

Appendix 6: Staffing profile

The tables on page 227 show staffing details for the Department at 30 June 2003 and 30 June 2004.

Table 6 provides a breakdown by location (region), broad-banded classification and gender for the Department. It includes all staff employed by the Department under the *Public Service Act 1999*—that is, ongoing (previously described as permanent), non-ongoing (previously described as temporary or casual), full-time and part-time. Part-time staff are shown as full-time equivalents.

Table 7 shows staff numbers by head count—that is, part-time staff are shown as the number of people employed, not full-time

equivalents. Therefore, there is no correlation between the total figures in the two tables. The total figures in Table 6 will be smaller than those shown in Table 7.

For the purposes of these tables, part-time staff are defined as staff members who work less than the standard hours per week (standard hours being 37 hours 30 minutes).

Only those staff that were paid by the Department are counted for the purposes of these tables. Staff on leave without pay are not counted.

Casual staff, numbering 38 at 30 June 2004, are not recorded in these tables.

Table 6: Staffing by location (region), broad-banded classification and gender—paid staff (full-time equivalent)
 [Includes ongoing, non-ongoing, full-time and part-time]

	As at 30 June 2003						As at 30 June 2004									
	SES		EL1-2 & equiv		APSL1-6 & equiv		Total		SES		EL1-2 & equiv		APSL1-6 & equiv		Total	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Australian Capital Territory	37.0	25.0	140.8	122.3	101.7	241.9	279.5	389.2	34.0	23.4	153.3	139.3	116.2	283.7	303.5	446.4
Victoria	0	0	8.0	7.0	13.5	15.4	21.5	22.4	0	0	6.0	6.0	14.0	16.0	20.0	22.0
TOTAL	37.0	25.0	148.8	129.3	115.2	257.3	301.0	411.6	34.0	23.4	159.3	145.3	130.2	299.7	323.5	468.4

Table 7: Staff numbers by broad-banded classification/gender and employment category/employment status—paid staff (head count)

	As at 30 June 2003						As at 30 June 2004					
	Total		Ongoing		Non-ongoing		Total		Ongoing		Non-ongoing	
			Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time
SES	25	Female	25	0	0	0	24	22	2	0	0	0
	37	Male	37	0	0	34	34	34	0	0	0	0
EL1-2 & equiv	134	Female	118	15	1	0	151	132	15	4	0	0
	150	Male	139	6	5	0	160	148	6	6	0	0
APSL1-6 & equiv	265	Female	209	17	35	4	308	239	17	48	4	4
	116	Male	98	2	16	0	131	103	2	26	0	0
TOTAL	424	Female	352	32	36	4	483	393	34	52	4	4
	303	Male	274	8	21	0	325	285	8	32	0	0

Appendix 7: Staff achievements

The Department has in place a number of awards to acknowledge and reward individual and team achievements. The rewards and recognition arrangements are an important component of the Department's approach to recognising and celebrating the outstanding efforts and contributions of employees and for promoting departmental values and behaviours. These are additional to external awards, including the Public Service Medal.

The Department recognises the importance of providing a work environment that encourages team and individual achievement. In addition to the formal awards, the Department strongly encourages managers to use informal mechanisms to recognise good performance. It is only against this background of constant encouragement and support that the Department can successfully implement its more formal reward and recognition arrangements.

The departmental awards are:

- Secretary's Award
- Deputy Secretary's and General Manager's Awards
- Academic Achievement Award, and
- Australia Day Achievement Award.

The less formal recognition awards are administered by individual Divisions and Offices. A number of these awards were presented during this reporting period.

Recipients of awards for 2003-04 and noteworthy achievements follow.

Departmental Awards

Secretary's Award 2003

Phil Gibbons

In recognition of his outstanding leadership of the Protective Security Coordination Centre Training Centre in a rapidly evolving security environment.

Civil Justice and Legal Services, Deputy Secretary's Award 2003

Rachel Bacon

In recognition of an outstanding and highly valued contribution to the work of the Native Title Division.

Julie Atwell

In recognition of her outstanding work on the Timor Sea Treaty and associated arrangements.

Criminal Justice and Security, Deputy Secretary's Award 2003

Belinda Barry

In recognition of her exceptional leadership of the Mutual Assistance Unit in meeting the challenge of increased demands and complexity of work.

Corporate Services, General Manager's Award 2003

Nan Lecomte

In recognition of her dedication and commitment to achieving outstanding outcomes as the Department's property officer.

Information and Knowledge Services, General Manager's Award 2003

Annette Bouchier

In recognition of her exceptional leadership, managerial and technical skills in supporting the implementation of the National Security Hotline.

Academic Achievement Award

Kathy Hilgert and Morrie Bradley —joint award

In recognition of their outstanding achievements academically, in their job performance, and for maintaining a healthy work-life balance.

Australia Day Achievement Awards

Peter Arnold, Emergency Management Australia—for exemplary service to the Attorney-General's Department, through Emergency Management Australia, during the course of 2003.

Jenny Collins, Corporate Services Group—for professionalism and dedication to achieving exceptional outcomes for the Department.

Richard Fairbrother, Criminal Justice Division—for sustaining the whole of government coalition that delivered the People Trafficking package 2003.

Helaine Hallahan, Protective Security Coordination Centre—for consistently achieving a high standard of performance in counter-terrorism policy development and coordination.



▲ 2004 Australia Day Award Recipients

Janet Johnson, Civil Justice Division—for dedication and consistent high-quality support and advice as a member of Civil Justice Division's Executive Support team.

Fiona Jolly, Legal Services and Native Title Division—for demonstrating a very high level of capability in personally progressing classification policy issues, at a time of reduced Section resourcing, while also discharging her broader responsibilities as Section Head.

Christina Maselos, Office of Legislative Drafting—for dedicated and excellent work in the rewriting of the Family Law Rules.

Colin Minihan, Information and Security Law Division—for leadership in electronic commerce and privacy.

John Panneman, Corporate Services Group—for professionalism and dedication to achieving exceptional outcomes for the Department.

Karl Alderson, Peter Arnaudo, Jill Baillie, Noel Bugeia, James Graham, Bernadette Metschke, Sara Pesenti, Suesan Sellick and Jane Selwood, Civil Justice Division and Office of Legislative Drafting—for high level policy development leading to the passage of the Legislative Instruments Act.

Emma Appleton, Jules Doak, Joanne Gielen, Christine Johnston, Sandra Kentish and Danielle Richards-Webb, Information and Knowledge Services—in recognition of the successful implementation of the EDMS as a major new business critical information management system. The EDMS project team has shown outstanding commitment and dedication.

Ben Batros, James Cockayne, Mark Jennings, Sonja Litz, Geoff Skillen and Houda Younan, Criminal Justice Division and Office of International Law—for excellence in the

preparation of a comprehensive and accurate analysis of current law of armed conflict applying to the Australian Defence Force in advance of the conflict in Iraq.

Linda Baulch, Deidre McNally and Meg Richens, Legal Services and Native Title Division—in recognition of an outstanding effort in facilitating the finalisation of the 2002 Review of Funding in the Native Title System.

Sue Bromley, Evan Gallagher, Tara Inverarity, Karen Moore and Allison Wood, Civil Justice Division—for excellence in stakeholder consultation and the preparation of a comprehensive strategy paper on the federal civil justice system.

Marc Hess, Jamie Lowe, Doug Rutherford, Catherine Smith and Annette Willing, Information and Security Law Division—for responsiveness and professionalism in implementing policy in national security.

Ann O'Brien and Elizabeth Cosgrove, Corporate Services Group—for professionalism and dedication to achieving exceptional outcomes for the Department.

Other awards

Rob Cameron, Emergency Management Australia—awarded the Order of Australia (OAM) in recognition of his leadership of the EMA team following the Bali bombings.

Ed Tyrie, Protective Security Coordination Centre—awarded the Public Service Medal for outstanding public service in the development and coordination of policies and arrangements for safeguarding national security and the Australian Government's protective security interests.

Other achievements

Josh Wright, Protective Security Coordination Centre—awarded the Special Operations Command Commendation for outstanding service and dedication as a watch keeper during Operations Slipper, Bastille and Falconer.

Appendix 8: Occupational health and safety

This report is presented in accordance with the requirements of section 74 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act).

The Department's Occupational Health and Safety Policy and Agreement comply with element 1 of Comcare's Safety Map audit tool. The documents are available to all staff electronically through the Department's intranet and are promoted in *HR matters*, the Human Resources Branch Newsletter.

The Department seeks to provide a healthy and safe work environment for all staff, contractors and visitors. It recognises the value of prevention activities that identify and eliminate hazards that managers and staff integrate into day-to-day business.

The Occupational Health and Safety Committee met quarterly during the year. The minutes of the meetings were made available to all staff. Three new health and safety representatives were appointed to the Committee in 2003–04.

Reporting requirements under the Act

Section 68 occurrences

(Notification and reporting of accidents and dangerous occurrences)

There was one notification.

Investigations

No investigations were conducted.

Section 45 directions

(Power to direct that workplace etc. not be disturbed)

No directions were given to the Department under s 45 of the Act.

Section 29 notices

(Provisional Improvement Notices)

No notices were issued under s 29 of the Act.

Section 30 notices

(Duties of employers in relation to health and safety representatives)

No notices were issued under s 30 of the Act.

Section 46 notices

(Power to issue prohibition notices)

No notices were issued under s 46 of the Act.

Section 47 notices

(Power to issue improvement notices)

No notices were issued under s 47 of the Act.

General outcomes

The Department continued to conduct regular workplace inspections throughout 2003-04. Reports were provided to Division Heads outlining suggested recommendations and improvements. There was continual improvement across the Department, with Divisions displaying an ongoing commitment to eliminating OH&S hazards. As well, staff awareness of OH&S has increased, resulting in improved prevention of and early intervention for workplace injuries and illnesses. These improvements are evidenced by greater numbers of OH&S incident/occurrence reports, more work-station assessments, higher attendance for health assessments and health activities, quick resolution of risks identified by inspections, and the introduction of 'walk-through' inspections following relocation exercises. The mode for time taken to engage the services of a Comcare-approved rehabilitation provider is less than one week.

Achievement of 2003-04 priorities

A contract for the provision of the Employee Assistance Program for the next three years was awarded to Dysaran Consulting.

The Department implemented the Health Practices—Health and Wellbeing Program. This program works toward maximising the health of employees and minimising days lost through illness and injury. There has been a reduction in sick leave, for absences with and without a medical certificate, in the period April-June from 4.5 per cent average absence rate in 2003 to 2.51 per cent in 2004.

The Department supports employee involvement in its health practices. The Department continues to facilitate staff attendance at lunchtime activities designed to improve their health and wellbeing. Posture and flexibility classes, seated workplace massage and

yoga classes help reduce stress and the occurrence of Occupational Overuse Syndrome. Around 100 staff are involved in any given week.

Work-station assessments are coordinated by the OH&S and Rehabilitation Unit. The OH&S and Rehabilitation Advisers focused on longer-term claims, achieving moderate success in resolving claim issues.

All accidents/occurrences are recorded in the Aurion Human Resource OH&S Module, which meets reporting requirements and allows the Department to respond to occurrences and trends. Quarterly reports on the Department's OH&S performance on Comcare's key OH&S targets, using Aurion and Comcare's Information System, were provided to the Executive Committee and the Department's OH&S Committee.

Priorities for 2004-05

The Department's priorities for 2004-05 are to:

- reduce the number of compensation claims by targeting the cause of the injuries
- promote the Department's Health and Wellbeing Program
- skill Health and Safety Representatives in work-station assessments
- review all existing OH&S policies, and
- integrate the reporting of health and wellbeing performance with other human resource performance reporting.

Appendix 9: Commonwealth Disability Strategy

The Commonwealth Disability Strategy is designed to help agencies improve access for people with disabilities to their programs, services and facilities. Under this strategy, the Department reports on its role as policy adviser and employer.

Policy adviser role

Performance indicator 1: New or revised policy/program proposals assess impact on the lives of people with disabilities prior to decision

Performance measure: Percentage of new or revised policy/program proposals that document consideration of the impact of the proposal before taking any decision.

Current level of performance 2003–04: All relevant policies/programs are assessed for their impact on the lives of people with disabilities prior to decision. Areas of particular focus include the development of Disability Standards for access to premises and education, and amendments made to Disability Standards for access to public transport. The impact on the lives of people with disabilities is assessed in the context of considering the scope, application and effectiveness of the Disability Discrimination Act and is documented.

Performance indicator 2: People with disabilities are included in consultation about new or revised policy/program proposals

Performance measure: Percentage of consultations about new or revised policy/program proposals that are developed in consultation with people with disabilities.

Current level of performance 2003–04: The Department provides funding to the Disability Discrimination Standards Project to ensure that extensive and effective consultation is maintained with the disability sector and peak bodies in relation to the development of

Disability Standards. Departmental representatives meet with appropriate representatives in a variety of forums to consult on proposals that affect people with disabilities. For example, people with disabilities have been included in extensive consultations about the proposed United Nations Convention on the Rights of Persons with Disabilities. In relation to the Disability Discrimination Amendment Bill 2003, the Senate Legal and Constitutional Legislation Committee recommended that the Bill would benefit from wider consultation.

Performance indicator 3: Public announcements of new, revised or proposed policy/program initiatives are available in accessible formats for people with disabilities

Performance measure: Percentage of new, revised or proposed policy/program announcements available in a range of accessible formats, and time taken in providing announcements in accessible formats.

Current level of performance 2003–04: The Department publishes all new, revised and proposed policy/program announcements electronically in a minimum of two formats suitable for screen-readers. The preferred formats for publishing are Hypertext Markup Language and Microsoft Word. All formats are published the same day as public announcements are made.

Employer role

Performance indicator 1: Employment policies and procedures comply with the requirements of the *Disability Discrimination Act 1992*

Performance measure: Number of employment policies, procedures and practices that meet the requirements of the *Disability Discrimination Act 1992*.

Current level of performance 2003–04: The Department has approximately 50

employment policies and programs. During 2003-04 the following policies and programs were developed or reviewed in keeping with the principles of the *Disability Discrimination Act 1992*:

- Workplace Diversity Program 2004-06
- Occupational Health and Safety Agreement 2003-05
- Management and Leadership framework introduced the Senior Executive Development Program, and
- Program for Performance Improvement.

An analysis of complaints/grievances revealed that there is a requirement to adjust the online HRIS (Aurion) to support staff with visual impairments.

Goals for 2004-05: The Department aims to:

- develop and implement new initiatives included in the Certified Agreement 2004
- develop an information and communications technology (ICT) accessibility policy
- implement and/or monitor strategies in the Workplace Diversity Program 2004-06, and
- adapt Aurion client software.

Actions for 2004-05: During the development and implementation of new initiatives for the Certified Agreement 2004, and the implementation or monitoring of strategies in the Workplace Diversity Program 2004-06, specific attention will be given to the principles of the Disability Discrimination Act. Also, an ICT accessibility policy will be promulgated and Aurion Assist implemented.

Performance Indicator 2: Recruitment information for potential job applicants is available in accessible formats on request

Performance measures: Percentage of recruitment information requested and provided in:

- accessible electronic formats, and
- accessible formats other than electronic.

Average time taken to provide accessible information in:

- electronic formats, and
- formats other than electronic.

Current level of performance 2003-04:

The Department's Recruitment Unit, in line with the Service Level Agreement, provides 100 per cent of requested information in HTML and Word format in both electronic and hard copy, via the intranet, Internet, e-mail and post. No other format was requested. The Internet and intranet are 'Bobby' compliant. The average time to provide accessible information in both electronic and non-electronic formats is two days.

Goals for 2004-05: 100 per cent of requests for electronic information to be fulfilled within 48 hours of request.

One hundred per cent of customers requesting information in accessible formats (other than electronic) will be advised of the expected delivery date of their preferred format within 48 hours of the request.

Where necessary, extensions to the closing date for applications will be made in keeping with the time taken to supply information in accessible formats.

The Recruitment Unit will introduce TTY functionality to ensure all hearing impaired applicants can successfully request information in accessible formats.

Actions for 2004–05: The Recruitment Unit is to:

- ensure all managers and external recruiters are aware of the procedures for handling a request for information in accessible formats by December 2004
- stock a selection of standard recruitment materials in accessible formats by December 2004
- maintain a log of all requests for information in accessible formats and timeframes involved by September 2004
- introduce TTY functionality into the Recruitment Unit, and
- ensure all Recruitment Unit staff are trained in the use of TTY functionality.

Performance indicator 3: Agency recruiters and managers apply the principles of reasonable adjustment¹

Performance measure: Percentage of recruiters and managers provided with information on reasonable adjustment.

Current level of performance 2003–04: Advice on reasonable adjustment for managers is available on the Department's intranet. The goal of 100 per cent information provision for both internal recruiters and managers was achieved.

Goals for 2003–04: 100 per cent of managers will receive advice about the principles and practice of reasonable adjustment when requested, and the Recruitment Guidelines will be reviewed and include reference to the principles and practice of reasonable adjustment.

Actions for 2004–05: The Human Resources Branch will provide information on reasonable adjustment on an ongoing basis as required.

Performance indicator 4: Training and development programs consider and respond to the needs of staff with disabilities

Performance measure: Percentage of training and development programs that consider the needs of staff with disabilities.

Current level of performance 2003–04: 100 per cent of training and development nomination forms ask staff to identify any disability-related needs at the time of registration. 100 per cent of training and development evaluation forms ask staff to assess the management of their disability related needs following the training sessions. 100 per cent of staff with disabilities who attend training or development programs report having their particular access needs addressed.

Following consultation in the Department's Workplace Relations Committee during 2003–04 an automated performance management system will be introduced for the 1 July 2004 performance management cycle. This system will capture development needs. It is anticipated that during financial year 2004–05 the training module in Aurion, including Employee Self Service for training needs, will be developed and introduced.

Goals for 2004–05: The introduction of an online enrolment and training module in the Department's human resource information system (Aurion) will capture information which considers the needs of staff with disabilities, and produce automated reports.

Actions for 2004–05: To populate the human resource information system, and develop and refine reporting capabilities.

1 Reasonable adjustment: Where a person can perform the inherent requirements of a job, an employer is required to make reasonable adjustments to the workplace or work practices to accommodate any additional needs that the person may have.

Performance indicator 5: Training and development programs include information on disability issues as they relate to the content of the program

Performance measure: Percentage of training and development programs that include information on disability issues as they relate to the program.

Current level of performance 2003-04: The Department offered 50 training and development programs during the year. Five of these programs—Orientation, Graduate Program, Management Skills Program, and two Client Relationship courses—address disability and diversity issues, representing 10 per cent of all programs.

Programs contained in the 2003-04 People Development Strategy were reviewed prior to being offered during the year. Where appropriate these were updated to include information on disability issues as they relate to the various training programs.

Goals for 2004-05: The Department will examine an online training program for use by all employees as part of the Workplace Diversity Program 2004-06. The introduction of 'Understanding your accountabilities' training programs for APS 1-6, EL and SES levels will include content on the APS Values and Code of Conduct, OH&S, and other accountabilities and staff responsibilities under the new certified agreement.

Actions for 2004-05: To ensure the online training program will tackle disability and diversity issues, and that all staff attend accountability training.

Performance indicator 6: Complaint/grievance mechanism, including access to external mechanisms, in place to address issues and concerns by staff

Performance measure: Established complaints/grievance mechanisms, including access to external mechanisms in operation.

Current level of performance 2003-04: The Department has established processes for handling complaints. They include internal and external mechanisms, for example Harassment Contact Officers, Employee Assistance Program, and the Australian Public Service Commission.

An analysis of complaints and grievances during the reporting period revealed that none involved disability issues in the workplace.

Departmental advices and guidelines on complaints handling and review of actions were promulgated on the Department's intranet site, to which all staff have access. All staff received an invitation to attend information sessions to advise them of the engagement of a new Employee Assistance Program provider and of the services offered through this program. This information was also promulgated via e-mail and on the intranet site. Ninety-six staff attended the face-to-face sessions.

Goals for 2004-05: To increase staff awareness of the Harassment Contact Officers and their roles, and to review and update the policies and procedures on the complaints/grievances process and to advise 100 per cent of staff of any changes.

Actions for 2004-05: To provide training for new Harassment Contact Officers and refresher training for existing officers. To review Employee Relations Advice 2003/13—'Managing harassment in the workplace', and to communicate any changes to all staff.

Appendix 10: Extradition, mutual assistance and criminal justice certificates

Extradition matters dealt with in 2003–04 or continuing as at 30 June 2004

Extradition requests made by Australia

Requests carried forward from 2002–03	15
New requests made	9
Requests granted	6
Requests withdrawn	1
Requests refused	1
Requests otherwise discontinued	2
Requests continuing	14

The following countries granted Australian extradition requests.

Greece	1
Philippines	1
South Korea	1
Sweden	1
Thailand	1
Turkey	1

The people surrendered to Australia were citizens of the following countries.

Australia	3
Iraq	1
Pakistan	1
Philippines	1

People were surrendered for the following major categories of offences.

Fraud	1
Drugs	2
Murder	1
People smuggling	2

In previous reporting years, Australia has requested the prosecution of people in foreign countries that had refused Australian extradition requests for those people on the grounds of nationality. At 30 June 2004, one such case was continuing (Vann La).

The following countries were still considering requests.

Canada	2
Hong Kong—Special Administrative Region of the People’s Republic of China	1
Malaysia	1
Netherlands	1
South Africa	1
Thailand	2
United Kingdom	5
United States of America	1

Extradition requests made to Australia

Requests carried forward from 2002–03	43
New requests received	23
Requests granted	14
Requests withdrawn	1
Requests refused by the Minister	3*
Requests refused by the Courts	0
Requests otherwise discontinued	4
Requests continuing	44

* One request was refused because a prior request had been received for the same person from another country.

Australia granted extradition requests made by the following countries.

Canada	1
Hong Kong—Special Administrative Region of the People's Republic of China	1
Israel	1
South Korea	2
United Kingdom	3
United States of America	6

The people surrendered by Australia were citizens of the following countries.

Australia	1
Canada	1
Hong Kong—Special Administrative Region of the People's Republic of China	1
Iraq	1
Israel	1
South Korea	2
United Kingdom	2
United States of America	5

Six of the people surrendered consented to being returned to the requesting country.

People were surrendered for the following major categories of offences.

Attempted murder	1
Drugs	2
Fraud	5
Interfering with evidence	1
Murder	1
Sexual Assault	2
Stalking	1
Tax evasion/fraud	2

Australia was still considering requests made by the following countries.

Argentina	1
Belgium	1
Brazil	1
Cambodia	1
Croatia	2
Germany	1
Greece	1
Hong Kong—Special Administrative Region of the People's Republic of China	3
Hungary	5
Ireland	1
Italy	2
Philippines	1
Pitcairn Island	2
Poland	6
Portugal	1
Singapore	1
South Africa	2
Spain	1
Sri Lanka	1
Switzerland	1
United Kingdom	4
United States of America	5

Note: Extradition requests vary considerably in complexity and the time it takes to resolve them. The complexity of an extradition request depends on the criminal offences and the criminal conduct underlying the offences. The time taken to resolve an extradition request can vary from a few years, if a fugitive wishes to contest extradition and exercise all appeals, to a few months if a fugitive consents to extradition.

Mutual assistance matters dealt with in 2003–04 or continuing as at 30 June 2004

Mutual assistance in criminal matters requests made by Australia

Requests carried forward from 2002–03	133
New requests made	161
Requests executed	104
Requests otherwise completed *	51
Requests continuing	139

* *Requests otherwise completed include, for example, requests made but only partially executed by the requested country, those requests not able to be executed by the requested country and those requests withdrawn by Australia.*

The following countries executed Australian mutual assistance in criminal matters requests.

Austria	2
Belgium	2
British Virgin Islands	1
Canada	1
Colombia	1
Fiji	2
France	1
Germany	3
Greece	2
Hong Kong—Special Administrative Region of the People’s Republic of China	12
India	1
Italy	4
Japan	2
Jersey	3
Lebanon	2
Malaysia	1
Monaco	1
New Zealand	7
Netherlands	15
Norway	1
South Africa	1
South Korea	1
Switzerland	1
Turkey	2
United Kingdom	7
United States of America	23
Uruguay	1

The types of assistance granted to Australia can be categorised as follows:

Obtain bank/business records	44
Search and seizure	9
Proceeds of crime (restraining and confiscation orders)	7
Service of documents	0
Other (obtain statement/ conduct interview; obtain criminal records; obtain company records; obtain telecommunications records; obtain e-mail records etc.)	44

Requests often seek more than one type of assistance so the main type of assistance sought is represented; however, most bank and business records are obtained through the execution of search warrants. The decision to use coercive powers such as search warrants and production orders is a matter for the country providing Australia with assistance.

Mutual assistance in criminal matters requests made to Australia

Requests carried forward from 2002–03	117
New requests	179
Requests executed	109
Requests refused	1
Requests otherwise completed	30
Requests continuing	156

Australia executed requests for the following countries.

Belarus	1
Belgium	3
Bulgaria	1
Czech Republic	1
Denmark	2
Estonia	1
Fiji	1
Finland	1
France	1
Greece	1
Hong Kong—Special Administrative Region of the People's Republic of China	3
Hungary	18
India	1
Indonesia	1
Italy	2
Lithuania	2
Netherlands	7
New Zealand	3
Poland	8
Portugal	1
Russia	4
Slovenia	1
Spain	5
Sweden	1
Switzerland	3
Thailand	1
Turkey	4
Ukraine	2
United Kingdom	9
United States of America	11

The types of assistance Australia granted can be categorised as follows.

Obtain bank/business records	11
Take evidence	12
Search and seizure	9
Service of documents	36
Other (obtain statement/conduct interview; obtain telecommunications records; obtain brief of evidence; obtain certificates of conviction etc.)	41

Requests often seek more than one type of assistance so the main type of assistance sought is represented; however, most bank and business records are obtained through the execution of search warrants.

Mutual assistance in business regulation requests made to Australia

Two requests (one from the United States of America and one from New Zealand) were received and executed under the *Mutual Assistance in Business Regulation Act 1992* in the past financial year.

International war crimes

There were six new requests for assistance from the International War Crimes Tribunal for the former Yugoslavia in The Hague during 2003–04 (and one request carried over from 2002–03). These include requests to locate potential witnesses in the prominent trial of Slobodan Milosevic and the investigation into alleged war criminal General Ante Gotovina.

There were no cases on hand concerning the International War Crimes Tribunal for Rwanda or the Special Court for Sierra Leone.

Criminal Justice Certificates dealt with in 2003–04 or continuing as at 30 June 2004

Criminal Justice Certificates issued

Commonwealth Entry ¹	12
Commonwealth Stay ¹	159
Commonwealth Trafficking Stay ²	5
State Entry (endorsed) ³	17

Criminal Justice Certificates cancelled⁴

Commonwealth Entry	11
Commonwealth Stay	109
Commonwealth Trafficking Stay	0
State Entry	5

Criminal Justice Certificates current as at 30 June 2004⁵

Commonwealth Entry	19
Commonwealth Stay	179
Commonwealth Trafficking Stay	5

1 Commonwealth Certificates are issued in relation to proceedings involving Commonwealth offences.

2 In October 2003, a new type of Criminal Justice Certificate was introduced specifically for victims of people trafficking offences called Criminal Justice Trafficking Stay Certificates.

3 State Certificates are issued in relation to proceedings involving State offences. State Entry Certificates are issued by the relevant State agency, and endorsed by the Commonwealth Attorney-General's Department. State Stay Certificates are issued by the relevant State agency. State Entry and State Stay Certificates may be cancelled by the relevant State agency without notification to the Commonwealth Attorney-General's Department.

4 Commonwealth Certificates are cancelled by the Australian Attorney-General's Department.

5 During the reporting period, the Criminal Justice Certificate Unit of the Department updated its electronic system for the recording Criminal Justice Certificate information and statistics. In the process of transcribing records to the updated system, some discrepancies between opening and closing balances have been identified.

**Nationalities of persons who hold current
Commonwealth Criminal Justice Certificates
as at 30 June 2004**

Belgium	2
Brazil	4
Canada	6
Chile	3
China	16
Colombia	6
Czech Republic	1
France	1
Hong Kong—Special Administrative Region of the People's Republic of China	9
India	9
Indonesia	16
Iran	1
Iraq	3
Israel	2
Japan	3
Macedonia	1
Malaysia	14
Malta	1
Mexico	1
New Zealand	1
Nigeria	2
North Korea	3
Pakistan	1
Papua New Guinea	1
Peru	1
Republic of Ireland	1
Singapore	9
South Africa	9
South Korea	2
Spain	5
St Vincent and the Grenadines	1
Switzerland	1
Thailand	17
The Netherlands	10
Tonga	1
United Kingdom	17
United States of America	13
Uruguay	6
Uzbekistan	1
Unknown	1

Table 8: Comparative statistics for extradition and mutual assistance cases 1999–2000 to 2003–04

Extradition requests made by Australia

Year	Cases carried forward	New requests made	Requests granted	Requests refused	Requests otherwise completed
1999–2000	17	6	6	1	0
2000–01	16	7	4	1	0
2001–02*	13	7	4	1	5
2002–03	10	12	6	0	1
2003–04	15	9	6	1	3

* During 2001–02 the Extradition Unit developed and implemented an electronic records and statistical retrieval system to replace the paper-based system used in previous reporting periods. This more accurate and comprehensive system, and the process of transcribing paper-based records and archival information to it, identified some discrepancies between opening and closing balances.

Extradition requests made to Australia

Year	Cases carried forward	New requests made	Requests granted	Requests refused	Requests otherwise completed
1999–2000	34	22	13	3	1
2000–01	39	15	13	1	2
2001–02*	32	16	8	3	1
2002–03	36	23	8	6	2
2003–04	43	23	14	3	5

* During 2001–02 the Extradition Unit developed and implemented an electronic records and statistical retrieval system to replace the paper-based system used in previous reporting periods. This more accurate and comprehensive system, and the process of transcribing paper-based records and archival information to it, identified some discrepancies between opening and closing balances.

Mutual assistance requests made by Australia

Year	Cases carried forward	New requests made	Requests granted	Requests refused	Requests otherwise completed
1999-2000*	41†	61	61	1	6
2000-01	32	63	31	0	10
2001-02	54	88	44	2	19
2002-03	77	135	62	0	22
2003-04	133**	161	104	0	51

* Figures for mutual assistance requests during the 1999-2000 reporting year included work done on matters preparatory and ancillary to the making and execution of mutual assistance requests.

† During 2003-04, the Mutual Assistance Unit implemented an electronic records and statistical retrieval database to replace the paper-based system used in previous reporting periods. This new mutual assistance database has provided a more accurate and comprehensive records system, which has identified some discrepancies between the figures in 2003-04 and previous reporting periods.

** The higher figures for mutual assistance requests carried forward in 2003-04 for requests made to and from Australia reflect the practice adopted in 2003-04 of counting supplementary requests as separate requests.

Mutual assistance requests made to Australia

Year	Cases carried forward	New requests made	Requests granted	Requests refused	Requests otherwise completed
1999-2000*	66†	149	122	0	5
2000-01	78†	153	148	0	38
2001-02	45†	156	78	0	13
2002-03	110	166	124	2	38
2003-04	117**	179	109	1	30

* Figures for mutual assistance requests during the 1999-2000 reporting year included work done on matters preparatory and ancillary to the making and execution of mutual assistance requests.

† During 2003-04, the Mutual Assistance Unit implemented an electronic records and statistical retrieval database to replace the paper-based system used in previous reporting periods. This new mutual assistance database has provided a more accurate and comprehensive records system, which has identified some discrepancies between the figures in 2003-04 and previous reporting periods.

** The higher figures for mutual assistance requests carried forward in 2003-04 for requests made to and from Australia reflect the practice adopted in 2003-04 of counting supplementary requests as separate requests.

Appendix 11: The *International Criminal Court Act 2002*

The *International Criminal Court Act 2002* (Cth) (the ICC Act) entered into force on 28 June 2002.

The ICC Act includes an annual reporting requirement under section 189, which adopts recommendation 6 of the Joint Standing Committee on Treaties' Report 45 on the ratification of the Rome Statute of the International Criminal Court (the ICC Statute). Section 189 provides that:

The Department must publish each year, as an appendix to the Department's Annual Report for that year, a report on the operation of this Act, the operations of the ICC, and the impact of the operations of the ICC on Australia's legal system.

The purpose of these reports is to enable Parliament to ensure that, in light of the operation and jurisprudential developments of the International Criminal Court (ICC), it continues to be in Australia's national interest to remain a Party to the ICC Statute.

This report appears for the first time this year because the reporting year is the first full year of the Court's operation since the appointment of Judges, the Prosecutor and the Registrar.

Operation of the *International Criminal Court Act 2002*

The ICC Act establishes mechanisms to permit Australia to comply with its international obligations under the ICC Statute. It also contains provisions to implement the terms of a declaration that Australia lodged with its ratification. The declaration indicates how Australia will practically give effect to the Statute while fully adhering to its obligations. The declaration protects Australian sovereignty by:

- re-affirming the primacy of Australian criminal jurisdiction in relation to crimes within the ICC's jurisdiction
- declaring that no person can be arrested on a warrant issued by the Court or surrendered to the Court without the consent of the Attorney-General, and
- declaring Australia's understanding that offences under the Statute will be interpreted and applied in a way that accords with the way they are implemented in Australian law.

The Parliament enacted amendments to the *Criminal Code Act 1995* (Cth) in the *International Criminal Court (Consequential Amendments) Act 2002* (Cth) (the ICC (CA) Act) to ensure that all crimes set out in the ICC Statute are also crimes in Australian domestic law. The ICC only has jurisdiction if national courts are unwilling or unable to genuinely investigate or prosecute a case. The ICC (CA) Act ensures that Australia will always be able to investigate or prosecute ICC crimes if necessary, thereby guaranteeing that Australia will retain primary jurisdiction over all such crimes committed on Australian territory or by Australian citizens.

In conjunction with the *Defence Force Discipline Act 1982* (Cth), the ICC Act and the ICC (CA) Act have had a significant positive impact on Australia's overseas military operations during the reporting year. By defining with greater certainty individual criminal responsibility of Australian Defence Force members and others for crimes under the ICC Statute in Australian domestic law, the legislation has lent greater certainty to these operations. More broadly, the legislation will perform an important role in upholding the rule of law and punishing those guilty of the most serious crimes of international concern.

Operation of the International Criminal Court

The ICC Statute was adopted and opened for signature and ratification on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. The Statute entered into force generally on 1 July 2002. As of 1 July 2004, there were 94 Parties and 139 signatories to the ICC Statute. Australia signed the Statute on 9 December 1998 and ratified the Statute on 1 July 2002. The Statute entered into force for Australia on 1 September 2002.

The entry into force of the ICC Statute established the first permanent international court capable of investigating and prosecuting the most serious crimes of international concern. The Court fills a legal vacuum that could otherwise prevent the prosecution of egregious crimes due to a lack of judicial infrastructure or political will. The Court is physically established in The Hague, The Netherlands.

The Court's jurisdiction is limited to the crimes of genocide, crimes against humanity and war crimes. The Court's jurisdiction is further limited to crimes committed after the ICC Statute's entry into force on 1 July 2002. All crimes over which the ICC has jurisdiction are strictly defined in the ICC Statute. The definitions reflect international law that pre-dates the Court's existence.

No new crime can be added to the ICC's jurisdiction until seven years after the Statute's entry into force (1 July 2009). Importantly, no new crime will apply to acts done in the territory of, or by citizens of, a State Party that has not ratified that crime. The only new crime currently

being contemplated is the crime of aggression. A Working Group of States Parties has been discussing possible definitions and other aspects of this crime.

Since the entry into force of the ICC Statute, Australia has actively participated in the three meetings of the first session of the Assembly of States Parties, held in New York 3-10 September 2002, 3-7 February 2003, and 21-23 April 2003. Each State Party has one vote in the Assembly. The Assembly's responsibilities include electing officers of the ICC, and providing management oversight of their administration of the Court.

Key achievements of the first session of the Assembly of States Parties have included:

- the adoption of important instruments prepared by the ICC Preparatory Commission, including Elements of Crimes, Rules of Procedure and Evidence, the budget for the Court's first financial period from 1 September 2002 to 31 December 2003, the draft Relationship Agreement Between the Court and the United Nations, and the Agreement on Privileges and Immunities of the ICC. The latter Agreement was opened for signature on 10 September 2002. It entered into force on 22 July 2004 with 11 parties and 62 signatories. Australia is carefully considering acceding to the Agreement
- the election of the first bench of 18 judges¹ after 33 rounds of voting held from 3-7 February 2003. Forty-three candidates were nominated for the 18 positions. Six judges will serve three-year terms, six will serve six-year terms, and six will serve

1 René Blattmann (Bolivia); Maureen Harding Clark (Ireland); Fatoumata Dembélé Diarra (Mali); Adrian Fulford (United Kingdom of Great Britain and Northern Ireland); Karl Hudson-Phillips (Trinidad and Tobago); Claude Jorda (France); Hans-Peter Kaul (Germany); Philippe Kirsch (Canada); Erkki Kourula (Finland); Akua Kuenyehia, (Ghana); Elizabeth Odio Benito (Costa Rica); Georgios M.Pikis (Cyprus); Navanethem Pillay (South Africa); Mauro Politi (Italy); Tuiloma Neroni Slade (Samoa); Sang-hyun Song (Republic of Korea); Sylvia Helena de Figueiredo Steiner (Brazil); Anita Usacka (Latvia).

nine-year terms. Those who will serve for three years are eligible for re-election

- the unanimous election on 21 April 2003 of the inaugural Prosecutor, Mr Luis Moreno Ocampo of Argentina. Mr Moreno Ocampo will serve a non-renewable nine-year term
- the election of members of the Committee on Budget and Finance, including Dr David Dutton of Australia²
- the appointment of the National Audit Office of the United Kingdom as External Auditor of the Court for the period from 2003 to 2006, and
- the opening of nominations for members of the Board of Directors of the Victims' Trust Fund.

Australia will participate in the second Assembly of States Parties on 6–10 September 2004. Australia has been an active participant in informal working groups, and the Committee on Budget and Finance, throughout the reporting year.

The first 18 judges of the Court were sworn in at a ceremony held in The Hague on 11 March 2003. At the same time, in accordance with Article 38 of the ICC Statute, judges elected from among themselves the President and two Vice Presidents of the Court. Ambassador Philippe Kirsch of Canada was elected President, Professor Akua Kuenyehia of Ghana was elected First Vice

President, and Ms Elizabeth Odio Benito of Costa Rica was elected Second Vice President. Each office holder will serve a three-year term. Australia strongly supported Ambassador Kirsch's election to the bench as a candidate endorsed by Canada, Australia, and New Zealand. In accordance with Article 43 of the ICC Statute, the judges also elected Bruno Cathala of France as the Court's first Registrar on 24 June 2003.

The Prosecutor was sworn in on 16 June 2003.

The Court is examining two situations, one in Uganda at the request of the Ugandan Government (the activities of the Lord's Resistance Army), and the other in the Democratic Republic of Congo (DRC) at the request of the President of the DRC (activities in the Uturi province). For further information about the ICC see generally <<http://www.icc-cpi.int/>>.

Impact of the operations of the ICC on Australia's legal system

As no cases have yet been tried by the Court, its operation has had no discernible impact upon Australia's legal system. The future impact of ICC operations is expected to depend on how many active prosecutions and investigations the ICC undertakes and the number and nature of requests for assistance received by Australia.

2 Lambert Dah Kindji (Benin); Dr David Dutton (Australia); Eduardo Gallardo Aparicio (Bolivia); Fawzi Gharaibeh (Jordan); Myung-jae Hahn (Republic of Korea); Peter Lovell (United Kingdom of Great Britain and Northern Ireland); John F. S. Muwanga (Uganda); Karl Paschke (Germany); Michel-Etienne Tilemans (Belgium); Santiago Wins Arnábal (Uruguay).

