicly accessible documents available on the Internet. From these sources we extracted demographic information, information relating to the context of the homicide, details of any psychological assessments of the accused, details about the prosecution process and the outcome of the proceedings, and the success or otherwise of any defences run. The main purpose of our study was to find information to inform our discussion of defences to homicide and assist us in developing law reform options which would address some of the major issues in relation to who kills whom and why.

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

diminished responsibility
provocation
 Defences to Homicide
 battered woman syndrome
self defence
mental impairment

Consultations

Following the release of the Options Paper, the Commission ran information sessions for government, professional and community agencies to highlight the main issues and options for reform. Sessions were held with the Department of Justice, the Department of Human Services, Forensicare, the Victorian Aboriginal Legal Service, Victoria Legal Aid, the Law Institute of Victoria, the Criminal Bar Association, the Office of Public Prosecutions, Victoria Police and the Federation of Community Legal Centres.

Formal consultations on the Options Paper took place from November 2003 to May 2004. A number of round tables were held to discuss issues related to the reference, including:

- > Provocation and self-defence (4 and 11 December 2003, 24 February and 1 March 2004);
- > Mental condition defences—mental impairment, diminished responsibility and automatism (25 November and 2 December 2003, 17 and 26 February 2004);
- > Child killings/infanticide (12 February 2004); and
- > Evidentiary issues (19 February 2004).

Participants included members of the judiciary, legal practitioners, psychiatrists, psychologists, academics, researchers, policy officers and family violence workers.

A particular focus of the reference has been what the appropriate legal response should be to men and women who kill their partners in the context of domestic violence. To provide an opportunity to explore this issue further, the Commission hosted a public forum on 5 December 2003 at Victoria University. More than 80 participants from a range of government and community backgrounds participated in the forum. Speakers included Associate Professor Julie Stubbs (Deputy-Director of the Institute of Criminology, Sydney), His Honour Judge Smallwood (County Court of Victoria) and Professor Jenny Morgan (Deputy-Dean, Melbourne University Law School).

The Commission also held two 'No Way Out?' workshops to explore how a person's cultural background might be taken into account in understanding the use of fatal force by victims and perpetrators of family violence. One workshop was held with representatives of culturally and linguistically diverse communities on 29 March 2004 with the support of the Diversity Unit of the Department of Justice. The second workshop took place on 6 May 2004, and discussed issues relating to Indigenous family violence. The Commission and the Aboriginal Family Violence Prevention and Legal Service ran this workshop jointly.

The Commission has used the information and views gathered from our consultations to inform its recommendations for reform in the Final Report. The Final Report is due to be tabled in the spring 2004 session of parliament.

References

PEOPLE WITH INTELLECTUAL DISABILITIES AT RISK

The Commission's *People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care Final Report* was tabled in Parliament on 20 November 2003.

The reference to the Victorian Law Reform Commission arose from a review of the State's detention of people with intellectual disabilities, as well as concerns from other groups and people involved in this area.

The 2001 review panel chaired by Justice Frank Vincent identified inadequate safeguards in the operation of the Disability Services Statewide Forensic Service, which detained people with intellectual disabilities. The panel's report drew attention to deficiencies in the legislative and administrative framework for monitoring and controlling the use of detention and restrictive practices affecting people with an intellectual disability.

The Commission's Final Report seeks to overcome the deficiencies highlighted by the Vincent review and to provide a transparent and accountable system that protects the rights and liberties of people with an intellectual disability, but also safeguards the community against risk of serious harm.

The Final Report deals with two types of care decisions:

- > decisions to detain the very small number of people with an intellectual disability who have previously exhibited behaviour that has seriously harmed others or exposed others to a risk of serious harm, in order to provide them with services that will reduce the risk of harm; and
- > decisions to use 'restrictive practices' to reduce the risk of these people harming themselves or others, such as using restraint or seclusion to prevent them from harming staff members or other people living in a residential unit.

Detention

The Report recommends that in certain circumstances people should be able to be detained in a prescribed facility in order to participate in a program designed to help them modify their behaviour. However, detailed criteria would need to be satisfied before a person could be detained and compelled to participate in such a program.

The Commission developed deliberately narrow criteria that will allow detention only as a last resort, when the significant risk that the person will seriously harm others cannot be reduced by other less restrictive measures. In addition, all programs of this type must be beneficial for the individual concerned rather than just keeping him or her away from the community.

The creation of a specialist list in the Victorian Civil and Administrative Tribunal (VCAT) was also proposed, to hear applications for the placement of a person on such a program, the hearing of appeals, and the conduct of regular reviews.

Given the seriousness of these matters, the Report recommended that a judicial member of VCAT be required to be part of the decision-making process. It also provides that a period of detention cannot exceed five years and that VCAT should review detention orders every six months.

Restraint

Section 44 of the *Intellectually Disabled Persons' Services Act* imposes controls on the use of restraint and seclusion, but prior to the Commission's review concerns were raised that the Act was inadequate for the task.

The Commission's Report proposes additional constraints on the use of 'restrictive practices' in caring for people with an intellectual disability.

The restrictive care practices that are considered in the Report include 'mechanical restraint', (eg using a belt to restrain a person to prevent self injury or injury to others), 'chemical restraint', which involves prescribing a person drugs to change that person's behaviour, and 'seclusion', which involves locking a person in a room apart from other people.

The Final Report contains a number of recommendations that are intended to result in a systematic and multi-faceted approach to regulation utilising reporting, monitoring and independent audits as well as statutory restrictions on the use of such practices.

Office of Senior Clinician

The creation of an Office of Senior Clinician, which is independent from but resourced by the Department of Human Services (DHS), was also recommended to oversee the treatment of detained people. The functions of the Office of Senior Clinician would include:

- > developing guidelines dealing with a range of issues—where guidelines will affect the cost of service provision, the Report recommends they be developed jointly by the DHS and the Office of Senior Clinician and approved by the Minister for Community Services;
- > receiving and monitoring annual medical reports and reports on the use of restraint and seclusion affecting people with an intellectual disability;
- > functioning as a central records agency for detention plans and care plans; and
- > developing mechanisms to monitor the performance of service providers.

The Office of Senior Clinician would have the power to visit premises, obtain access to records and undertake audits of care practices in facilities.

The Report also makes recommendations to improve the interaction between the criminal justice system and the human services system. Recommendations in this area include the provision of security orders so people with cognitive impairments can serve their sentence in prescribed facilities, and expanding and strengthening the operation of justice plans for people with a cognitive impairment and/or intellectual disability.

The Commission published an easy-English version of the Final Report with assistance from people with disabilities. This version of the report was written to help people with disabilities understand the law and the reforms the Commission proposed.

References

FAMILY VIOLENCE

The Commission's review of the *Crimes (Family Violence) Act 1987* commenced in August 2003, with the appointment of Judith Peirce as a full-time commissioner to oversee the project. This is the first comprehensive review of the Act since it was enacted.

The aim of the review is to consider whether the Act is based on a coherent philosophy and whether its approach to family violence is the best for Victoria, with regard to national and international experience.

In conducting the review the Commission will consider:

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

The Family Violence review builds on the Commission's work to improve the legal response to violence against women. The review will take account of work already undertaken in the Sexual Offences and Defences to Homicide reviews, and will inform the development of the whole-of-government response to family violence instituted by the Women's Safety Strategy.

A number of other initiatives are occurring concurrently to the Commission's review as part of the Women's Safety Strategy, and will need to be taken into consideration in our review. These significant developments require that the Commission makes challenging strategic decisions for the review's directions.

The concurrent initiatives include:

- > the Victoria Police 'A Way Forward—Violence Against Women Strategy', which includes the development of a Police Code of Practice for family violence;
- > the Indigenous Family Violence Strategy;
- > the development of a Family Violence Division of the Magistrates' Court, for which pilot courts in Ballarat and Heidelberg have recently been announced. The new divisions will be introduced by amendments to the *Crimes (Family Violence) Act 1987* and these amendments will also require consideration in our review;
- > the Mandated Men's Behaviour Change Programs Pilot Project, which will establish men's behaviour change services in metropolitan and regional Victoria.

The prevalence of family violence and the fact that it is not confined to particular sectors of the community is now well recognised. A recent Victorian study about the health effects of intimate partner violence demonstrates the far-reaching effects of this form of violence in our community. A study by VicHealth of the 'burden of disease' caused by intimate partner violence found such violence is responsible for more ill-health and premature death in Victorian women under the age of 45 than any other of the well-known risk factors, including smoking and obesity.

Given the scope of this problem in our community, the Commission believes extensive consultation is particularly important. The Commission intends to undertake consultation throughout the life of the review to ensure we capture all important issues, and are well informed in making our recommendations about whether the current legal approach to family violence in Victoria is the best approach.

We began our consultations by conducting preliminary meetings with a number of key agencies which work in the area of family violence, including legal, indigenous, immigrant women's and domestic violence support services. We also met with a number of government agencies involved in working on the Women's Safety Strategy. We used the information gained in those meetings and our own research to develop a series of questions to ask the broader family violence sector in our first round of consultations, which are now largely completed.

The aim of the first round was to scope the issues the community sees as important to our review. We were particularly concerned to ensure that issues related to Indigenous women, immigrant women and women with disabilities were covered in our consultations, as well as issues specific to women who live in regional Victoria.

Several large forums were conducted in Melbourne, and consultations were held in every regional area in Victoria. The Commission arranged 26 meetings with service providers in Wangaratta, Benalla, Shepparton, Traralgon, Bairnsdale, Colac, Warrnambool, Mildura, Ballarat and Bendigo. We have met with a total of 149 people in regional Victoria to date, with meetings in Geelong still to come. Meetings were held with

Indigenous groups in each region. The findings from these consultations are informing the Consultation Paper which will be published in late 2004.

A regular quarterly newsletter has been published to inform the family violence sector and people who have attended consultations of our directions and processes.

In February 2004 we held a highly successful workshop featuring Dr Jane Ursel. The workshop, conducted in partnership with the Victims Services Agency, explored the specialist family violence court in Winnipeg, Canada and examined in depth the data collected and analysed by Dr Ursel.

To ensure issues relevant to people with disabilities and people from culturally and linguistically diverse (CALD) backgrounds are considered, we convened two specialist advisory committees comprising stakeholders with experience or expertise in these areas. The committees will provide advice in the areas of their particular expertise, assist in the development and consideration of recommendations, and communicate with and provide access to contacts within their specific networks. The CALD committee met for the first time in June 2004 and the disabilities advisory committee is yet to meet. A general advisory committee had been convened and has met twice.

In the next phase of the Family Violence reference, we will publish a Consultation Paper, continue to publish the quarterly newsletters and examine our research focus through additional consultations and the assistance of the advisory groups.

References

WORKPLACE PRIVACY

Work to date on the reference

The Commission published a *Workplace Privacy Issues Paper* in October 2002. The Issues Paper discussed the meaning of privacy based on notions of autonomy and dignity. It examined the extent to which current privacy and workplace relations laws protect the privacy of workers and canvassed some possible approaches to reform. The Commission received 32 submissions, mostly from organisations and representative bodies, in response to the Issues Paper. At around the same time, the Commission published an Occasional Paper *Defining Privacy* which discussed approaches to defining privacy.

Consultations

Over the past year, the Commission has conducted consultations with employer associations, employers and unions we considered provided a representative sample of the types of industries and workplaces undertaking surveillance, monitoring and testing of workers.

In addition, we consulted with individuals and organisations with technical expertise that assisted the Commission's understanding of how surveillance and monitoring technologies work in practice. These consultations also aided the Commission's understanding of how medical, psychological, drug and alcohol testing are undertaken in the workplace, and what such tests may measure.

The Commission also consulted with a number of individuals with expertise in comparative regulatory schemes, which assisted the Commission's understanding of different regulatory models, including various methods of compliance and enforcement.

Options paper

The Options Paper, due to be published late 2004, will address the scope of the terms of reference, including definitions of the workplace, worker and employer, and the conceptual framework in which privacy as a 'right' is placed. It will consider issues of information privacy, as it interacts with federal law, as well as undertaking an in-depth analysis of the constitutional issues that arise as a result of the interaction of existing state and federal laws that impact on workplace privacy and the practices of surveillance, monitoring and testing.

The Options Paper sets out in detail the types of, and technical processes that form part of surveillance, monitoring and testing practices, including how each practice is currently regulated. Based on consultations undertaken, the Options Paper identifies gaps in the protection currently offered by existing laws from both employer and worker perspectives.

Finally, the Options Paper will assess various regulatory models against the Commission's own criteria, and proposes two regulatory options for the reform of workplace privacy laws. In addition to this, reform is proposed of existing laws pertaining to the information privacy of Victorian, non-public sector employees.

Next stage

Following the public release of the Options Paper, the Commission will undertake a second round of consultations to gain feedback on the regulatory options proposed. The Commission will then proceed to the Final Report stage, where it will recommend to the Attorney-General a regulatory option for the reform of Victoria's workplace privacy laws.

References

ASSISTED REPRODUCTIVE TECHNOLOGY AND ADOPTION

The Commission's review of the laws governing assisted reproduction in Victoria focuses on two main areas: the laws which govern access to infertility treatment in which donated sperm and/or eggs are used, and the laws which determine eligibility to adopt children. It also considers legislation which deals with the parentage of children conceived through assisted reproduction.

These complex issues are important to the community and affect different people in different ways. For this reason, broad community consultation is essential to the Commission's investigation.

The Commission released its Consultation Paper *Assisted Reproductive Technology & Adoption: Should the Current Eligibility Criteria in Victoria be Changed?* in January 2004. The Commission conducted extensive legal, academic and factual research before drafting the Consultation Paper, and spoke to people with expertise in the legal, theoretical, ethical, technical and practical issues which arise in the context of assisted reproduction.

The purpose of the Consultation Paper was to inform the community of the scope and nature of the Commission's inquiry, to invite public comment on the many issues, and provide people with the necessary background to make submissions. The Commission called for submissions in response to the Consultation Paper by 30 June 2004 and received close to 200 from a broad range of individuals and organisations with divergent views, beliefs and experiences. Many of these submissions include personal accounts of the ways in which the law has affected, and continues to affect, people's lives.

The Commission has also continued to consult with the community by meeting with individuals and groups interested in and affected by the laws in this area. The Commission has also participated in community and industry events where assisted reproduction law has been discussed.

Acknowledging the need to expand its understanding of several important topics, the Commission commissioned three occasional papers on areas that are of fundamental importance to the reference: the implications of the Convention on the Rights of the Child for law and policy in relation to assisted reproduction (by John Tobin); the social and medical research on outcomes for children born as a result of assisted reproduction and into diverse family types (by Dr Ruth McNair); and a comparison of the regulatory arrangements adopted in a range of Australian and international jurisdictions (by Adjunct Professor John Seymour and Sonia Magri). The occasional papers are due to be published in September 2004.

In the next few months, the Commission will work on the development of the next phase of the reference—the drafting of its Interim Report. Throughout this process, the Commission will take into consideration all the views expressed in submissions and at community consultations, and will draw on the expertise of its advisory committee. This committee has been expanded since the publication of the Consultation Paper, and comprises a judge, a children's rights advocate, a philosopher, a specialist IVF doctor, a family lawyer, a legal academic, a public health expert, an industry regulator and a doctor who specialises in gay and lesbian health issues. The Interim Report is due to be published early in 2005.

Community Outreach and Education

PUBLICATIONS, WEBSITE AND MEDIA

Strong community involvement in the consultation phases of all the references is a central tenet of the Commission's work.

We use many ways of testing the responses to proposals for law reforms, from sending out postcards to publicise the Privacy reference to creating new networks of contacts for rural domestic violence areas.

Rather than pursuing a top-down approach under which the Commission comes up with the ideas, the public makes a submission and the final report is written, we strive to ensure the community is involved from the beginning of a reference's life. The involvement of people affected by the law will identify issues and practical problems that are easily overlooked by the legal profession.

Rural & Regional Visits

Each of the Commission's references tried to include people living in rural and regional areas during the consultation phases.

In the past year the Family Violence reference has criss-crossed the state to gain an insight into the problems facing legal and support workers and victims in Wangaratta, Benalla, Shepparton, Traralgon, Bairnsdale, Colac, Warrnambool, Mildura, Ballarat and Bendigo.

The Sexual Offences reference also consulted interested groups and individuals in Warrnambool and Mildura.

Publications

The following publications were printed in the past year:

- > *Annual Report 2002-2003*
- > *Defences to Homicide Options Paper*
- > *People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care Final Report*
- > *People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care Report (Easy English Version)*
- > *Assisted Reproductive Technology & Adoption: Should the Current Eligibility Criteria in Victoria be Changed? Consultation Paper*
- > *Review of Family Violence Laws Update #1*
- > *Review of Family Violence Laws Update #2*
- > *Sexual Offences: Law and Procedure Final Report*

All the publications are available to the public free of charge, either in hard copy or electronic versions.



<http://www.lawreform.vic.gov.au>

Website

Our website <www.lawreform.vic.gov.au> has continued to grow in relevance and usefulness. In the past year, 10,718 people visited the site, with the number rising as the year progressed (see graph).

All the Commission's consultation papers, interim reports and final reports are put on the website as soon as they are published, along with copies of speeches and presentations, updates about the progress of references and details of relevant events.

The website is free of add-ons, plug-ins and large graphics to ensure as many Internet users as possible are able to access the information on the site.

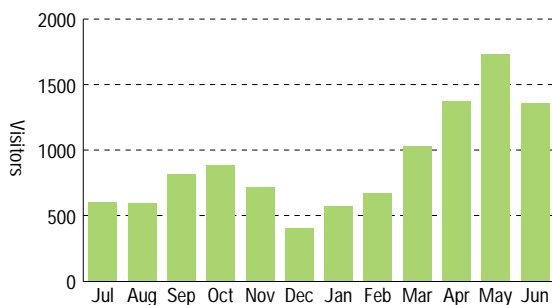


Diagram 1

*Number of Unique Visitors to the VLRC Website
July 2003–June 2004*

Media

The Commission's public profile strengthened during the year thanks in part to full-time commissioner Judith Peirce who has helped Chairperson Marcia Neave field requests from the media.

In the past year Ms Peirce has given many interviews to rural and regional radio, television and print media about the consultations for the Family Violence reference. Professor Neave has talked about the work of all the references but in particular the Sexual Offences reference, Workplace Privacy and Assisted Reproduction Technology.

As well as responding to requests for information, the Commission issues media releases when consultation papers or reports are released, when the Commission is holding a public event and when issues arise in the media which are relevant to one of the references.

The Commission now has a dedicated Communications Officer who ensures we develop and implement appropriate strategies to maximise our engagement with the Victorian community.

Speaking engagements

To achieve the Commission's objective of promoting the role of law reform and the community's understanding of law and legal processes, commissioners and staff spoke at public and invited events throughout the year, a full list of which appears on the following page (page 26).

Community Outreach and Education

SPEAKING ENGAGEMENTS

Date	Organisation	Topic	Speaker
29 Jul 2003	Victoria Criminal Law Section, Law Institute of Victoria and Victoria Bar Council	VLRC's Sexual Offences Interim Report	Felicity Hampel
7 Aug 2003	Melbourne University Law Students' Society	Career paths in law reform	Nicky Friedman
9 Aug 2003	Rainbow Families	VLRC's reference on Assisted Reproduction Technology	Marcia Neave
15 Aug 2003	Chartered Secretaries Aust (Vic Branch)	Workplace Privacy & Surveillance reference with particular relevance to the public sector	Marcia Neave
22 Aug 2003	Victoria Police, Sexual Offence and Child Abuse Unit	VLRC's work on Sexual Assault and Family Violence references	Marcia Neave
28 Aug 2003	Victorian Independent Education Union	VLRC's work on its Workplace Privacy and Surveillance reference	Marcia Neave
5 Sep 2003	Fairley Leadership (Rural Leadership Skills Group)	Community safety and family violence and role and work of the VLRC	Judith Peirce
10 Sep 2003	Royal Children's Hospital, Murdoch Institute and Gatehouse Centre Staff	VLRC reference on Sexual Assault: Recommendations in relation to child victims	Felicity Hampel
11 Sep 2003	25th International Conference of Data Protection and Privacy Commissioners	Legal issues: open justice, forgiveness, compassion, context, proportionality	Marcia Neave
29 Sep 2003	Federation of Community Legal Centres	Law Reform and the Community Sector	Judith Peirce
9 Oct 2003	Grampians Family Violence Prevention—Child & Family Services and Central Highland Community Legal Centre	Family Violence—the VLRC Reference	Judith Peirce
16 Oct 2003	Rowville Secondary College	The work of the VLRC	Nicky Friedman
28 Oct 2003	Mallesons Stephen Jacques	Workplace Privacy—the VLRC reference	Marcia Neave
29 Oct 2003	Infertility Treatment Authority	Law Reform and its complexity—The VLRC reference on Assisted Reproduction and Adoption	Marcia Neave
7 Nov 2003	Brimbank Community Centre	Guns and intervention orders	Judith Peirce
13 Nov 2003	City of Yarra	Systemic, structural and service responses to family violence	Judith Peirce
20 Nov 2003	Victorian Association for the Care and Resettlement of Offenders	An alternative approach to young sexual offenders: could this ever be justifiable?	Marcia Neave
21 Nov 2003	Medicine and Law Conference	No fault for the catastrophically injured	Marcia Neave
13 Feb 2004	VLRC and Victims Support Agency workshop	Court Specialisation on the Processing of Family Violence Cases	Judith Peirce
26 Feb 2004	Women's Health Goulburn North East	Launch of "A Powerful Journey", first hand accounts of Family Violence	Judith Peirce
12 Mar 2004	Melbourne University Law School	Challenges in Reforming the Justice System for Family Violence Crimes	Judith Peirce
19 Mar 2004	Law Institute Victoria School Lecture Series	Reforming the Law—How What and Why	Judith Peirce
1 Mar 2004	Working Against Sexual Harassment	Sexual Harassment: the past, the present, and the future	Marcia Neave
29 Apr 2004	Law students, Latrobe University	VLRC reference on sexual offences	Marcia Neave
20 May 2004	Victims Support Agency	Launch of Victims Support Agency: Cooperative approaches to law reform	Marcia Neave
25 Jun 2004	Australian Workers Union Workplace Privacy Seminar	Workplace Privacy: Law Reform Issues	Marcia Neave

Disclosures

As a statutory authority, the Commission is required to comply with a number of Government Acts and regulations.

Occupational Health and Safety

During 2003–2004, there were no human and financial costs of occupational injury and illness. Many staff took advantage of the subsidised immunisation program organised by the Department of Justice. New staff received ergonomic assessments by qualified professionals. All staff participated in fire drill evacuation exercises and received training in the Commission's 'Contingency Plan for disaster'.

Whistleblowers

The *Whistleblowers Protection Act 2001* encourages and facilitates disclosures of improper conduct by public officers and public bodies. For the 12 months ending 30 June 2004, the Commission did not receive any disclosures.

Freedom of Information

The *Freedom of Information Act 1982* allows the public the right to access documents held by the Commission. For the 12 months ending 30 June 2004, the Commission did not receive any applications.

Compliance with the *Building Act 1993*

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

Implementation of the Victorian Industry Participation Policy

In October 2003, the Victorian Parliament passed the *Victorian Industry Participation Policy Act 2003* which requires public bodies and departments to report on the implementation of the Victorian Industry Participation Policy (VIPP). Departments and public bodies are required to apply VIPP in all tenders over \$3 million in metropolitan Melbourne and \$1 million in regional Victoria.

This does not apply to the Commission.

Cultural Diversity

In accordance with the requirements outlined in the Premiers Circular 2003/3 the Commission is required to report on its responsiveness to the following Victorian community areas:

- a) culturally and linguistically diverse communities
- b) women
- c) youth and
- d) indigenous communities

This requirement forms part of the whole-of-government performance reporting framework.

The Commission's approach is one of inclusiveness. In every reference we aim for broad consultation with the community and with groups which are typically marginalised or under-consulted.

In the past year we have held successful round tables with people from non-English speaking backgrounds (NESB) and people from Indigenous communities.

Disclosures

CONTINUED

Audit Committee

The NESB round table confronted the issues surrounding family violence and how they affect families in differing cultural groups. A wealth of information was obtained from this consultation and will be used in the development of the reference's consultation paper.

A 'No Way Out?' workshop was held twice during the year for the Defences to Homicide reference to explore how a person's cultural background might influence the dynamics of family violence. The first workshop was held with NESB representatives and the second with representatives of Indigenous communities.

The Commission conducted a forum on community education strategies for NESB communities on sexual assault. The forum included a range of speakers from government and non-government agencies and was well-attended. The outcomes of the forum informed recommendations in the Commission's *Sexual Offences Final Report*.

The Commission hosted a forum to explore sexual assault within Indigenous communities and later supported an Indigenous-only round table which provided a response to the *Sexual Offences Interim Report*.

The Family Violence reference consulted Indigenous groups during each of its visits to rural areas (see p21 for list of towns). This reference has also set up two committees to advise on issues affecting people from culturally and linguistically diverse backgrounds, as well as people with disabilities.

Women have been central to a number of the Commission's references over the past year. Sexual Offences, Family Violence and Defences to Homicide have all had significant contributions from individual women and women's services, from the public submission process through to the membership of the references' advisory committees.

Representatives for children were consulted during the references on Sexual Offences and Family Violence.

Audit Committee Membership and Role

The Audit Committee consists of the following members:

Mark Zanatta, Chairperson
Paris Aristotle
Jamie Gardner
Hugh McPhee
Kevin Vo
Kathy Karlevski

The Committee undertakes the oversight of:

- > financial performance and the financial reporting process, including the annual financial statements;
- > the scope of work, performance and independence of internal audit;
- > the scope of work, independence and performance of the external auditor;
- > the operation and implementation of the risk management framework;
- > matters of accountability and internal control affecting the operations of the Commission;
- > the effectiveness of management information systems and other systems of internal control;
- > the acceptability of and correct accounting treatment for and disclosure of significant transactions which are not part of the Commission's normal course of business;
- > the sign-off of accounting policies; and
- > the Commission's process for monitoring compliance with laws and regulations and its own Code of Conduct and Code of Financial Practice.

In performing its duties, the Committee maintains an effective working relationship with the Commission, management, and the internal and external auditors.

Financial Statements

The following pages provide the Financial Statements for the Victorian Law Reform Commission for the year ended 30 June 2004.

Statement of Financial Performance

FOR THE YEAR ENDED 30 JUNE 2004

	Notes	2004 \$	2003 \$
REVENUES FROM ORDINARY ACTIVITIES			
Government			
Grant - Department of Justice	2	868,893	821,327
Other Income - Legal Practice Board	2	1,380,720	1,000,000
Interest received on Trust Account funds	2	29,814	14,301
Total Revenues from Ordinary Activities		2,279,427	1,835,628
EXPENSES FROM ORDINARY ACTIVITIES			
Employee benefits	4	(1,374,019)	(1,148,343)
Supplies and services	5	(239,783)	(241,490)
Depreciation and amortisation expense	6	(103,352)	(113,173)
Capital asset charge		(23,158)	(31,777)
Other expenses from ordinary activities	7	(424,155)	(515,336)
Total Expenses from Ordinary Activities		(2,164,467)	(2,050,119)
RESULT FROM ORDINARY ACTIVITIES		114,960	(214,491)
NET RESULT FOR THE REPORTING PERIOD		114,960	(214,491)
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH THE VICTORIAN STATE GOVERNMENT IN ITS CAPACITY AS OWNER			
	10	114,960	(214,491)

The above statement of financial performance should be read in conjunction with the accompanying notes.

Statement of Financial Position

AS AT 30 JUNE 2004

	Notes	2004 \$	2003 \$
CURRENT ASSETS			
Cash Assets	14, 15	400	400
Receivables	3, 15	536,921	312,381
Total Current Assets		537,321	312,781
NON-CURRENT ASSETS			
Property, Plant and Equipment	8	274,848	344,815
Total Non-Current Assets		274,848	344,815
Total Assets		812,169	657,596
CURRENT LIABILITIES			
Payables	9, 15	51,652	65,773
Provisions	4	72,679	49,610
Total Current Liabilities		124,331	115,383
NON-CURRENT LIABILITIES			
Provisions	4	63,076	32,410
Total Liabilities		187,407	147,793
Net Assets		624,762	509,803
EQUITY			
Contributed Capital	10	474,484	474,484
Accumulated Surplus	10	150,278	35,319
Total Equity		624,762	509,803

The above statement of financial position should be read in conjunction with the accompanying notes.

Statement of Cashflows

FOR THE YEAR ENDED 30 JUNE 2004

	Notes	2004 \$	2003 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts from the Department of Justice		644,351	952,116
Receipts from Other Entities		1,380,721	1,000,000
Interest received		29,815	14,301
		2,054,887	1,966,417
Payments to Suppliers and Employees		(2,021,343)	(1,960,655)
Net cash inflow (outflow) from Operating Activities	14	33,544	5,762
CASH FLOWS FROM INVESTING ACTIVITIES			
Payments for property, plant and equipment		(33,544)	(5,762)
Net cash inflow (outflow) from Investing Activities		(33,544)	(5,762)
CASH FLOWS FROM FINANCING ACTIVITIES			
Proceeds from capital contribution by State Government		0	0
Net cash inflow (outflow) from Financing Activities		0	0
NET INCREASE (DECREASE) IN CASH HELD			
Cash at beginning of the financial period		400	400
Cash at end of the financial period	14	400	400

The above statement of cash flows should be read in conjunction with the accompanying notes

Notes to the Financial Statements

30 JUNE 2004

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

These financial statements have been prepared in relation to the year ended 30 June 2004 with comparative figures for the year ended 30 June 2003.

1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

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

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

(a) Reporting Entity

The financial statements include both grant and trust fund activities which the Victorian Law Reform Commission controls.

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

(b) Objectives and funding

The Commission's objectives are to provide the Attorney-General and Parliament with high quality, timely, responsive and effective advice on law reform which is independent of government agencies and of the political process;

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

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

(c) Output of the Commission

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

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

Notes to the Financial Statements

30 JUNE 2004

(d) Acquisitions of Assets

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

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

Where settlement of any part of cash consideration is deferred, the amounts payable in the future are discounted to their present value as at the date of the acquisition. The discount rate used is the incremental borrowing rate, being the rate at which a similar borrowing could be obtained from an independent financier under comparable terms and conditions.

(e) Revenue Recognition

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

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

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

Other revenue

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

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

(f) Receivables

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

Collectability of debtors is reviewed on an ongoing basis. Debts which are known to be uncollectable are written off. A provision for doubtful debts is raised where some doubt as to collection exists.

(g) Depreciation of property, plant and equipment

Depreciation is calculated on a straight line basis to write off the net cost of each item of property (excluding land) over its expected useful life to the Commission. Estimates of the remaining useful lives of all assets are reviewed at least annually.

<i>Depreciation rates are as follows:</i>	2004	2003
Computer Equipment	33%	33%
Plant and Equipment	10%	10%

Notes to the Financial Statements

30 JUNE 2004

Where items of plant and equipment have separately identifiable components which are subject to regular replacement, those components are assigned useful lives distinct from the item of plant and equipment to which they relate.

(h) Leasehold improvements

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

(i) Payables

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

(j) Maintenance and repairs

Plant of the Commission is required to be overhauled on a regular basis. This is managed as part of an ongoing major cyclical maintenance program. The costs of this maintenance are charged as expenses as incurred, except where they relate to the replacement of a component of an asset, in which case the costs are capitalised and depreciated in accordance with notes 1(d) and (g). Other routine operating maintenance, repair costs and minor renewals are charged as expenses as incurred.

(k) Goods and services tax

Revenues, expenses and assets are recognised net of GST except where the amount of GST incurred is not recoverable, in which case it is recognised as part of the cost of acquisition of an asset or part of an item of expense.

The Department of Justice manages the GST transactions on behalf of the Commission and the GST components of the Commission's receipts and/or payments are recognised in the Department's financial statements.

(l) Employee benefits

(i) Wages, salaries and annual leave

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

(ii) Long service leave

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

Notes to the Financial Statements

30 JUNE 2004

(iii) Superannuation

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

(iv) Termination benefits

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

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

(v) Employee benefit on-costs

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

(m) Cash

For purposes of the statement of cash flows, cash includes cash on hand.

(n) Capital asset charge

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

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

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

(p) Contributed capital

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

(q) Rounding of amounts

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

(r) The impacts of adopting AASB equivalents to IASB Standards

For interim and annual reporting periods ending on or after 30 June 2004, AASB 1047 *Disclosing the Impacts of Adopting AASB Equivalents to International Financial Reporting Standards* requires narrative disclosure of how the transition process is being managed and an explanation of the key differences of in accounting policies that are expected to arise from the transition to AASB equivalents to IASB pronouncements. Refer to Note 20 for further details.

Notes to the Financial Statements

30 JUNE 2004

	2004 \$	2003 \$
2 REVENUE		
Grant—Department of Justice	868,893	821,327
Other Income—Legal Practice Board (Refer Note 1e)	1,380,720	1,000,000
Interest received on Trust Funds	29,814	14,301
	2,279,427	1,835,628
3 RECEIVABLES		
Grants receivable	140,801	102,475
Trust Funds receivable	383,645	209,906
Other debtors	12,475	0
	536,921	312,381
4 EMPLOYEE BENEFITS		
EMPLOYEE COSTS		
Direct costs		
Salaries, wages and overtime	1,041,724	925,698
Sick leave, annual leave and long service leave	149,902	71,088
Superannuation (Refer Note 19)	64,476	60,006
Total direct costs	1,256,102	1,056,792
Related on-costs		
Payroll tax	60,508	56,129
Staff training	11,575	28,457
Staff training—Youth Employment Scheme	33,351	0
Workcover	701	649
Fringe benefits tax	11,782	6,316
Total related on-costs	117,917	91,551
Total	1,374,019	1,148,343

Notes to the Financial Statements

30 JUNE 2004

	2004 \$	2003 \$
4 EMPLOYEE BENEFITS (CONTINUED)		
Current Liabilities		
Annual leave	50,211	39,292
Long service leave	7,008	3,601
Accrued salaries	15,460	6,717
Total	72,679	49,610
Non-Current Liabilities		
Long service leave	63,076	32,410
Total	135,755	82,020
5 SUPPLIES AND SERVICES		
Stationery, consumables and supplies	21,685	19,247
External printing	106,112	97,180
Books, acts, newspapers, journals	9,468	16,230
Advertising	702	9,595
Office equipment costs and maintenance	16,572	8,582
Legal subscriptions	36,733	48,974
Couriers and freight	6,867	4,709
Electronic communication charge	18,714	20,274
Other communication expenses	9,606	1,291
Mobile phone charges	1,348	2,355
Postage	11,976	13,053
Total	239,783	241,490
6 DEPRECIATION AND AMORTISATION		
Depreciation		
Plant and equipment	39,775	49,595
Amortisation		
Leasehold fitout	63,577	63,577
Total	103,352	113,173

Notes to the Financial Statements

30 JUNE 2004

	2004 \$	2003 \$
7 OTHER OPERATING EXPENSES		
Airfares	13,154	19,128
Tram, train and taxi fares and other local travel	8,544	6,447
Functions, meetings	14,851	10,588
Professional fees	159,958	84,512
Audit fees	11,300	11,300
Minor equipment	7,603	12,023
Rent and associated services	128,918	125,917
Cabling, software and computer maintenance	51,380	49,235
Motor vehicle costs	6,154	7,138
Electricity	5,203	5,762
Repairs and maintenance		
Furniture and fittings	12,496	12,690
Leasehold premises	0	162,490
Net loss on disposal of property, plant and equipment	159	0
Miscellaneous	4,435	8,106
Total	424,155	515,336
8 PROPERTY, PLANT AND EQUIPMENT— AT COST		
Leasehold fitout	381,388	381,388
Less leasehold amortisation	(193,429)	(129,852)
Written down value	187,959	251,536
Plant and equipment	199,149	203,688
Less accumulated depreciation	(112,260)	(110,409)
Written down value	86,889	93,279
Total written down value	274,848	344,815

Notes to the Financial Statements

30 JUNE 2004

8 PROPERTY, PLANT AND EQUIPMENT— AT COST (CONTINUED)

	Leasehold Fitout \$	Plant & Equipment \$	Total \$
2004			
Carrying amount at the start of the financial year	251,537	93,278	344,815
Additions	0	33,544	33,544
Disposals	0	(159)	(159)
Depreciation	0	(39,775)	(39,775)
Amortisation	(63,577)	0	(63,577)
Transfers depreciation	0	0	0
Carrying amount at the end of the financial year	187,959	86,888	274,848

	2004 \$	2003 \$
9 PAYABLES		
Current		
Trade creditors and accruals	47,878	62,773
Other creditors	3,774	3,000
Total	51,652	65,773
10 EQUITY AND MOVEMENTS IN EQUITY		
Contributed capital		
Opening Balance at 1 July	474,484	474,484
Balance 30 June	474,484	474,484
Accumulated surplus		
Balance at the beginning of the financial year	35,319	249,810
Net surplus (deficit) recognised in the Statement of Financial Performance	114,960	(214,491)
Balance at the end of the financial year	150,278	35,319

Notes to the Financial Statements

30 JUNE 2004

	2004 \$	2003 \$
11 COMMITMENTS FOR EXPENDITURE		
11.1 Operating Leases		
Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:		
Within 1 year	143,736	139,040
Later than 1 year but not later than 5 years	277,796	393,014
Later than 5 years	0	0
	421,532	532,054
11.2 Capital Commitments		
There were no commitments for the acquisition of plant and equipment contracted for as at 30 June 2004 (\$Nil-2003).		
12 EVENTS OCCURRING AFTER REPORTING DATE		
There were no significant events occurring after the reporting date to be reported as at 30 June 2004 (\$Nil-2003).		
13 CONTINGENT LIABILITIES		
There were no contingent liabilities at balance date not provided for in the Statement of Financial Position as at 30 June 2004 (\$Nil-2003).		
14 RECONCILIATION OF RESULT FROM ORDINARY ACTIVITIES TO NET CASH INFLOW FROM OPERATING ACTIVITIES		
Operating result	114,960	(214,491)
Plus/(minus) non cash items:		
Depreciation and amortisation expense	103,352	113,173
Loss on retirement of property, plant and equipment	159	
Change in operating assets and liabilities:		
(Increase)/decrease in receivables	(224,541)	130,788
Increase/(decrease) in creditors and accruals	(14,121)	(31,134)
Increase/(decrease) in employee entitlements	53,735	7,426
Net cash from operating activities	33,544	5,762
Reconciliation of cash		
Cash on hand	400	400
Total	400	400

Notes to the Financial Statements

30 JUNE 2004

15 FINANCIAL INSTRUMENTS

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

Interest Rate Risk Exposures—30 June 2004

	Fixed Interest Rate Maturing In					Total
	Floating Interest Rate	1 Year or Less	Over 1 to 5 years	More than 5 years	Non Interest Bearing	
	\$	\$	\$	\$	\$	\$
Financial Assets						
Cash	-	-	-	-	400	400
Receivables	-	-	-	-	536,921	536,921
Total	-	-	-	-	537,321	537,321
Financial Liabilities						
Payables	-	-	-	-	51,652	51,652
Total	-	-	-	-	51,652	51,652

Interest Rate Risk Exposures—30 June 2003

	Fixed Interest Rate Maturing In					Total
	Floating Interest Rate	1 Year or Less	Over 1 to 5 years	More than 5 years	Non Interest Bearing	
	\$	\$	\$	\$	\$	\$
Financial Assets						
Cash	-	-	-	-	400	400
Receivables	-	-	-	-	312,381	312,381
Total	-	-	-	-	312,781	312,781
Financial Liabilities						
Payables	-	-	-	-	65,773	65,773
Total	-	-	-	-	65,773	65,773

The net fair value of Financial Assets and Financial Liabilities as at 30 June 2004 is their book value.

Notes to the Financial Statements

30 JUNE 2004

16 RESPONSIBLE PERSONS

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

Names

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

<i>Attorney-General</i>	The Hon Rob Hulls, MP	1 July 2003 to 30 June 2004
<i>Acting Attorney-General</i>	The Hon Bob Cameron, MP	1 July 2003 to 4 July 2003
	The Hon John Lenders, MLC	24 December 2003 to 16 January 2004
	The Hon Bob Cameron, MP	13 April 2004 to 16 April 2004
	The Hon Bob Cameron, MP	19 June 2004 to 30 June 2004
<i>Secretary to the Department of Justice</i>	Penny Armytage	1 July 2003 to 30 June 2004
<i>Acting Secretary to the Department of Justice</i>	Alan Clayton	1 July 2003 to 4 July 2003
	Alan Clayton	13 October 2003 to 17 October 2003
	Alan Clayton	15 December 2003 to 9 January 2004

The persons who were Responsible Persons of the Commission as stipulated in Section 19 of the *Victorian Law Reform Commission Act 2000*, for the reporting period are as follows:

<i>Chief Executive Officer</i>	Padma Raman	1 July 2003 to 1 August 2003
		2 February 2004 to 30 June 2004
<i>Acting Chief Executive Officer</i>	Matthew Carroll	4 August 2003 to 30 January 2004
<i>Statutory Office Holder</i>		
<i>Chairperson</i>	Professor Marcia Neave	1 July 2003 to 30 June 2004

Remuneration

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

Remuneration received or receivable by the Chairperson in connection with the management of the Commission during the reporting period was in the range:

\$170,000 – \$179,999 (\$170,000 – \$179,999 in 2003).

Remuneration received or receivable by the Accountable Officer in connection with the management of the Commission during the reporting period was in the range:

\$100,000 – \$110,000 (\$110,000 – \$119,999 in 2003).

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

Notes to the Financial Statements

30 JUNE 2004

17 REMUNERATION OF EXECUTIVES

The number of executive officers, other than Ministers and Accountable Officers, and their total and base remuneration during the reporting period are shown in the table below in their relevant income bands. Base remuneration is exclusive of bonus payments, long-service leave payments, redundancy payments and retirement benefits.

Income Band	2004 Remuneration		2003 Remuneration	
	Total No.	Base No.	Total No.	Base No.
100,000 – 109,999	–	–	–	1
110,000 – 119,999	–	–	1	–
Total numbers	0	0	1	1
Total amount	\$0	\$0	\$119,691	\$109,024

The definition of an executive officer does not include Governor-in-Council appointments as statutory office holders. The Accountable Officer, unless the Minister otherwise determines, is the Chief Executive Officer as stipulated in the *Financial Management Act 1994*.

The table above does not show executives whose remuneration is below \$100,000, nor does it include the Accountable Officer.

Reconciliation of executive numbers	2004	2003
Executives with remuneration over \$100,000	1	1
Add Executives seconded with total remuneration below \$100,000	1	–
Less Separations	1	–
Total executive numbers at 30 June 2004	1	1

18 REMUNERATION OF AUDITORS

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

	2004 \$	2003 \$
Paid as at 30 June 2004	0	4,500
Payable as at 30 June 2004	11,300	6,800

Notes to the Financial Statements

30 JUNE 2004

19 SUPERANNUATION FUNDS

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

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

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

Fund	2004 \$	2003 \$
Victorian Superannuation Board (New Scheme)	53,800	53,094
Asgard Capital Management Ltd	4,165	3,775
Unisuper	1,392	1,322
Hesta	1,546	1,159
Care Super Plan	3,506	656
Host Plus	68	–
Total	64,477	60,006

The bases for contributions are determined by the various schemes.

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

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

Notes to the Financial Statements

30 JUNE 2004

20 IMPACTS OF ADOPTING AASB EQUIVALENTS TO IASB STANDARDS

For reporting periods beginning on or after 1 January 2005, all Australian reporting entities are required to adopt the financial reporting requirements of the Australian equivalents to International Financial Reporting Standards (IFRS). This requirement also extends to any comparative financial information included within the report. The first day of the comparative period, 1 July 2004, effectively becomes the transition date for the Commission. Any adjustments arising from changes in the recognition or measurement of assets and liabilities at the transition date arising from the adoption of IFRS will be made against accumulated funds at the transition date.

The Commission is taking the following steps in conjunction with the Department of Justice and the Department of Treasury and Finance in managing the transition to Australian equivalents to IFRS:

- establishing a steering committee for the oversight of the transition to and implementation of the Australian equivalents to IFRS;
- reviewing the Commission's current accounting policies and the proposed new standards to identify key issues and the likely impacts resulting from the adoption of Australian equivalents to IFRS; and
- commenced an education and training process for all stakeholders to raise awareness of the changes in reporting requirements and the processes to be undertaken.

The Commission has identified a number of changes to the existing accounting policies that may have a material impact on the Commission's future financial position and performance following the adoption of the requirements of Australian equivalents to IFRS (the new standards). These include:

- **Valuation of assets.** In accordance with the *Victorian Government Policy – Revaluation of Non-Current Physical Assets*, the Commission currently measures its non-current physical assets, other than plant, equipment and vehicles, at fair value subsequent to initial recognition. Plant, equipment and vehicles are measured on a cost basis. Revaluations are assessed annually and supplemented by independent assessments at least every three years. The new standard continues to offer a choice for measuring each class of non-current physical assets either at cost or at fair value. However, non-current assets measured at fair value will only be required to be revalued at least every three to five years and all assets in a class must be revalued at the same time. The Victorian Government has not yet concluded whether it will make any changes to the valuation basis of any class of asset or the methodology or frequency at which revaluations are performed. The financial effects of any such changes are unknown.
- **Impairment of assets.** Under the new standards, an asset will be required to be assessed for impairment each year. If indicators of impairment exist, the carrying value of an asset will need to be assessed to ensure that the carrying value does not exceed its recoverable amount, which is the higher of its value-in-use and fair value less costs to sell. For the Commission, value-in-use of an asset is its depreciated replacement cost. Other than inventories, financial assets and assets arising from construction contracts, impairment testing will apply to all assets regardless of whether they are measured on a cost or fair value basis. Where the carrying value of an asset exceeds its recoverable amount, the difference will be written-off as an impairment loss to the statement of financial performance except to the extent that the write-down can be debited to an asset revaluation reserve amount applicable to that asset. Any impairment losses at transition date will be adjusted against the accumulated funds.
- In addition, a number of other changes in requirements have been identified which are expected to lead to changes in methodology or processes, increased disclosures and possibly changes in measurement of assets or liabilities. The changes are not expected to have a material impact.

Notes to the Financial Statements

30 JUNE 2004

ACCOUNTABLE OFFICER'S AND CHIEF FINANCE AND ACCOUNTING OFFICER'S DECLARATION

We certify that the attached financial statements for the Victorian Law Reform Commission have been prepared in accordance with Standing Direction 4.2 of the *Financial Management Act 1994*, applicable Financial Reporting Directions, Australian accounting standards and other mandatory professional reporting requirements.

We further state that, in our opinion, the information set out in the statement of financial performance, statement of financial position, statement of cash flows and notes to and forming part of the financial statements, presents fairly the financial transactions during the year ended 30 June 2004 and financial position of the Commission as at 30 June 2004.

We are not aware of any circumstance which would render any particulars included in the financial statements to be misleading or inaccurate.



Padma Raman
Accountable Officer

Melbourne
14 September 2004



Kathy Karlevski
Chief Finance and Accounting Officer

Melbourne
14 September 2004

Auditor-General's Report



AUDITOR GENERAL
VICTORIA

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

Audit Scope

The accompanying financial report of the Victorian Law Reform Commission for the financial year ended 30 June 2004, comprising statement of financial performance, statement of financial position, statement of cash flows and notes to the financial statements, has been audited. The Members of the Commission are responsible for the preparation and presentation of the financial report and the information it contains. An independent audit of the financial report has been carried out in order to express an opinion on it to the Members of the Parliament of Victoria, responsible Ministers and Members of the Commission as required by the *Audit Act 1994*.

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

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

Audit Opinion

In my opinion, the financial report presents fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia, and the financial reporting requirements of the *Financial Management Act 1994*, the financial position of the Victorian Law Reform Commission as at 30 June 2004 and its financial performance and cash flows for the year then ended.

J W Cameron
Auditor General

Melbourne
14 September 2004

Appendix 1

DISCLOSURE INDEX

The Annual Report of the Victorian Law Reform Commission is prepared in accordance with all relevant Victorian Legislation. This index has been prepared to facilitate identification of the Commission's compliance with statutory disclosure requirements.

MINISTERIAL DIRECTIONS

Legislation	Requirement	Page
Report of Operations		
<i>Charter and purpose</i>		
FRD 22	Manner of establishment and Ministers	-
FRD 22	Objectives, functions, powers and duties	12
FRD 22	Nature and range of services provided	14–26
<i>Management and structure</i>		
FRD 22	Organisational structure	11
<i>Financial and other information</i>		
FRD 22	Statement of workforce data and merit and equity	-
FRD 22	Summary of the financial results for the year	30–32
FRD 22	Significant changes in financial position during the year	30
FRD 22	Operational and budgetary objectives and performance against objectives	12
FRD 22	Major changes or factors affecting achievement	-
FRD 22	Subsequent events	-
FRD 22	Compliance with building and maintenance provisions of <i>Building Act 1993</i>	27
FRD 22	Statement on National Competition Policy	-
FRD 22	Application and operation of the <i>Whistleblowers Protection Act 2001</i>	27
FRD 22	Details of consultancies over \$100,000	-
FRD 22	Details of consultancies under \$100,000	-
FRD 12	Disclosure of major contracts	-
FRD 22	Statement of availability of other information	-
FRD 22	Occupational Health and Safety	27
FRD 15	Executive officer disclosures	44
FRD 10	Disclosure index	27
FRD 24	Reporting of office-based environmental impacts	-
FRD 25	Victorian Industry Participation Policy Disclosures	27
FRD 8	Budget Portfolio Outcomes	51

Appendix 1

DISCLOSURE INDEX

Legislation	Requirement	Page
Financial Statements		
<i>Financial statements required under Part 7 of the FMA</i>		
SD 4.2(c)	Compliance with Australian accounting standards and other authoritative pronouncements	33
SD 4.2(c)	Compliance with Ministerial Directions	33
SD 4.2(d)	Rounding of amounts	36
SD 4.2(c)	Accountable officer's declaration	47
SD 4.2(f)	Model Financial Report	-
SD 4.2(b)	Statement of financial performance	30
SD 4.2(b)	Statement of financial position	31
SD 4.2(b)	Statement of cash flows during the year	32
<i>Other disclosures in notes to the financial statements</i>		
FRD 9	Departmental disclosure of administered assets and liabilities	-
FRD 11	Disclosure of ex-gratia payments	-
FRD 13	Disclosure of parliamentary appropriations	-
FRD 21	Responsible person and executive officer disclosures	43-44
FRD 23	Superannuation liabilities and disclosure	45
LEGISLATION		
	<i>Freedom of Information Act 1982</i>	27
	<i>Building Act 1983</i>	27
	<i>Whistleblowers Protection Act 2001</i>	27
	<i>Victorian Industry Participation Act 2003</i>	27

Appendix 2

BUDGET PORTFOLIO OUTCOMES

The Budget Portfolio Outcomes provides a comparison between the financial information published in Budget Paper No 3 *Budget Estimates* (BP 3) and the actual results for the financial year.

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

FINANCIAL REVIEW OF OPERATIONS AND FINANCIAL CONDITION

	2004	2003	2002	2001
Three year financial summary	\$	\$	\$	\$
Target Budget	2,300,000 ³	2,400,000 ¹	2,300,000 ²	0
Expected Outcome	2,400,000	2,400,000 ¹	2,100,000 ²	0
Actual				
Grant from Department of Justice	868,893	821,327	928,300	404,000
Resources received free of charge	0	0	0	451,012
Other revenue	1,380,720	1,000,000	950,000	0
Interest received on Trust Account funds	29,814	14,301	0	0
Total revenue	2,279,427	1,835,628	1,878,300	855,012
Net result from operating activities	114,960	(214,492)	249,810	440,254
Net cash flow from operating activities	33,544	5,762	75,797	33,275
Total assets	812,171	657,595	895,795	503,474
Total liabilities	187,407	147,793	171,501	63,220

In the financial year ending June 2004, the Commission's result from ordinary activities was affected by the retraction of the EBA supplementation funding, provided pursuant to Section 3(2) FMA94. The VLRC's annual output appropriation funding, which provides the Commission with the necessary funds to meet its operational obligations, is appropriated as a specific 'line item' in the *Appropriation Bill* and due to a technicality, the EBA supplementation funding was not provided to that same Authority and the end impact is that part of the funding is in the Department's output appropriation.

As there is no legal basis on which to exceed the separate VLRC appropriation amount, the Commission was required to self fund the pay rise resulting from the *Enterprise Bargaining Agreement 2004* negotiations.

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

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

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

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

3 Department of Treasury and Finance: Department of Justice *Budget Estimates* (BP3) 2003-04, 228
<[http://www.dtf.vic.gov.au/DTF/RWP323.nsf/0/091f34b02dd0f9e2ca256e820006fc6d/\\$FILE/bp3.pdf](http://www.dtf.vic.gov.au/DTF/RWP323.nsf/0/091f34b02dd0f9e2ca256e820006fc6d/$FILE/bp3.pdf)> accessed 21 June 2004

This page has been left blank.

VLRC Publications

- > *Disputes Between Co-owners: Discussion Paper* (June 2001)
- > *Privacy Law: Options for Reform Information Paper* (July 2001)
- > *Sexual Offences: Law and Procedure Discussion Paper* (September 2001)
(Outline also available)
- > *Annual Report 2000–01* (October 2001)
- > *Failure to Appear in Court in Response to Bail: Draft Recommendation Paper* (January 2002)
- > *Disputes Between Co-owners: Report* (March 2002)
- > *Criminal Liability for Workplace Death and Serious Injury in the Public Sector: Report* (May 2002)
- > *Failure to Appear in Court in Response to Bail: Report* (June 2002)
- > *People with Intellectual Disabilities at Risk—A Legal Framework for Compulsory Care: Discussion Paper* (June 2002)
- > *What Should the Law Say About People with Intellectual Disabilities Who are at Risk of Hurting Themselves or Other People? Discussion Paper in Easy English* (June 2002)
- > *Defences to Homicide: Issues Paper* (June 2002)
- > *Who Kills Whom and Why: Looking Beyond Legal Categories* by Associate Professor Jenny Morgan (June 2002)
- > *Annual Report 2001–02* (October 2002)
- > *Workplace Privacy: Issues Paper* (October 2002)
- > *Defining Privacy: Occasional Paper* (October 2002)
- > *Sexual Offences: Interim Report* (June 2003)
- > *Defences to Homicide: Options Paper* (September 2003)
- > *Annual Report 2002–03* (October 2003)
- > *People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care* (November 2003)
- > *Assisted Reproductive Technology & Adoption: Should the Current Eligibility Criteria in Victoria be Changed? Consultation Paper* (December 2003)



Victorian
Law Reform
Commission

GPO Box 4637
Melbourne Victoria 3001
Australia
DX 144 Melbourne, Vic

Level 10
10–16 Queen Street
Melbourne Victoria 3000
Australia

Telephone +61 3 8619 8619
Facsimile +61 3 8619 8600
1300 666 555 (within Victoria)
TTY 1300 666 557
law.reform@lawreform.vic.gov.au
www.lawreform.vic.gov.au