

Annual Report 2006-2007

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## Chair's Foreword



The Sentencing Advisory Council is an innovative organisation performing the functions of a specialised law reform commission, bureau of statistics, sentencing guidelines panel and public education body combined. It is an experiment in the incorporation and institutionalisation of diverse voices in the development of sentencing policy, both through its constitution and its processes. Though the Council can never be truly representative, its representation is wider than many similar councils and its legitimacy is founded upon this diversity. It attempts to ground sentencing policy in empirical evidence and research, and to reach its conclusions after considered deliberation of a wide range of options and respectful consideration of professional and community views.

For a relatively young organisation we believe that the Council has accomplished a remarkable amount. Whether measured in terms of its output or impact, the Council has managed to alter significantly the sentencing environment in Victoria. Courts, Parliament, policy makers, students, academics and the community more broadly have referred to, and have been influenced by the Council's publications, website and consultation process.

In the year under review, two of the Council's reports have been adopted by Parliament. The *Sentencing (Suspended Sentences) Act 2006* implemented a number of the recommendations made in Part 1 of the

Council's report on this highly contentious issue, and the Council's recommendations in relation to the maximum penalties for repeat drink driving were implemented by the *Road Legislation (Projects and Road Safety) Act 2006* (Vic).

The Council's *Sentencing Snapshots*, which provide a brief summary of sentencing trends for a range of serious and frequently prosecuted offences, are now being increasingly referred to by counsel and by the courts in sentencing decisions. This marks a shift in sentencing practices in this state, which previously did not have regard to statistical data, either because of their unreliability or their difficulty of interpretation. In the coming year, the Council intends to publish similar statistical data for the Magistrates' Court, where the bulk of sentencing occurs.

Though not a reliable guide to its reach into the community, there are now around one thousand Google references to the Council and visits to the web site number close to 18,000 for the financial year. Physical distribution and web downloads of the Council's publications indicate that they are of interest and value to a large number of people and organisations.

The reporting year commenced with a major conference on the relationship between sentencing and the community entitled *Politics, Public Opinion and the Development of Sentencing Policy*. Speakers from Australia, the United States, Scotland, the United Kingdom, South Africa and New Zealand presented a number of original papers that reflected upon the relationship between public opinion and sentencing policy and upon the nature and role of bodies such as the Council in the broader spheres of public policy and judicial decision making. Major papers from the conference will be published in England and Australia in a book entitled *Penal Populism, Sentencing Councils and Sentencing Policy* which is likely to bring the work of the Council to the attention of an international audience.

During the year, much of the Council's attention and resources were focused upon the difficult and divisive issue of high-risk offenders. The reference received from the Attorney-General in May 2006 produced an Issues Paper in September 2006, a Discussion and Options Paper together with a Research Paper on the recidivism of sex offenders in January 2007 and a Final Report of nearly 300 pages in mid-2007. The reference required extensive professional and community consultation, focus groups, statistical research and contacts with a wide range of organisations within Australia and overseas. The final report acknowledged and reflected community concerns and the differences of opinion on an issue that goes to the heart of community anxieties and fears.

Similarly challenging and complex has been the Council's reference on suspended sentences, now in its third year. The implications of changes to the suspended sentence introduced by the *Sentencing (Suspended Sentences) Act 2006* will take a considerable time to be manifested and evaluated. During the year, extensive consultations were undertaken in relation to any possible further changes to the sanction as well as to other sentencing options that have proven to be ineffective or unworkable. The Council's work on this reference should conclude in late 2007, but whatever the outcome of the final report, the Council will continue to monitor changes in sentencing practices.

Council members' terms run for three years and those of the founding members expired in July 2007, just subsequent to the formal date of this report. In 2006, Mr Andrew Jackomos retired and was replaced by Rudolph Kirby who was appointed to the Council in June 2007. Rudolph is the Manager of Koori programs and initiatives at the Magistrates' Court of Victoria. Rudolph practised law in regional Victoria before moving to Melbourne in 2007. He has been actively involved in a range of Indigenous community associations and programs and is an important addition to the Council's membership.

Retiring members Carmel Benjamin and Noel Butland were two of the original appointments to the Sentencing Advisory Council in July 2004. Carmel Benjamin has served the community in a variety of roles since 1970. During those years her particular, although not exclusive concern, was for people caught up in the criminal justice system. Noel Butland brought a regional Victorian perspective to the Council's work. Noel worked in the justice field for over 14 years as a Community Corrections Officer in Wodonga. Both made valuable contributions to the Council throughout their tenures.

We also welcome two new Council Members from July 2007—Ms Andrea Lott, Chief Executive Officer of the Victorian Association for the Care and Resettlement of Offenders and Mr David Ware, Deputy Commissioner of Strategic and Financial Services for Corrections Victoria.

As always, the Council has been highly appreciative of the work of its Chief Executive Officer, Ms Jo Metcalf and the staff of its Secretariat. They have worked tirelessly and energetically to meet the growing demands placed on the Council and have discharged their duties with skill, a high degree of professionalism and unflagging good will.



**Professor Arie Freiberg**  
Chair

## CEO's Report



The Council's third year in operation has been extraordinarily busy and productive, as reflected in the diverse projects included in this report. This year has also seen the Council's impact on the courts, policymakers and the broader community continue to increase as our work has become a widely used source of information on sentencing in Victoria.

The Council completed several major projects in the year under review, and published a range of reports and papers on sentencing issues. As always, the enormous task of analysing the research evidence, consulting with stakeholders and developing clear, concise and thorough information papers and reports has been carried out by the staff of the Secretariat. The Council is fortunate to have at its disposal an enthusiastic and talented team, each one of whom has contributed to the success of the Council's work. It is my pleasure to lead this group and to see how much they have achieved over the year. I would like to thank each member of the team for their commitment and support, and for their contribution to sustaining the Council's reputation for high-quality work.

As in previous years, the Council has dedicated significant resources to consultations with professional individuals and organisations and with the general community. We convened numerous focus groups, meetings and briefing sessions over the year, and our projects were informed by submissions from many individuals and groups. For the first time we also included focus groups with offenders in our consultation process, which provided an invaluable insight into the impact of the criminal justice system on those who experience it first-hand. I would like to acknowledge the contribution of all those who have been involved in our work throughout the year, often in their own time, and who feel passionately about the issues that we examine. The Council greatly values this ongoing discussion on sentencing issues.

The Council could not fulfil its mandate to research and analyse sentencing issues without the assistance and cooperation of many areas of the Department of Justice, on whom we rely for information, data and specialist expertise. In particular, the Courts Statistical Services Unit, the Courtlink unit of the Magistrates' Court and Corrections Victoria have continued to respond to our statistical needs and to work closely with us to ensure that the data we produce for our reports are of the highest possible quality. These productive partnerships have allowed us to publish the Sentencing Snapshots series, to update the Sentencing Monitoring resource and to produce other statistical reports as needed. I would like to thank the individuals involved for their help and support throughout the year.

Thanks are due to the members of the Council's Audit and Finance Committee for their efforts in keeping the Council compliant with a range of statutory obligations. Tony Cooper in particular has provided me and the Council with excellent advice and support in his role as Chief Financial Accounting Officer.

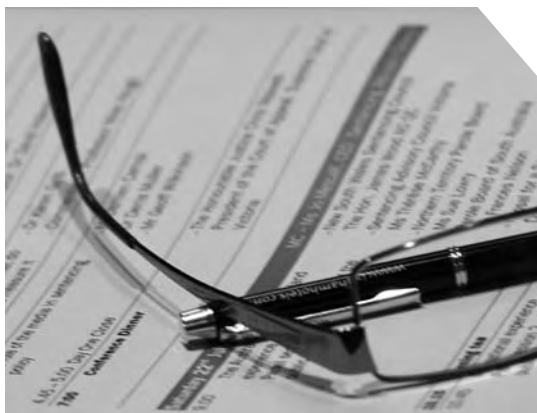
Finally, I would like to thank the members of the Council who have each worked with enormous dedication over the year, reading large quantities of material, often at short notice, and consistently attending Council meetings despite other demands on their time. Discussions on policy issues at Council meetings are robust, yet always constructive and respectful, and it has been a pleasure to support the Council to have these debates. Special thanks are due to Professor Arie Freiberg, who continues to amaze us all with his unflagging energy for our work. His commitment, generosity and lively sense of humour are greatly appreciated by us all.

A handwritten signature in black ink, appearing to read 'Metcalf', with a stylized, flowing script.

**Jo Metcalf**

*Chief Executive Officer*

## Functions & Objectives



## Our Functions

The Sentencing Advisory Council is an independent statutory body that was established in 2004 under amendments to the *Sentencing Act 1991*.

The Council was formed to implement a key recommendation arising out of Professor Arie Freiberg's 2002 *Pathways to Justice* report. This report recognised the need for a body that would allow properly informed public opinion to be taken into account in the sentencing process, and that would also facilitate the dissemination of up-to-date and accurate sentencing data to assist judges in their role, promote consistency in sentencing outcomes and inform the community more generally on sentencing issues.

Under section 108C of the *Sentencing Act 1991*, the functions of the Council are:

- a) to state in writing to the Court of Appeal its views in relation to the giving, or review, of a guideline judgment;
- b) to provide statistical information on sentencing, including information on current sentencing practices, to members of the judiciary and other interested persons;
- c) to conduct research, and disseminate information to members of the judiciary and other interested persons, on sentencing matters;
- d) to gauge public opinion on sentencing matters;
- e) to consult, on sentencing matters, with government departments and other interested persons and bodies as well as the general public; and
- f) to advise the Attorney-General on sentencing matters.

The Sentencing Advisory Council aims to bridge the gap between the community, the courts and government by informing, educating and advising on sentencing issues. The community which the Council serves is diverse and complex; this is reflected in the breadth and variety of Council publications and activities. Those with an interest in the Council's projects can participate in ways such as responding to discussion papers, taking part in consultation forums or providing advice and feedback on specific issues and areas of expertise.

## Our Guiding Principles

The Council has agreed on a set of guiding principles to underpin the way it carries out its functions. The objective is to ensure that our work is of the highest quality and that the Council maintains productive and responsive relationships with its stakeholders.

The Council is committed to:

- demonstrating integrity through evidence-based information and advice;
- adopting an inclusive, consultative, and open approach to our work;
- maintaining independence in the process of building a bridge between government, the judiciary and the community;
- being responsive to the needs of stakeholders; and
- supporting and developing staff.



## Council Members



Carmel Arthur, Jeremy Rapke and Carmel Benjamin.

In 2006–07 there were 11 Council members who represented a range of perspectives and who came from a broad spectrum of professional and community backgrounds. Under section 108F of the *Sentencing Act 1991*, the Council must have at least nine and not more than twelve members who fall within the following profile areas:

- one senior academic;
- two people with broad experience in community issues affecting the courts;
- one highly experienced defence lawyer;
- one highly experienced prosecution lawyer;
- one member of a victim of crime support or advocacy group; and
- the remaining Council members must be people with experience in the operation of the criminal justice system.

### Professor Arie Freiberg (Chair)

#### *Profile - Senior member of an academic institution*

Professor Arie Freiberg is the Dean of Law at Monash University and headed a major review of Victorian sentencing laws during 2001–2002. Professor Freiberg is an authority on sentencing issues and the criminal justice system who has undertaken extensive research on sentencing theory, policy and practice.

### Carmel Arthur

#### *Profile - Operation of the criminal justice system*

Carmel Arthur has great personal insight into the operation of the criminal justice system, both from her experience as a victim of crime and through her long association with Victoria Police.

### Carmel Benjamin AM

#### *Profile - Community issues affecting courts*

Carmel Benjamin brings many years of dedication to improving the responsiveness of the court system to the needs of victims, witnesses and offenders. She is the founder of Court Network, a community organisation designed to assist court users and founder of a post release mentor program to support women leaving prison.

### Noel Butland

#### *Profile - Operation of the criminal justice system*

Noel Butland brings a vital regional Victorian perspective to the Council's work. He has worked in the justice field for over 14 years as a Community Corrections Officer in Wodonga.

### Bernie Geary

#### *Profile - Operation of the criminal justice system*

Bernie Geary was a community member of the Youth Parole Board and Youth residential Board for approximately 20 years. He is currently Victoria's first Child Safety Commissioner.



Jenny Morgan and Barbara Rozenes.



Arie Freiberg and Thérèse McCarthy.

### **David Grace QC**

#### ***Profile - Highly experienced defence lawyer***

David Grace has over 25 years experience as a legal practitioner and has appeared in prominent criminal law cases in several jurisdictions. He regularly argues cases in the High Court and Court of Appeal. Mr Grace was formerly Chair of the Criminal Law Section of the Law Institute of Victoria.

### **Thérèse McCarthy (Deputy Chair)**

#### ***Profile - Community issues affecting courts***

Thérèse McCarthy has a long history of involvement with community organisations such as Centre Against Sexual Assault (CASA) House and Court Network. She has also worked with Australian courts to improve the relationship between the courts and the community.

### **Professor Jenny Morgan**

#### ***Profile - Member of a victim of crime support or advocacy group***

Professor Jenny Morgan is a member and previous co-chair of the Women's Domestic Violence Crisis Service and has extensive experience in victims' issues. She is a former Chair of the Board of Centre Against Sexual Assault (CASA) House, former member of the Board of Court Network, and has written extensively on issues to do with gender and the law.

### **Simon Overland**

#### ***Profile - Operation of the criminal justice system***

Simon Overland has extensive experience in law enforcement and administration at senior executive levels with the Australian Federal Police and Victoria Police as Assistant Commissioner (Crime) and now as Deputy Commissioner.

### **Jeremy Rapke QC**

#### ***Profile - Highly experienced prosecution lawyer***

Jeremy Rapke has had a varied and distinguished career in the law. He was appointed a Senior Crown Prosecutor for the state of Victoria in 1995 and has also headed up the Corruption Prosecution Unit within the Office of Public Prosecutions since 2003. In January 2005 he became Chief Crown Prosecutor.

### **Barbara Rozenes**

#### ***Profile - Member of a victim of crime support or advocacy group***

Barbara Rozenes is Vice President of Court Network, a community organisation designed to assist court users and has been a weekly volunteer networker in the Supreme and County Courts for over 15 years. In 2006 she was elected to the Committee of the Victorian Association of Restorative Justice and became a qualified mediator with the Institute of Australian Arbitrators and Mediators.



Bernie Geary, David Grace and Rudolph Kirby.

# Council Secretariat

## Staff

The part-time Council members are supported by a Secretariat which undertakes the Council's daily work. The Secretariat's organisational structure continued to evolve and expand over 2006–07 to accommodate the Council's broad statutory functions and its priority work areas.

Secretariat staff bring skills from a range of disciplines such as law, policy development, criminology, statistics, graphic design and community education and engagement to assist the Council in meeting its objectives.

In 2006–07, Secretariat staff included:

### **Chief Executive Officer**

Jo Metcalf

### **Legal Policy**

Senior Legal Policy Officer: Victoria Moore

Legal Policy Officer: Sue Kaufmann

Legal Policy Officer: Felicity Stewart

Legal Policy Officer: Andrea David

### **Criminology**

Senior Criminologist: Karen Gelb

### **Statistics and Data**

Senior Statistical Analyst: Kelly Burns

Senior Data Analyst: Nick Turner

Data Analyst: Geoff Fisher

### **Community Engagement**

Community Engagement Officer: Jenni Coady

Publications and Website Manager: Alana Hodgins

### **Administration**

Office Manager: Prue Boughey

Administrative Assistant: Sarah Lappin

Casual Librarian: Julie Bransden

## Student Interns

The Council's student research placement program aims to foster greater collaboration with universities and to assist the Council with its research priorities. Students with suitable research skills and a demonstrated commitment to public interest are selected to undertake short-term supervised research projects that typically overlap with the Council's work program and, in some cases, the students' current academic research. The Council also partners with the Victoria Law Foundation's Legal Policy Placement Program.

In 2006–07, the Council hosted two students in its student research placement program.

### **Melbourne University Department of Political Science**

Amy Gardner

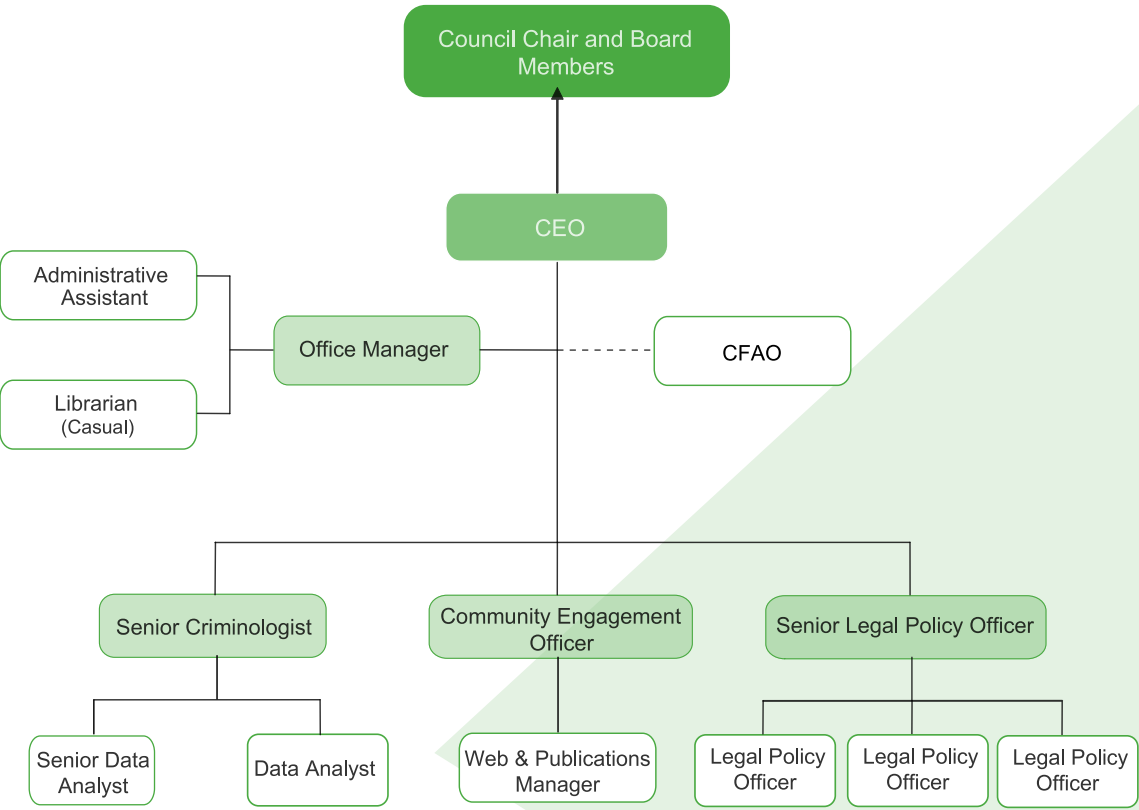
### **Victoria Law Foundation**

Katherine Wynn



Andrea David, Felicity Stewart, Jo Metcalf and Victoria Moore at the Justice Awards function.

# Organisational Chart (as at 30 June 2007)



## References from the Attorney-General



Attorney-General the Hon. Rob Hulls MP.

One of the Council's key statutory functions is to conduct research and advise the Attorney-General on sentencing matters. During 2006–07 the Council worked on several projects at the request of the Attorney-General, the Hon. Rob Hulls, MP.

### Preparatory Offences

In June 2006 the Attorney-General asked the Council to consider the maximum penalties for existing Victorian preparatory offences. The offences in question include being armed with criminal intent, loitering with intent to commit an indictable offence and going equipped to steal. These are described as 'preparatory' offences as they are used in circumstances where an offender has engaged in conduct which is preparatory to offences such as theft, robbery or burglary but which is insufficient to satisfy the elements of either the completed offence itself or an 'attempt' to commit the completed offence.

The Attorney-General asked for the Council's advice on the appropriate level of maximum penalty for these offences, taking into account the maximum penalty for similar offences in other Australian states and territories. In particular, the Council was asked to review the merits of creating a higher maximum penalty for repeat offenders (or increasing the maximum penalty for these offences to allow for a higher penalty for repeat offenders).

This inquiry arose out of concerns expressed by Victoria Police that the maximum penalties for preparatory offences did not properly reflect the seriousness of the offences that offenders may be preparing to commit. The Police suggested that there was a significant 'gap' between the maximum penalties for preparatory offences and the penalties for attempted and completed offences.

The Council reviewed the maximum penalties for equivalent offences across Australia and found a generally consistent pattern that the maximum penalties for preparatory offences were significantly less than the penalties for attempted and completed offences.

In preparing its advice, the Council considered the relationship between preparatory offences and the offences of attempt and conspiracy. These offences are also aimed at behaviour that takes place before the actual commission of a substantive offence. In the Council's view, preparatory offences are much lower on the scale of offending behaviour than are attempts and conspiracies. The Council also reviewed Victorian sentencing practices for preparatory offences, which suggested that the current maximum penalties for these offences are sufficient in scope to deal with the cases coming before the courts.

The Council released a Final Report in January 2007 in which it concluded that the current maximum penalties for preparatory offences adequately serve their intended functions. The data on current sentencing practices show that the current maximums provide sufficient scope for sentencing courts to accommodate the worst types of cases that come before them. They also provide an accurate guide about where these offences fall in the hierarchy of offending seriousness. The Council also recommended against increasing the maximum penalty so as to allow a higher penalty to be imposed in the case of repeat offenders.

## Maximum Penalties for Repeat Drink Driving

In September 2005, the Council released a report entitled *Maximum Penalties for Repeat Drink Driving* recommending changes to the maximum penalties for six repeat drink-driving offences under section 49(1) of the *Road Safety Act 1986* (Vic).

The Council recommended an increase in the statutory maximum penalties for repeat offences, recommending that the new maximum penalties be graduated in severity from 6 to 18 months' imprisonment, depending on the offender's blood alcohol concentration and number of prior offences. It also recommended that the statutory maximum fine for a repeat offence should be increased to be consistent with the increased statutory maximum terms of imprisonment.

The Council's recommendations were accepted by the government and were implemented through the *Road Legislation (Projects and Road Safety) Act 2006* (Vic).

## High-Risk Offenders: Post-Sentence Supervision and Detention

In May 2006 the Attorney-General asked the Council for advice on the merits of introducing a scheme that would allow for the continued detention of offenders who have reached the end of their custodial sentence, but who are considered to pose a continued and serious danger to the community. Whatever its views were as to the merits, the Council was also asked for advice about the structure that such a scheme should take if one were introduced in Victoria.

The Council was asked to frame its advice within the context of existing schemes in other places, both in Australia and overseas, and in consideration of other schemes already operating in Victoria: the extended supervision order scheme created by the *Serious Sex Offenders Monitoring Act 2005* (Vic) and the 1993 legislative scheme allowing indefinite sentences for serious and dangerous offenders.

It is in this context that the Council released its Issues Paper entitled *High-Risk Offenders: Continued Detention and Supervision Options* in September 2006 and its Discussion and Options paper, entitled *High-Risk Offenders: Post-Sentence Supervision and Detention*, in January 2007. In both of these papers, the Council canvassed both aspects of its reference—the merits of introducing a continuing detention scheme and the nature of such a scheme—but without forming a view as to either. The purpose of the papers was to provide information about Australian and overseas practices and to elicit responses from the community.

In conjunction with the Discussion and Options Paper, the Council also released a Research Paper entitled *Recidivism of Sex Offenders*. This paper brought together the research evidence on the nature of sexual offending, the characteristics of sex offenders, their risk of reoffending and the efficacy of treatment. The paper was released with the Discussion and Options Paper as a way of providing background information on the facts about sex offenders to help people develop informed opinions on the issues, and to dispel some of the common misconceptions held about sex offenders. In particular, the evidence shows that the risk of recorded reoffending for sex offenders is actually lower than for many other kinds of offenders.



## References from the Attorney-General

The Council considered that it was important to gauge community views on the issues raised by post-sentence detention and consulted widely with members of the community, victims' representatives, organisations such as Victoria Police and Corrections Victoria, members of the legal community and mental health professionals. It also held four focus groups with community members drawn from a random sample of the Melbourne population. While the opinions of such a small group are not necessarily representative of those held by the broader community, the focus groups were a valuable exercise and we appreciated hearing the views of a wide cross-section of ordinary community members.

### The Merits of a Continuing Detention Scheme

The Council released its Final Report on this issue in mid-2007. In this report, a majority of the Council concluded that regardless of how carefully a continuing detention scheme is to be structured, the inherent dangers involved outweigh its potential benefits. This view particularly takes into account the existence of less extreme approaches to achieving community protection, such as extended supervision. Members of the Council taking this position were concerned about the difficulties of accurately predicting risk of reoffending, the potential threat of such schemes to human rights and due process, the lack of evidence that continuing detention will reduce overall risks to the community, and the availability of other, more cost-effective means of reducing risk. They believed that existing, less restrictive options should be evaluated before a more extreme scheme is introduced.

However, a significant minority of the Council held the view that a continuing detention scheme should be introduced in Victoria to deal with the 'critical few' offenders who pose a serious risk to the safety of community members. These Council members believed that such a scheme could be crafted to ensure that the competing rights and interests of

offenders and of the broader community are balanced and that orders for continuing detention are made in only the most compelling cases.

The Council was not divided on its reform proposals, taking the view that the current laws in Victoria are inadequate. Council members also agreed that any scheme should be narrowly targeted and should be seen as a measure of last resort; a continuing detention scheme represents a major departure from the basic principles that underlie the criminal justice system. The Council concluded that there are other strategies for reducing risk to the community that are higher priority than continuing detention, including better use of sentencing options and registration schemes, better programs for managing serious offenders while under sentence, and greater use of community-based programs (before, during and after sentence).

### Proposed High-Risk Offenders Scheme

The Council's recommendations about how a continuing detention scheme should be structured if one were introduced included several innovative ways of approaching the management of high-risk offenders, as well as a number of safeguards. These included:

- a flexible scheme that allows either community supervision on its own or both supervision and detention of offenders;
- a High-Risk Offenders Board to manage the offender while on the scheme;
- a Risk Management Monitor to oversee how offenders on the scheme are assessed and managed;
- short (two-year) reviewable orders, with no limit on the number of times a new order could be made;

- restriction of the orders to adults imprisoned for serious sexual and violent offences against children and adults;
- the Director of Public Prosecutions would decide whether to apply for an order, and would take the application to a single judge in the Supreme Court;
- the Supreme Court would need to be satisfied, to a high degree of probability, that the offender presented an unacceptable risk of reoffending if the order were not made;
- the offender would have the right to be present in the court and to be legally represented;
- decisions could be appealed to the Court of Appeal and reasons for decisions would have to be publicly accessible; and
- the legislation would need to be independently evaluated after five years.

Consistent with the majority view that a continued detention scheme is not warranted in Victoria, the Council also provided advice on ways to reform the existing extended supervision order scheme.



## Sentencing Trends for Homicide Cases

In November 2004 the Victorian Law Reform Commission (VLRC) released *Defences to Homicide: Final Report*. In its report, the VLRC recommended the abolition of provocation as a partial-defence to homicide; that the Sentencing Advisory Council establish a statistical database to monitor sentencing trends in homicide cases; and that the database should allow monitoring of sentencing trends in cases where:

- The offender killed a person who subjected her/him to family violence;
- The offender had previously subjected the deceased to violence;
- The offender acted under provocation from the deceased; and
- Where the offender was suffering from a psychological condition at the time of killing.

Over 2006–07, the Council has worked with the Australian Institute of Criminology and the Victorian Department of Justice to develop a unique database containing information on the characteristics of homicide incidents, offenders, victims and sentencing outcomes that occurred in Victoria between 1990 and 2005.

The analysis of information on sentencing outcomes for homicide in conjunction with information on the homicide incident, offender and victim is important in providing a better understanding of the reasons underlying differences in the types and lengths of sentences imposed for homicide.

The analysis showed that around nine out of every 10 people sentenced for murder and manslaughter in Victoria were sentenced to a term of imprisonment. The factors that influenced the types of sentences imposed were different for murder and manslaughter. For murder, the offender's gender, mental



# References from the Attorney-General

condition and prior criminal record, as well as the relationship between the victim and the offender and whether there was a history of domestic violence, all influenced the types of sentences imposed. For manslaughter, a greater range of factors influenced the sentencing outcome. These included the offender's gender, age, mental condition, drug and alcohol use, weapon use and prior criminal history, as well as the relationship between the victim and the offender, whether there was a history of domestic violence, and whether the victim had used violence against the offender.

The analysis also found that a number of factors influenced the length of prison terms imposed for both murder and manslaughter, including:

- the offender's age and gender (shorter prison terms were imposed on women and older and younger offenders);
- the relationship between the victim and the offender (slightly shorter prison terms were imposed for the murder or manslaughter of an intimate partner and slightly longer terms were imposed where the victim was a stranger);
- whether there was a history of domestic violence in the relationship (longer prison terms were imposed where there was a history of domestic violence);
- the offender's mental condition (longer prison terms were imposed on offenders identified by police as suffering from a mental illness); and
- the number of victims involved in the incident (longer prison terms were imposed where multiple victims were involved).

The Council intends to release a full report of its findings in the coming year.

## Suspended Sentences

### The Terms of Reference

In August 2004 the Attorney-General asked the Council to provide advice on the current use of suspended sentences, and whether reported community concerns about their operation indicated a need for reform. If reforms were required, the Council was asked to consider how the order could be improved: for example, whether it should be available for all offences and whether it should be subject to conditions. The Attorney-General was particularly interested in the views of the community, including victims of crime, on these issues.

### Approach and Findings

Suspended sentences are a complex sentencing order and the Council's work on the reference uncovered difficult and divisive issues. Ultimately, the Council concluded that tinkering with this sentencing option would not resolve the concerns about this form of sentence. The Council determined that a broader examination of the sentencing structure and the relationships between current sentencing options was required.

The Council released an Interim Report in October 2005 setting out its ideas on how the sentencing structure could be improved. The Interim Report made 46 draft recommendations proposing a set of reforms to the sentencing structure which it was hoped would address a range of concerns that had been expressed to the Council, many of which it shared. The Council proposed that the power to suspend a prison sentence should be removed as part of this broader exercise, and replaced with a new range of conditional sentencing orders that would exist as sentences in their own right. Following release of the report the Council met with a range of individuals and organisations concerning the proposals, and considered the matters raised in 25 additional submissions.

The Council released Part 1 of its Final Report in May 2006. This report presented the Council's final recommendations in relation to suspended sentences and set out a possible timetable for transition to the new range of sentencing orders foreshadowed in the Interim Report.

Thirteen of the 15 recommendations concerned modifications to the suspended sentence order while it continues to be available. Key recommendations included:

- the introduction of guidelines in the legislation about factors that might make the suspension of a prison sentence inappropriate (such as the gravity of the offence and its impact on the victim, the risk of the offender reoffending while on a suspended sentence and whether the offender committed the offence while on a suspended sentence);
- only allowing the use of suspended sentences for serious violent and sexual offences such as murder, manslaughter and rape in exceptional circumstances; and
- the retention of strict breach provisions which require the suspended prison sentence to be activated, unless there are exceptional circumstances.

### *The Sentencing (Suspended Sentences) Act 2006 (Vic)*

The Council's recommended reforms to suspended sentences were implemented by the *Sentencing (Suspended Sentences) Act 2006 (Vic)* enacted in October 2006. This legislation made a number of amendments to the *Sentencing Act 1991 (Vic)* including reforms to:

- clarify that a court is permitted to include time spent in custody for a breach of a suspended sentence to be taken into account if that person is then ordered to serve part or all of the suspended sentence;

- in the case of offenders sentenced for offences committed on or after 1 November 2006:
  - require a court to take into account a range of factors in deciding whether or not to suspend a sentence of imprisonment, including:
    - the need, considering the nature of the offence, its impact on any victim of the offence and any injury, loss or damage resulting directly from the offence, to ensure that the sentence—
      - (i) adequately manifests the denunciation by the court of the type of conduct in which the offender engaged;
      - (ii) adequately deters the offender or other persons from committing offences of the same or a similar character; and
      - (iii) reflects the gravity of the offence; and
  - any previous suspended sentence of imprisonment imposed on the offender and whether the offender breached the order suspending that sentence;
  - whether the offence was committed during the operational period of a suspended sentence of imprisonment; and
  - the degree of risk of the offender committing another offence punishable by imprisonment during the operational period of the sentence, if it were to be suspended; and
- provide that only in "exceptional circumstances" and where it is in the "interests of justice" to do so may the court suspend an imprisonment sentence for a serious offence

## References from the Attorney-General

(including murder, manslaughter, intentionally causing serious injury, rape, sexual penetration of a child under 16 years and armed robbery);

- allow the court to act on a breach of a suspended sentence without the offender being charged with a breach offence; and
- allow a court to order a young offender, on breaching a suspended sentence, to serve all or part of a restored suspended sentence in a youth justice centre or youth residential centre.

In line with the Council's recommendations, the requirement that on breach of a suspended prison sentence by further offending the sentence should be activated unless there are exceptional circumstances, has been retained.

### Final Report—Part 2

Part 2 of the Council's Final Report is due to be released late in 2007. The report will present the Council's final recommendations on proposed reforms to other intermediate sentencing orders, as foreshadowed in the October 2005 Interim Report.

The government has indicated that it will carefully consider the Council's recommendations in Part 2 of the Final Report when these are finalised.

### Sentence Indication and Specified Sentence Discounts

In August 2005 the Attorney-General requested the Council's advice on the issue of sentence indication. A sentence indication scheme is a process that enables a magistrate or judge to indicate the likely sentence that the defendant would receive if a guilty plea were entered at that stage of the proceedings. The Attorney noted that there is substantial support for the introduction of such a scheme as a way to

improve criminal procedure, particularly in relation to sexual offences.

The Council was asked to evaluate the potential advantages and disadvantages of a sentence indication scheme to the Victorian courts, to victims of crime and to the community in general, and to advise whether such a scheme should be adopted in Victoria, and if so, in what form.

In addition, the Attorney-General asked the Council to consider the issue of discounted sentences in return for early pleas of guilty.

The Council is considering two alternatives to the current approach, whereby a Victorian court that sentences an offender who has pleaded guilty has the discretion to determine what factors are relevant in establishing the weight to be given to a guilty plea, whether any reduction in sentence should be allowed and the amount by which the sentence should be reduced. The first alternative is a prescriptive model, loosely based on a guideline issued by the English Sentencing Guidelines Council, while the second is a 'hybrid' model, along the lines of the guideline judgments developed by the South Australian and New South Wales Courts of Criminal Appeal.

Gaining a better understanding of the perspectives of victims, offenders and the broader community is critical to ensure that any models considered take into account the possible impacts of the adoption of such a scheme. The Council released a Discussion Paper in early 2007 to facilitate broader community consultation. It has also undertaken a program of consultative meetings, roundtables and focus groups with members of the legal community, police, victims, offenders and other key stakeholders.

Participants' views on the merits of prescribing a specific reduction in sentence for a guilty plea varied considerably. Some favoured the flexibility that a discretionary regime

provides, because it ensures that the reduction is determined according to the particular circumstances of the case. Others favoured a regime that provided a clear and rigid framework, believing that it would be preferable to have a consistent approach, even if this gave rise to the risk of disproportionate sentences being imposed in some cases.

The Council is faced with two issues of principle in relation to sentence indication: whether it compromises the roles of the judicial officer and the prosecution and whether it promotes informal and inappropriate discussions or bargains between the parties. The process of sentence indication is a reversal of conventional criminal procedure because the indication is given before the defendant's guilt has been admitted or established at a trial.

Some of the most complex problems with sentence indication appear to be practical and involve the difficulties associated with devising a process that meets all the requirements of justice and is nevertheless simple and flexible enough to resolve, and not complicate, criminal proceedings.

The Final Report is due to be submitted to the Attorney-General late in 2007.

## Negligently Causing Serious Injury

The Attorney-General has asked the Council to provide advice on the adequacy of the current maximum penalty of five years' imprisonment for the offence of negligently causing serious injury (NCSI) under section 24 of the *Crimes Act 1958* (Vic), particularly in relation to driving matters.

NCSI is mostly charged in the context of injuries caused by negligent driving. However it is also charged in the context of harm caused by other types of behaviour such as assault.

As part of its review, the Council is considering several aspects of this offence:

- the maximum penalties for other offences covering similar behaviour, but where the outcome is more or less serious; for example, where the victim is killed;
- the maximum penalties for other offences covering the same outcome (serious injury), but that require a different state of mind; for example, where the defendant is reckless; and
- the elements of other driving-related offences, including relevant penalty levels.

The Attorney-General noted that the maximum penalty for NCSI is substantially lower than that for culpable driving although both offences contain the element of negligence. The key difference between the two offences is therefore whether the victim dies or is seriously injured.

The Council is due to report to the Attorney on this reference later in 2007.



Professor Arie Freiberg (Chair) at the Sentencing and the Community Conference Welcome Function.

## Other Key Projects

### Provocation and Sentencing

In October 2005 the Attorney-General introduced the *Crimes (Homicide) Act 2005* (Vic) which abolished provocation as a partial-defence to murder in Victoria and implemented recommendations from the Victorian Law Reform Commission (VLRC) report *Defences to Homicide: Final Report*. The VLRC had recommended the abolition of the partial-defence of provocation and that the relevant circumstances of an offence, including provocation, should be taken into account in the sentencing process.

The Council has decided that it would be useful to consider the principles that should apply when provocation is raised as an issue in a sentencing hearing, for both fatal and non-fatal offences under the new regime. In cases where the court is sentencing an offender convicted of murder who might previously have had the partial-defence of provocation available, the Council is concerned to ensure that the problems associated with the partial-defence do not simply shift to the sentencing arena. The Council also considers that sentences in murder cases where provocation is raised need to reflect properly the offender's culpability and degree of responsibility, while also taking into account issues such as prior family violence.

The Council plans to release a paper on this complex issue later in 2007.

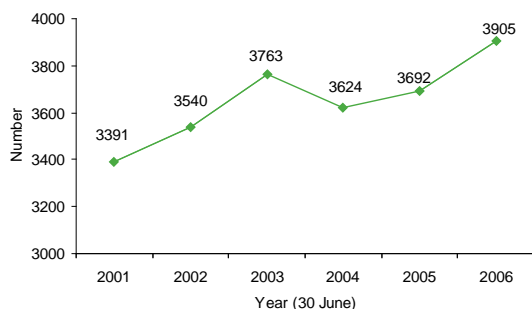
### Victoria's Prison Population: 2001 to 2006

The Council released a paper entitled *Victoria's Prison Population: 2001 to 2006* in June 2007. The paper involves an examination of trends in factors associated with Victoria's rising prison population between 2001 and 2006. It represents the first published analysis of drivers of Victoria's prison population over this recent period.

The paper draws on data from the police, courts and prison sectors and examines some of the factors which influence the prison population such as prisoner receptions, length of stay in prison, imprisonment sentence lengths, custody rates (the proportion of all convicted defendants who receive a custodial sentence), crime rates and offending patterns.

The analysis showed that on 30 June 2006 Victoria's prisons housed 3,905 prisoners, an increase of 15 per cent on the number at the same date in 2001 (see Figure 1). This is part of a long-term trend that stretches back to 1977. The recent rise took place despite a fall in the overall crime rate (22 per cent), general stability in the number of prisoner receptions and a slight decrease in the custody rate.

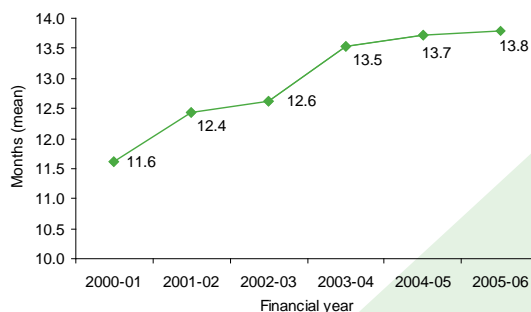
**Figure 1: Number of Prisoners on 30 June, 2001 to 2006**



Source: Corrections Victoria

The key factor contributing to the rising prison population was an increase in length of stay in prison among sentenced prisoners (who typically comprise over 80 per cent of all prisoners), due to longer sentences imposed by the courts. The average imprisonment sentence increased from 11.6 to 13.8 months, a rise of 19 per cent (see Figure 2). The number of prisoners in the remand population also increased substantially (46 per cent) and reached 737 on 30 June 2006.

**Figure 2: Mean imprisonment sentence length for defendants, 2000–01 to 2005–06**



Source: Unpublished data from Court Services, Department of Justice

Finally, the analysis found that certain offences across a number of the populations studied were increasing. The number of people processed by police, received into prison and counted in the prison population increased for offences against the person (such as assault, homicide and sexual offences) and for good order offences (such as breaches of various community based sentences). The number of prisoners received into and counted in prison for motor vehicle offences also increased.



# Sentencing Statistics

The Council has a major role to play in compiling and analysing sentencing data. The regular provision of data on sentencing trends and practices is essential to support judicial officers in the complex task of sentencing and to promote consistent sentencing practice. During 2006–07 the Council continued to work closely with the Courts Statistical Services Unit within the Department of Justice to improve the availability and reliability of sentencing data.

## Sentencing Snapshots

The Sentencing Snapshots series presents summary information on sentencing trends and issues in Victoria. During 2006–07, the Council continued to expand on this series, with seventeen such reports published, including sixteen focusing on sentencing of specific offences in the higher courts and one presenting a statistical overview of the Victorian criminal justice system. The Sentencing Snapshots released this year include:

### August 2006

- No. 10 - Burglary
- No. 11 - Aggravated burglary

### September 2006

- No. 12 - Causing serious injury intentionally
- No. 13 - Causing serious injury recklessly
- No. 14 - Causing injury
- No. 15 - Affray

### January 2007

- No. 16 - Handling stolen goods
- No. 17 - Theft
- No. 18 - Obtaining financial advantage by deception
- No. 19 - Obtaining property by deception
- No. 20 - Arson
- No. 21 - Attempted murder

### February 2007

- No. 22 - The Victorian criminal justice system

### June 2007

- No. 23 - Indecent assault
- No. 24 - Indecent act with a child aged under 16
- No. 25 - Maintain a sexual relationship with a child aged under 16
- No. 26 - Rape

Each Snapshot examined trends by reference to the age and gender of the sentenced person, sentence types and lengths, principal and total effective sentences, and non-parole periods.

A new section presented in the June Sentencing Snapshots is information on the number and type of other offences finalised at the same hearing. Sentencing Snapshot No. 23 shows that each of the 155 people sentenced for indecent assault was sentenced for an average of 5.19 offences, including 3.87 offences of indecent assault. The most common offence finalised in conjunction with indecent assault was gross indecency with a child (9.7% of cases).

The Sentencing Snapshots are available free for download from the Council's website. In the coming year the Council will continue to release snapshots covering the most prevalent offences adjudicated in the higher courts. It is also developing a series of Sentencing Snapshots for the most common offences in the Magistrates' Court of Victoria, and will be working closely with that court in the coming year to achieve this goal.

## Flows through the Victorian Criminal Justice System

In February 2007 the Council released Sentencing Snapshot No. 22 entitled The Victorian Criminal Justice System 2004–05. This report described the number of alleged offenders who came into contact with the Victorian criminal justice system during 2004–05 and how many proceeded to be dealt with by the formal institutions of the system: police, courts and corrections. The report provided statistical information about the administration of criminal justice in Victoria by reporting attrition rates both overall and at each stage of the system.

Each year a large number of alleged offenders are dealt with by Victoria Police but a much smaller number enter the courts and even fewer are sentenced. In most criminal justice systems, these “attrition rates” are very high. There are a number of reasons why people can be diverted or filtered out at each stage of the system, including:

- not all offences are reported to police and when they are reported, the police may decide not to investigate the reported offence or the suspect may be unidentifiable;
- suspects apprehended and charged with an offence may have their criminal charges dismissed by the court or withdrawn by the prosecution; or
- if the case is adjudicated and the person is convicted (following either a plea of guilty or finding of guilt), the court can sentence the offender to a custodial or non-custodial sanction.

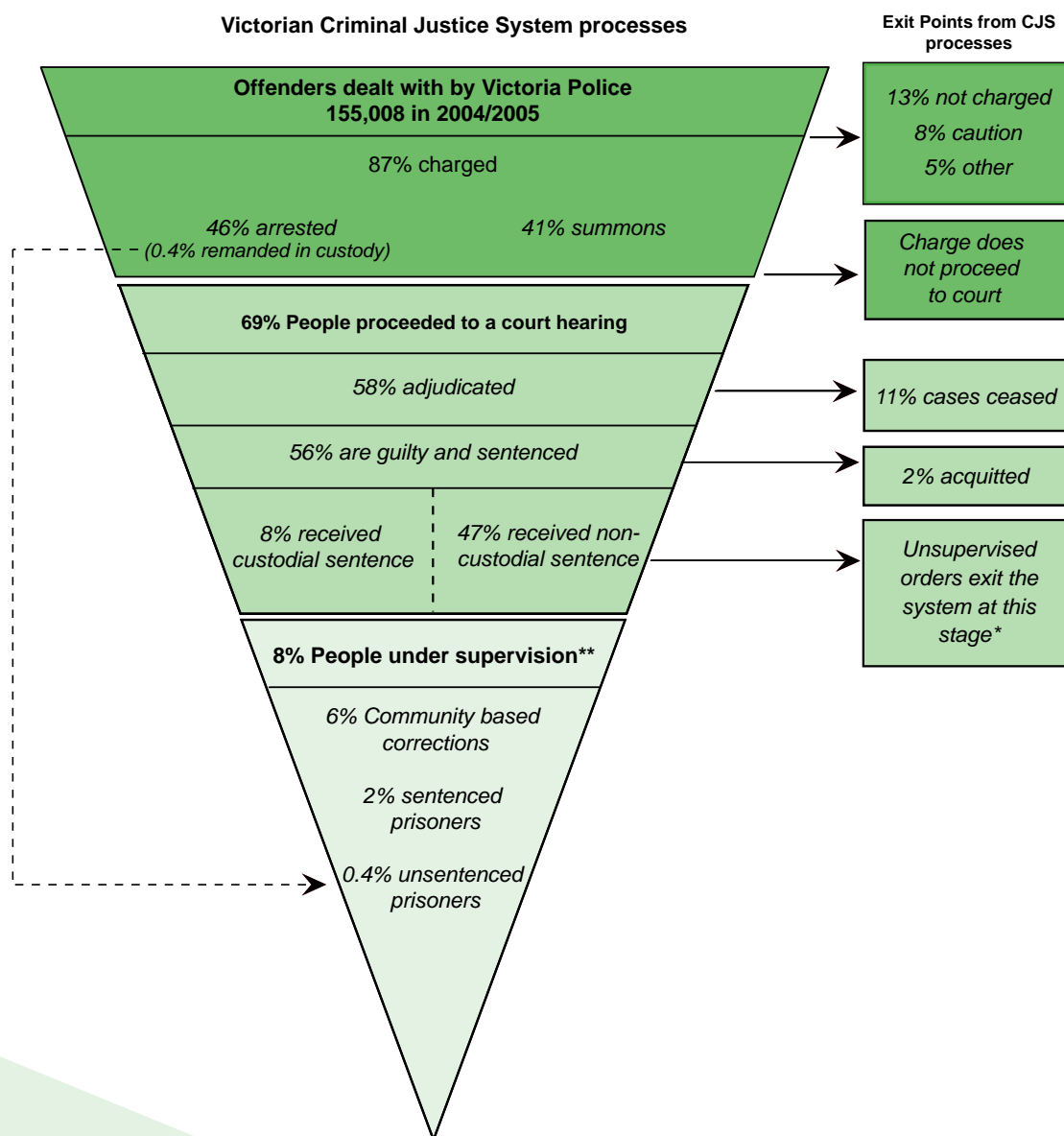
In summary, the analysis found that of the 155,008 alleged offenders in contact with Victoria Police in 2004–05, 69% proceeded to court and 56% were sentenced (8% custodial sentences and 47% non-custodial sentences). At any one time during 2004–05, around 2% (3,095) of those people dealt with by police were imprisoned (see Figure 3 below; all percentage (%) amounts represent a percentage of the total number of people dealt with by Victoria Police in 2004–05).



The Sentencing and the Community Conference Welcome Function was held at the Melbourne Aquarium.



**Figure 3: Alleged offenders in the Victorian criminal justice system 2004–05**



\* Most non-custodial orders are not supervised, such as fines. Most custodial orders are supervised, with the exception of wholly suspended sentences of imprisonment. Also, the number of people receiving a custodial sentence and the number of sentenced prisoners will not match for a variety of reasons. These include the court imposing custodial sentences other than imprisonment (such as home detention or intensive correction order), custodial sentences being imposed on people already serving a term of imprisonment, multiple custodial sentences being imposed on the same person during the same year, and people sentenced to short periods of imprisonment.

\*\* Refers to the proportion of people under supervision at any one time during 2004–05.

## Sentencing Monitoring

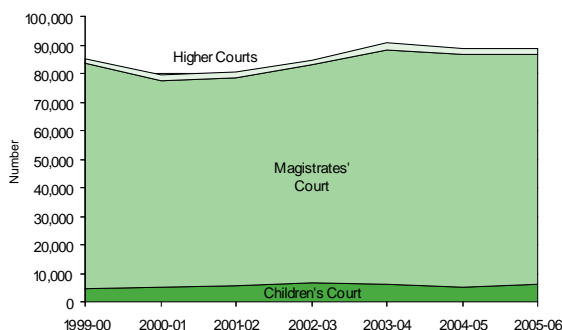
The Council launched its online Sentencing Monitoring resource in December 2005. This set of statistics, drawn from a variety of published and unpublished sources, provides a comprehensive overview of criminal justice system data and sentencing trends across Victoria. The resource was updated in mid-2007 to include 2005–06 data.

Designed to be accessible to a broad audience, information is presented in visually accessible graphs with plain English explanations. Those with a specific interest in a particular area can download the source data underlying the analysis.

### People sentenced

This section analyses trends in the number of people sentenced in each court between 1999–00 and 2005–06. Over this time the Magistrates' Court sentenced the overwhelming majority of people (91%) followed by the Children's Court (7%) and the County and Supreme Courts (2%). All courts experienced an increase in the numbers of people being sentenced over this time.

**Figure 4: People sentenced in Victoria by court, 1999–00 to 2005–06**



Source: Online Sentencing Monitoring

## Sentencing outcomes

This segment examines trends in the types of sentences imposed in the various courts. Historical data on sentencing trends are also presented where available.

In 2005–06, 2,018 people were sentenced in the higher courts. Of these people:

- 44% or 887 were sentenced to imprisonment;
- 31% or 627 were sentenced to a wholly or partially suspended sentence; and
- 9% or 179 were sentenced to a community based order.

Overall, sentencing trends in the higher courts have remained largely consistent over the past nine years. Notable changes between 1997–98 and 2005–06 were:

- an increase in wholly and partially suspended sentences of imprisonment from 30% (1997–98) to 37% in 2004–05, followed by a decrease to 31% in 2005–06; and
- an increase in imprisonment from 44% (1997–98) to 50% (2001–02), followed by a decrease to 43% in 2004–05 and an increase to 46% in 2005–06.

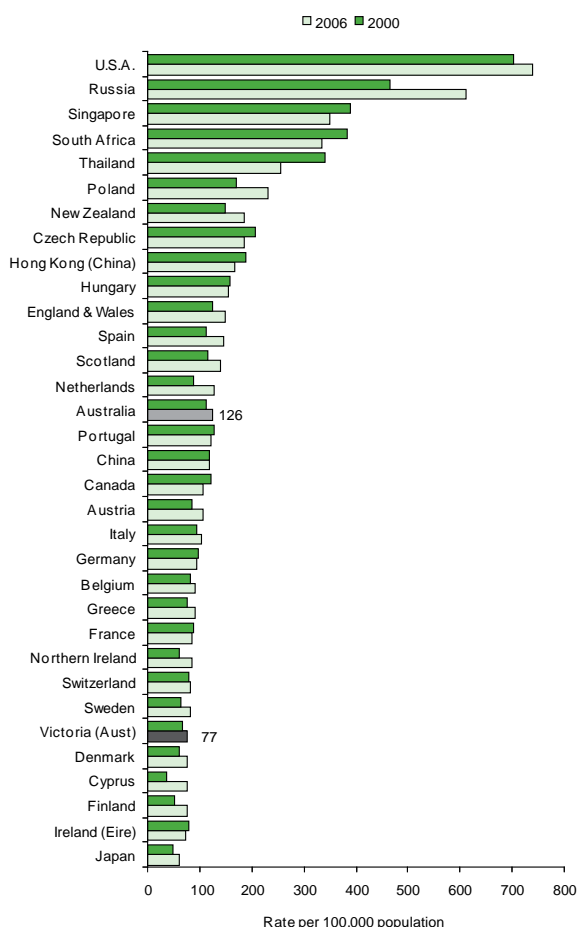
## Prison and detention

This section provides an extensive analysis of trends in imprisonment and detention in Victoria, in other Australian states and territories and in other nations. Long-term trends in prisoner populations and imprisonment rates are analysed, and the number of prisoners serving sentences versus being on remand awaiting trial is compared. Information is also presented about the proportion of people released from prison in Victoria who come back into contact with corrective services (prison or community corrections) within two years.

## Community corrections

This part presents information on people sentenced to correctional orders to be served in the community. Selected information on community correction orders in other Australian jurisdictions is also presented for comparative purposes.

**Figure 5: Imprisonment Rates 2000 and 2006**



## Koori Sentencing Statistics Reference Group

The Koori Sentencing Statistics Reference Group (KSSRG) is an initiative that the Council sponsored to improve the availability, quality and coverage of sentencing statistics for Indigenous people in Victoria. The group is made up of representatives from the Department of Justice and Department of Human Services, and has been in operation since March 2005.

In June 2006 the Aboriginal Justice Agreement (Phase 2) (AJA2) included a request to the Council to undertake research about Indigenous people on remand and sentenced to imprisonment or detention in Victoria, and the impact this has had on individuals, their families and their communities. Initially, the Council worked with the KSSRG to draw together a range of published and unpublished data on Indigenous contact with the Victorian criminal justice system. The information was critically assessed to identify any gaps, weaknesses and limitations and how this would affect the Council's capacity to undertake the research suggested by the AJA2. Due to difficult data issues, the Council decided that the research agenda put forward by the AJA2 could not be carried out. Instead, a broader research proposal was developed in consultation with the KSSRG.

Over 2006–07, the Council has worked with the KSSRG to gain a comprehensive understanding of the various problems associated with the collection of data on Indigenous contact with the criminal justice system and possible methods for improvement. By consulting closely with the KSSRG on these issues, the Council has been working on the development of a paper that compares the outcomes experienced by Indigenous people in contact with the police, courts and corrections to those experienced by their non-Indigenous counterparts.

# Measuring Public Opinion



The Sentencing and the Community Conference.

One of the Council's statutory functions under section 108C (1) (d) is to gauge public opinion on sentencing matters. This is separate from, but linked to, the Council's function under section 108C (1) (e) to consult on sentencing matters.

There are many challenges involved in gauging public opinion. Much of the time, the voice of the general community is heard via the media. However the methods used by the media to gather information on 'what the public thinks' do not always provide a deeper understanding of the subtleties of community attitudes on complex issues.

## Qualitative approaches to measuring public opinion

The Council has concluded that a suite of methodologies is required if public opinion on sentencing issues is to be measured in a nuanced way. Over 2006–07 the Council has made substantial use of qualitative focus groups to allow it to delve more deeply into the complexities of public opinion on particular issues.

The Council held several focus groups for two of its projects during the year. For the continuing detention project, it held six focus groups with randomly selected members of the public. Each of the sessions began

with a presentation of the key issues in the debate on the continuing detention of high-risk offenders, to provide participants with some understanding of the considerations that might influence their opinions. The discussions that followed allowed participants to talk through the complexities surrounding continuing detention and to provide the Council with their informed opinion on this issue.

A similar process was used in the sentence indication project, with four focus groups of randomly selected members of the public forming the key component of the project's public consultation program.

In addition to speaking with the general public through the focus group approach, the Council has also conducted its first focus groups with offenders. As part of the sentence indication project, several focus groups were held with prisoners and with former offenders and those on community orders. Through close partnerships with Corrections Victoria and with the Victorian Association for the Care and Resettlement of Offenders (VACRO), the Council has been able to speak with prisoners at Dhurringile and Tarrengower prisons and with offenders in the community at VACRO offices.

The Council believes that the use of focus groups, both with the general community and with offenders, is a critical part of its statutory function of gauging public opinion. This approach will continue to form the basis of its work into the future.

## Sentencing and the Community Conference: Politics, Public Opinion and the Development of Sentencing Policy

In July 2006 the Council published a paper entitled *Myths and Misconceptions: Public Opinion versus Public Judgment about Sentencing*. This research paper presented the results of a major research project that aimed both to describe the current state of knowledge about public opinion and sentencing

and to identify a suite of methods with which to measure informed public opinion on a variety of sentencing issues.

The research paper formed the foundation of an international sentencing conference that the Council sponsored in July 2006. The conference brought together about 130 members of the public, public servants, criminologists, judicial officers and members of sentencing advisory panels, councils or commissions from around the world. The primary theme of the conference was the relationship between politics, public opinion and the development of sentencing policy, but with particular reference to the role of these emergent advisory bodies. Speakers at the conference included representatives of Australian and international sentencing councils, as well as some of the most prominent writers in the field from Australia, the United States, Scotland, the United Kingdom, South Africa and New Zealand.

The pre-conference welcome function was held at the Melbourne Aquarium, where Professor Julian Roberts from the University of Oxford spoke about the role of victims of crime in the sentencing process. The conference itself was opened by the Attorney-General and was held over two days. On the first day, presentations focussed on the evolving role of public opinion in the development of sentencing policy and practice, as well as institutional mechanisms for incorporating public opinion. Methodological issues in the measurement of public opinion were discussed, and the Myths and Misconceptions paper provided an overview of what is currently known about public opinion on sentencing. Finally, a panel of journalists and academics led a discussion of the role of the media in sentencing policy.

Justice Chris Maxwell, President of the Court of Appeal, spoke at the conference dinner. In his talk, Justice Maxwell focussed on the thoughts of judges about having public opinion formally involved in the development of sentencing

policy through bodies such as the Council, and the implications of this involvement for their work in the courts.

The second day involved two panel sessions discussing both Australian and international experiences in the operation of various commissions and councils around the world. Speakers focussed on the structure and purpose of each board and considered how the voice of the “public” is incorporated into their work. To close the conference, the final session asked “Does it matter?” and reflected on the effectiveness of institutionalised public participation in the development of sentencing policy.

One outcome of this conference is the publication of an edited volume of the key conference papers in late 2007. Professor Arie Freiberg and Dr Karen Gelb are the editors of a book entitled *Penal Populism, Sentencing Councils and Sentencing Policy* that will be jointly published by Federation Press in Australia and Willan Publishing in the United Kingdom.

The key objective of this book is to bring together the theoretical perspectives on the role of the public in the development of sentencing policy, with particular emphasis on the emerging role of sentencing commissions, advisory councils or panels in a number of English speaking countries.

The book expands and develops the existing literature that looks at public attitudes to justice and the role that the “public” can play in influencing policy. It asks the critical questions: even if “public opinion”, or preferably, “public judgment” can be ascertained in relation to a particular sentencing issue, should it be relevant to court decision-making, to institutional decision-making and to the political process? And if so, how?

The Myths and Misconceptions research was also presented at the annual conference of the District Court judges of Queensland in August 2006 by Dr Karen Gelb.



Professor Julian Roberts spoke at the Sentencing and the Community Conference Welcome Function.

Over 2006–07 the Council continued an active community engagement and information program, with the development of a teachers' kit version of the successful and popular 'You be the Judge' event, a complete restructure of our user friendly website and the delivery of talks on the Council and its projects.

## 'You be the Judge'

The 'You be the Judge' program continues to be very popular with the community as a means of learning more about sentencing. These interactive sessions aim to improve participants' understanding of sentencing principles and the complexities inherent in the sentencing process.

After considering a vignette, audience members discuss and explore the delicate balancing process required when choosing an appropriate sentence. Like judges and magistrates, participants must reconcile the interests of the state, the victim and the offender as well as the general aims of punishment: retribution, deterrence, rehabilitation, denunciation and the protection of the community.

Sessions of 'You be the Judge' were held for the Young Presidents' Organisation in July, at a community forum in Shepparton in August, at the Court Network Annual General Meeting in November, for the Victorian Commercial Teachers Association Comview Conference in November and during Law Week in May 2007.

## ***'You be the Judge' Teacher Guide***

One of the sectors identified as having the most interest in the 'You be the Judge' program is schools, particularly at VCE Legal Studies level. As the Council was not in a position to resource the many schools requesting sessions, in October 2006 it partnered with the Curriculum Corporation to develop a Teacher Guide and support materials on the program.

The material aims to educate students about the purposes, methods and complexities of sentencing. The program uses real sentencing case studies which provide a vehicle for students to discuss and consider offences committed, apply the principles of sentencing and experience for themselves what is involved in handing down a sentence.

The case studies concentrate on the sentencing phase of the legal process and are drawn from real cases in Victoria. In each of the trials showcased the defendant has been found guilty, so that interest focuses entirely upon the sentence imposed and the factors taken into account in each case.

Currently two case studies have been developed for VCE Legal Studies – one involving culpable driving and the other a series of armed robberies. One case study, involving a serious assault, has been developed for use in the Civics and Citizenship domain for Years 9 and 10.





Chief Judge Michael Rozenes launched the 'You be the Judge' Teacher Guide.

The kit includes a teacher guide and slide shows for each of the three case studies. The guide provides background notes on sentencing in the Victorian court system, preparation for presenting the case studies and links to relevant curriculum and other resources. The slide shows are accompanied by notes that include relevant statistics and information about sentencing for the crimes featured in the cases, suggested activities and possible assessment tasks.

An online version of the material was released on the Council's website in April, and as interest from teachers was positive a printed version with an accompanying CD was released in June 2007.

Over time, additional case studies will be added to the kit to enhance learning outcomes at both levels.

### ***Judge for Yourself***

The grant provided to the Judicial Conference of Australia for the publication of a plain English booklet came to fruition with the publishing of 'Judge for Yourself'. The booklet provides answers to some of the many questions people have about how sentencing occurs in Australia. These questions are considered from the point of view of judges and magistrates who daily

impose sentences in the courts. The booklet explains in broad terms what courts do in the sentencing process and why they do it. There is also discussion of some of the common criticisms that are made about sentencing.

The Judicial Conference of Australia produced 5,000 printed copies of the booklet and as demand increases more will be produced. The booklet is also available for download from the Council's website.

### ***Civics Roadshow***

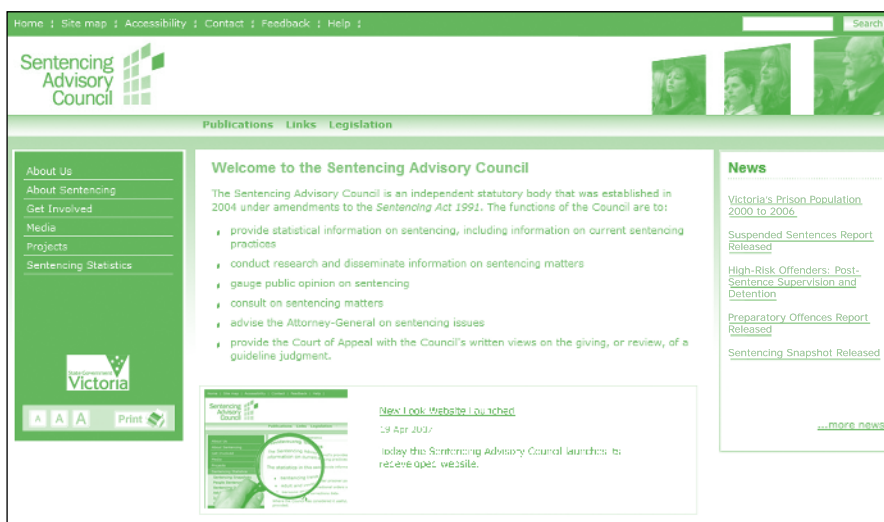
During 2006–07 the Council partnered with a range of legal education providers, headed by the Victoria Law Foundation, on the Civics Roadshow. The purpose of the Roadshow was to take key Law Week events to rural and regional communities that may otherwise not be able to access Melbourne-based functions.

The first Roadshow in Morwell in May 2007 offered both a community program and a schools program aimed at Years 11 and 12 VCE Legal Studies students. The Council presented a 'You be the Judge' session to 65 enthusiastic students and teachers in a court room at the Morwell Court Complex.

Following a successful evaluation of this first Roadshow, others are being planned for Mildura and in other places in the near future.







## Website

The Council's website <[www.sentencingcouncil.vic.gov.au](http://www.sentencingcouncil.vic.gov.au)> was launched in February 2005. This important resource provides information about sentencing in Victoria and about the Council's structure, objectives and activities. All of the Council's publications are posted there and may be downloaded free of charge. The website plays a critical role in allowing the Council to disseminate information on sentencing trends and issues in a highly effective way.

The website provides a range of plain-English information that explains how Victoria's sentencing system works, such as the principles and factors that guide the courts in their sentencing of offenders and descriptions of the different kinds of sentencing orders that apply to juveniles and to adults.

A major review of the site took place early in 2007. The site has a different appearance and an enhanced search engine. Information is now presented thematically, making the site more intuitive and information easier to find. Further enhancements include the use of dynamic menus, which provide access to a range of related information and web links.

The popular 'Sentencing Monitoring' area has undergone a major overhaul, with all of the statistical information placed in one area making it easier to find and use. 'Sentencing Statistics' now includes access to all of the Sentencing Snapshot publications as well as data for sentencing outcomes and people sentenced in Victoria, and adult and juvenile detention rates for both Australian and international locations.

The Council aims to ensure that the website reaches AA standard accessibility according to the World Wide Web Consortium standards. This will make the website accessible to a broad range of users, including people with sight disabilities. Some of the improved features include the ability to increase the text size of pages more easily and to open a print view of each page to make printing of information simpler.

The Council's website continued to attract a large number of visitors during 2006–07, many of whom downloaded one of the numerous publications on the site. Figure 6 shows the most popular publications downloaded from the website during 2006 and 2007.



## Media Mentions and other Citations

The Council continued to gather significant attention in the media over the course of the year, in particular around the release of its various publications. The Council's work was the focus of attention in more than 60 newspaper articles during 2006–07 in both the main Melbourne newspapers and in the regional papers. Radio coverage was even greater, with more than 120 radio segments discussing our work.

The Council's work is now also widely cited in judicial and academic circles. The Sentencing Snapshots were cited in nine judgments during 2006–07 in various courts, particularly the Supreme Court and the Court of Appeal (*DPP v Fevaleaki* [2006] VSCA 212; *R v Norris, Norris & Bodere* [2006] VSC 75; *DPP v Ross* [2006] VSCA 223; *DPP v Johnstone* [2006] VSCA 281; *R v Rowlands* [2007] VSCA 14; *R v Ilija Kolicic* [2007] VSCA 87; *R v Yasin Oznek* [2007] VSC 192; *R v Harvey* [2007] VSCA 127; and *R v Asim Selcuk* [2007] VSCA 143). The Australian Institute of Criminology has

summarised and re-published our sentencing data for arson in its *Bushfire Arson Bulletin*, no. 41 (February 2007) while the *Myths and Misconceptions* paper was cited by Justice Eames in a speech to the Melbourne Press Club's annual conference in August and by Alan Atwood in an editorial piece in the *Age* newspaper in the same month. Both of these focussed on the role of the media in constructing public opinion and the public "reality" of crime. They highlighted the report's evidence that newspaper portrayals present a distorted picture of the criminal justice system by reporting selectively and choosing aspects of stories with the aim of entertaining, more than informing. As most people learn about crime and the justice system through the mass media, public concerns typically reflect crime as depicted in the media, rather than trends in the actual crime rate.



The Council's work continues to attract significant media attention.

# Speaking Engagements

Date	Audience	Topic	Presenter
Jul 2006	Young Presidents' Organisation, Melbourne	You be the Judge	Arie Freiberg
Jul 2006	Sentencing Advisory Council Conference, Melbourne	Politics, Public Opinion and the Development of Sentencing Policy	Arie Freiberg
Jul 2006	Sentencing Advisory Council Conference, Melbourne	A Perspective on the work of the Victorian Sentencing Advisory Council and its potential to promote respect and equality for women	Thérèse McCarthy
Jul 2006	Sentencing Advisory Council Conference, Melbourne	Myths and Misconceptions: Public Opinion versus Public Judgment about Sentencing	Karen Gelb
Aug 2006	Law Institute of Victoria, Criminal Law Conference, Melbourne	Sentence Indication	Arie Freiberg
Aug 2006	Leo Cussen Institute, Continuing Education Program, Melbourne	Suspended Sentences	Arie Freiberg
Aug 2006	Public Forum, Shepparton	You be the Judge	Arie Freiberg
Aug 2006	Annual Conference of the District Court Judges of Queensland	Myths and Misconceptions: Public Opinion versus Public Judgment about Sentencing	Karen Gelb
Sep 2006	Annual Conference of the Australian Institute of Judicial Administration, Adelaide	Sentence Indication	Arie Freiberg
Oct 2006	National Judicial Orientation Program, National Judicial College of Australia, Sydney	Sentencing	Arie Freiberg

Oct 2006	Meeting of Supreme and District Court Judges, Perth	Sentencing	Arie Freiberg
Nov 2006	Court Network Annual General Meeting, Melbourne	You be the Judge	Arie Freiberg
Nov 2006	Victorian Commercial Teachers Association Comview Conference, Melbourne	You be the Judge	Jenni Coady Arie Freiberg Karen Gelb
March 2007	Meeting of Supreme and District Court Judges, Adelaide	You be the Judge demonstration	Arie Freiberg
May 2007	National Judicial Orientation Program, National Judicial College of Australia, Melbourne	Sentencing	Arie Freiberg
May 2007	Faculty of Law, Hebrew University of Jerusalem	Structuring Sentencing	Arie Freiberg
May 2007	Years 11 and 12 VCE Legal Studies students and teachers, Law Week, Morwell	You be the Judge	Jenni Coady

# Organisational Governance & Statutory Compliance

As a Public Entity, accountable and effective governance is required under the *Financial Management Act 1994*, the *Public Administration Act 2004*, the *Audit Act 1994*, and other applicable laws, regulations and directions from the Minister of Finance.

The Council has undertaken to complete compliance certification under the Financial Management Certification Framework in conjunction with the Department of Justice.

## Human Resource Management

The Sentencing Advisory Council promotes the personal and professional development of its staff in order to achieve sustained improvements and to create satisfying career paths. The Council actively promotes safe work practices, career development, work/life balance and a friendly and non-discriminatory working environment.

## Staff Development and Training

During 2006–07 the Sentencing Advisory Council offered a wide range of programs to equip staff with the knowledge and skills required to perform their jobs successfully. Staff members were encouraged to extend their professional skills via:

- attendance at internal and external professional development courses in communication, finance, personal development, statistics and information technology;
- attendance and presentation of papers at relevant conferences;
- executive and management training programs; and
- assistance to staff members undertaking undergraduate and postgraduate studies.

## Financial Management

The Council and secretariat abide by a Financial Code of Practice that encompasses procurement, the use of assets and resources, potential conflicts of interest, secondary employment, financial gifts and gratuities. Employees are subject to the Department of Justice Code of Conduct (consistent with the Victorian Public Service Code of Conduct and the objectives of the *Public Administration Act 2004*) and regular financial reporting is scrutinised by internal audit provided by the Department of Justice Court Services, Financial and Business Analysis.

## Outsourced Consultancies and Major Contracts

There were no outsourced consultancies or contracts in excess of \$100,000.

## Privacy

The Sentencing Advisory Council manages personal information in accordance with the *Information Privacy Act 2000* and its privacy policy. Regular reviews are carried out in relation to the recording of personal information to ensure that the Council is in compliance with regulations. There were no privacy related complaints for the year ending 30 June 2007.

## Freedom of Information

The *Freedom of Information Act 1982* allows the public the right to access documents held by the Council. For the year ending 30 June 2007, there were no FOI applications.

## Whistleblowers

The *Whistleblowers Protection Act 2001* encourages and facilitates disclosures of improper conduct by public officers and public bodies. For the year ending 30 June 2007, the Council was not subject to any complaints or disclosures.

## Compliance with the *Building Act 1993*

The Sentencing Advisory Council does not own or control any government buildings in so far as the Council utilises building infrastructure and property services provided by the Department of Justice.

## Implementation of the Victorian Industry Participation Policy

The *Victorian Industry Participation Policy Act 2003* requires public bodies and departments to report on the application of the Victorian Industry Participation Policy in all tenders over \$3 million in metropolitan Melbourne and \$1 million in regional Victoria. While the Council uses local suppliers for goods and services the policy does not apply to the Council due to the threshold of expenditure.

## Occupational Health and Safety

The Council has an assigned Occupational Health and Safety (OHS) Officer and OHS has been factored into the Council's overall risk management framework. In addition to attending OHS presentations, all staff are provided with materials on the *Occupational Health and Safety Act 2004* and with guides on ergonomic assessment. Staff also have access to ergonomic equipment and to assessments by qualified professionals, and all have participated in fire-drill evacuation exercises. There were no claims of OHS related injury for the year ending 30 June 2007.

## Industrial Relations

The Council enjoys a cooperative relationship with employee representative organisations. For the year ending 30 June 2007 no time was lost through industrial disputes or accidents.

## Merit and Equity

Department of Justice merit and equity principles are applied in the appointment and management of staff and the Council's guiding principles are consistent with the Public sector values and employment principles articulated in the *Public Administration Act 2004*.

## Social and Cultural Diversity

The Council acknowledges the importance of cultural diversity and endeavours to maintain an inclusive, consultative and open approach to its work. Diversity is enhanced through the selection criteria of Council members (appointed by the Attorney-General), staff recruitment, student research placements and a broad community consultation strategy that includes a diverse range of individuals and community groups.

## Audit and Finance Committee

Because of their small size and to maximise the most effective use of limited resources, the Sentencing Advisory Council and the Judicial College of Victoria combined to establish a joint audit and finance committee to oversee their financial operations. The committee consists of the following members:

- Karol Hill (Chairperson)
- Karen Gelb (Sentencing Advisory Council representative)
- Kylie Pearse (Judicial College of Victoria representative)

Tony Cooper, Senior Financial Analyst in the Office of Executive Director Courts, acts as the Council's Chief Financial Accounting Officer and attends committee meetings by standing invitation, providing finance support as required. The Chief Executive Officers of both organisations and a representative of the Office of the Auditor-General also attend meetings by standing invitation.

# Organisational Governance & Statutory Compliance

The audit and finance 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, performance and independence of the external auditor;
- the operation and implementation of the risk management framework;
- matters of accountability and internal control affecting the operations of the Council;
- the effectiveness of management information systems and other systems of internal control;
- the acceptability of, correct accounting treatment for, and disclosure of significant transactions that are not part of the Council's normal course of business;
- the sign-off of accounting policies; and
- the Council'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 audit and finance committee maintains an effective working relationship with the management of the Council secretariat, the Council board, and both internal and external auditors.

## Environmental Management and Impacts

Operating within the context of the Department of Justice the Council has adopted the Department's Environmental Management policy, implementing efficient office recycling, waste management and energy efficiency practices.

## Additional Information

The Council's published reports and other public documents are all available online at <[www.sentencingcouncil.vic.gov.au](http://www.sentencingcouncil.vic.gov.au)>. Any other relevant information in relation to the financial year is retained by the accountable officer and is available on request subject to Freedom of Information requirements and our Privacy policy.



# Financial Statements

for the financial year ended 30 June 2007

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# Operating Statement

for the financial year ended 30 June 2007

	Note	2007 \$	2006 \$
<b>Continuing operations</b>			
<b>INCOME</b>			
<b>Revenue</b>			
Grant from the Department of Justice	2(a)	1,554,096	1,430,832
Other Revenue	2(a)	35,694	-
<b>Total income</b>		<b>1,589,790</b>	<b>1,430,832</b>
<b>EXPENSES</b>			
Grants and other payments	3(a)	-	(10,000)
Employee benefits	3(b)	(1,189,736)	(983,947)
Depreciation and amortisation	3(c)	(45,338)	(236,079)
Supplies and services	3(d)	(337,023)	(361,356)
Finance costs	3(e)	(1,590)	(33)
Other expenses	3(f)	(22,671)	(18,984)
<b>Total expenses</b>		<b>(1,596,358)</b>	<b>(1,610,398)</b>
<b>Net result from continuing operations</b>		<b>(6,568)</b>	<b>(179,567)</b>
<b>Net result for the period</b>		<b>(6,568)</b>	<b>(179,567)</b>

The above operating statement should be read in conjunction with the accompanying notes included on pages 44 to 61.

# Balance Sheet

as at 30 June 2007

	Note	2007 \$	2006 \$
<b>Current assets</b>			
Cash and cash equivalents	14(a)	4,600	500
Receivables	4	202,205	200,358
<b>Total current assets</b>		<b>206,805</b>	<b>200,858</b>
<b>Non-current assets</b>			
Receivables	4	54,508	33,027
Plant and equipment	5	84,477	74,027
<b>Total non-current assets</b>		<b>138,985</b>	<b>107,054</b>
<b>Total assets</b>		<b>345,790</b>	<b>307,912</b>
<b>Current liabilities</b>			
Payables	6	21,093	39,137
Interest bearing liabilities	7	22,611	-
Provisions	8	129,191	110,793
<b>Total current liabilities</b>		<b>172,895</b>	<b>149,930</b>
<b>Non-current liabilities</b>			
Provisions	8	54,508	33,027
<b>Total non-current liabilities</b>		<b>54,508</b>	<b>33,027</b>
<b>Total liabilities</b>		<b>227,403</b>	<b>182,957</b>
<b>Net assets</b>		<b>118,387</b>	<b>124,955</b>
<b>Equity</b>			
Contributed capital	15	299,142	299,142
Accumulated surplus	15	(180,755)	(174,187)
<b>Total equity</b>		<b>118,387</b>	<b>124,955</b>

- Contingent liabilities and contingent assets

12

- Commitments for expenditure

11

The above balance sheet should be read in conjunction with the accompanying notes included on pages 44 to 61.

# Statement of Changes in Equity

for the financial year ended 30 June 2007

	Note	2007 \$	2006 \$
<b>Total equity at beginning of financial year</b>		<b>124,955</b>	<b>304,396</b>
Effects of changes in accounting policy:			
Adjustment on adoption of AASB 132 and AASB 139			
Accumulated surplus	15(b)	-	126
<b>Restated total equity at the beginning of financial year</b>		<b>124,955</b>	<b>304,522</b>
Net result for the period		(6,568)	(179,567)
<b>Total recognised income and expense for period</b>		<b>(6,568)</b>	<b>(179,567)</b>
<b>Total equity at the end of the financial year</b>		<b>118,387</b>	<b>124,955</b>

The above statement of changes in equity should be read in conjunction with the accompanying notes included on pages 44 to 61.

# Cash Flow Statement

for the financial year ended 30 June 2007

	Note	2007 \$	2006 \$
<b>Cash flows from operating activities</b>			
Receipts from the Department of Justice		1,530,768	1,336,807
Other Receipts		35,694	-
Payments to suppliers and employees		(1,527,594)	(1,302,822)
Interest and other costs of finance paid		(1,590)	(33)
<b>Net cash flows from operating activities</b>	14(b)	<b>37,277</b>	<b>33,952</b>
<b>Cash flows from investing activities</b>			
Payments for plant and equipment		(26,901)	(33,952)
<b>Net cash flows used in investing activities</b>		<b>(26,901)</b>	<b>(33,952)</b>
<b>Cash flows from financing activities</b>			
Repayment of finance lease		(6,276)	-
<b>Net cash flows from financing activities</b>		<b>(6,276)</b>	<b>-</b>
<b>Net increase/ (decrease) in cash and cash equivalents</b>		<b>4,100</b>	<b>-</b>
Cash and cash equivalents at the beginning of the financial year		500	500
<b>Cash and cash equivalents at the end of the financial year</b>	14(a)	<b>4,600</b>	<b>500</b>

The above cash flow statement should be read in conjunction with the accompanying notes included on pages 44 to 61.

# Notes to the Financial Statements

for the financial year ended 30 June 2007

The Sentencing Advisory Council (SAC) is an independent government-funded body established in July 2004 by the *Sentencing (Amendment) Act* 2003. The Council was formed to implement a key recommendation arising out of Professor Arie Freiberg's 2002 review of sentencing in Victoria. The "Pathways to Justice" report recognised the need for a body that would allow properly informed public opinion to be taken into account in the sentencing process, as well as the dissemination of up-to date and accurate sentencing data to assist judges in their role to promote consistency in sentencing outcomes.

## Note 1. Summary of Accounting Policies

### (a) Statement of Compliance

The financial report is a general-purpose financial report which has been prepared on an accrual basis in accordance with the *Financial Management Act* 1994, applicable Australian Accounting Standards, Interpretations and other mandatory professional requirements. Accounting Standards include Australian equivalents to International Financial Reporting Standards ('A-IFRS').

The financial statements were authorised for issue by Dr Karen Gelb (Acting Chief Executive Officer -- Sentencing Advisory Council) on 1 October 2007.

### (b) Basis of preparation

The financial report has been prepared on a historical cost basis. Cost is based on the fair values of the consideration given in exchange for assets.

In the application of A-IFRS management is required to make judgements, estimates and assumptions about carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstance, the results of which form the basis of making the judgments. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period or in the period of the revision, and future periods if the revision affects both current and future periods.

Judgments made by management in the application of A-IFRS that have significant effects on the financial statements and estimates with a significant risk of material adjustments in the next year are disclosed throughout the notes in the financial statements.

Accounting policies are selected and applied in a manner which ensures that the resulting financial information satisfies the concepts of relevance and reliability, thereby ensuring that the substance of the underlying transactions or other events is reported.

The accounting policies set out below have been applied in preparing the financial statements for the year ended 30 June 2007 and the comparative information presented for the year ended 30 June 2006.

### (c) Reporting Entity

The financial statements include all the controlled activities of the SAC.

#### **Non-current assets**

All non-current assets controlled by SAC are reported in the balance sheet.

### (d) Economic dependency

The SAC is economically dependent on the support of the Victorian State Government to ensure it is able to meet its obligations as and when they fall due.

### (e) Objectives and funding

The SAC's objectives are set out in Section 108C of the *Sentencing (Amendment) Act 2003* and are to provide statistical information on sentencing, including information on current sentencing practices to members of the judiciary and other interested parties; conducting research and disseminating information to members of the judiciary and other interested parties on sentencing matters; gauging public opinion on sentencing; consulting on sentencing matters with government departments and other interested persons and bodies as well as the general public; advising the Attorney-General on sentencing matters; and providing the Court of Appeal with the Council's written views on the giving or review, of a guideline judgement.

The SAC is funded for the provision of outputs consistent with its statutory function. Funds are from accrual-based grants derived from monies appropriated annually by Parliament through the Department of Justice (DoJ).

### (f) Events after reporting date

Assets, liabilities, income or expenses arise from past transactions or other past events. Where the transactions result from an agreement between SAC and other parties, the transactions are only recognised when the agreement is irrevocable at or before balance date. Adjustments are made to amounts recognised in the financial statements for events which occur after the reporting date and before the statements are authorised for issue, where those events provide information about conditions which existed at the reporting date. Note disclosure is made about events between the balance date and the date the statements are authorised for issue where the events relate to condition which arose after the reporting date and which may have a material impact on the results of subsequent years.

### (g) Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the taxation authority. In this case it is recognised as part of the cost of acquisition of the asset or as part of the expense.

DoJ manages the GST transactions on behalf of the SAC and the net amount of GST recoverable from or payable to the Australian Taxation Office is recognised in the financial statements of DoJ.

# Notes to the Financial Statements

for the financial year ended 30 June 2007

## (h) Income recognition

Income becomes controlled by the SAC when it is appropriated from the Consolidated Fund by the Victorian Parliament and applied to the purposes defined under the relevant appropriations act.

Amounts disclosed as revenue are, where applicable, net of returns, allowances and duties and taxes.

Revenue is recognised for the SAC's major activity as follows:

### ***Grants from the Department of Justice***

Revenue from the outputs the SAC provides to Government is recognised when those outputs have been delivered and the Minister has certified delivery of those outputs in accordance with the specified performance criteria.

## (i) Expenses

### ***Grants and other payments***

Grants and other payments to third parties are recognised as an expense in the reporting period in which they are paid and payable.

### ***Employee benefits***

Employee benefits expenses include all costs related to employment including wages and salaries, leave entitlements, redundancy payments and superannuation contributions. These are recognised when incurred.

### ***Depreciation***

Depreciation is provided on plant and equipment. Depreciation is generally calculated on a straight line basis so as to write off the net cost or other revalued amount of each item of plant and equipment over its expected useful life to its estimated residual value. Leasehold improvements are depreciated over the period of the lease or estimated useful life, whichever is the shorter, using the straight-line method. The estimated useful lives, residual values and depreciation method are reviewed at the end of each annual reporting period.

The following estimated useful lives are used in the calculation of depreciation:

- Plant and Equipment 2 - 15 years

### ***Finance costs***

Finance costs are recognised as expenses in the period in which they are incurred and comprise finance lease charges.



### ***Impairment of assets***

Assets are assessed annually for indications of impairment except for financial assets.

If there is an indication of impairment, the assets concerned are tested as to whether their carrying value exceeds their possible recovery amount. Where an asset's carrying value exceeds its recoverable amount, the difference is written off by a charge to the operating statement except to the extent that the write-down can be debited to an asset revaluation reserve amount applicable to that class of asset.

It is deemed that, in the event of the loss of an asset, the future economic benefits arising from the use of the asset will be replaced unless a specific decision to the contrary has been made. The recoverable amount for most assets is measured at the higher of depreciated replacement cost and fair value less costs to sell. Recoverable amount for assets held primarily to generate net cash inflows is measured at the higher of the present value of future cash flows expected to be obtained from the asset and fair value less costs to sell.

### ***Supplies and services***

Supplies and services generally represent the day-to-day running costs, including maintenance costs, incurred in the normal operations of SAC. These items are recognised as an expense in the reporting period in which they are incurred.

#### **(j) Assets**

All non-current assets controlled by SAC are reported in the balance sheet.

### ***Cash and cash equivalents***

Cash includes cash on hand.

### ***Receivables***

Receivables consist predominantly of amounts owing by the Department of Justice.

Receivables are recognised initially at fair value and subsequently measured at amortised cost, using the effective interest rate method, less any accumulated impairment.

A provision for doubtful receivables is made when there is objective evidence that the debts will not be collected. Bad debts are written off when identified.

### ***Plant and equipment***

Plant, equipment and vehicles are measured at cost less accumulated depreciation and impairment.

The cost of improvements to or on leasehold properties is amortised over the expired period of the lease or the estimated useful life of the improvement to SAC, whichever is the shorter.

# Notes to the Financial Statements

for the financial year ended 30 June 2007

## (k) Liabilities

### **Payables**

Payables consist predominantly of creditors and other sundry liabilities.

Payables are carried at amortised cost and represent liabilities for goods and services provided to SAC prior to the end of financial year that are unpaid, and arise when SAC becomes obliged to make future payments in respect of the purchase of these goods and services.

### **Interest bearing liabilities**

Interest bearing liabilities are recorded initially at fair value, net of transaction costs.

Subsequent to initial recognition, interest bearing liabilities are measured at amortised cost with any difference between the initial recognised amount and the redemption value being recognised in profit and loss over the period of the interest bearing liability using the effective interest rate method.

### **Employee benefits**

#### **(i) Wages and salaries, annual leave and sick 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 the provision for employee benefits in respect of employee services up to the reporting date, classified as current liabilities and measured at their nominal values.

Those liabilities that are not expected to be settled within 12 months are recognised in the provision for employee benefits as current liabilities, measured at present value of the amounts expected to be paid when the liabilities are settled using the remuneration rate expected to apply at the time of settlement.

#### **(ii) Long service leave**

Liability for long service leave (LSL) is recognised in the provision for employee benefits

- **Current liability - unconditional LSL** (representing 7 or more years of continuous service for SAC staff and 10 or more years of continuous service for executives) is disclosed as a current liability even where SAC does not expect to settle the liability within 12 months because it will not have the unconditional right to defer the settlement of the entitlement should an employee take leave within 12 months.

The components of this current LSL liability are measured at:

- present value - component that SAC does not expect to settle within 12 months: and
- nominal value - component that SAC expects to settle within 12 months.
- **Non-current liability - conditional LSL** (representing less than 7 years of continuous service for SAC staff and less than 10 years of continuous service for executives) is disclosed as a non-current liability. There is an unconditional right to defer the settlement of the entitlement until the employee has completed the requisite years of service.

This non-current LSL liability is measured at present value.

### **(iii) Employee benefits on-costs**

Employee benefits on-costs (payroll tax, workers compensation, superannuation, annual leave and LSL accrued while on LSL taken in service) are recognised and included with LSL employee benefits.

### **(iv) Termination benefits**

Termination benefits are payable when the employment is terminated before the normal retirement date, or when an employee accepts voluntary redundancy in exchange for these benefits. SAC recognises termination benefits when it is demonstrably committed to either terminating the employment of current employees according to a detailed formal plan without the possibility of withdrawal or providing termination benefits as a result of an offer made to encourage voluntary redundancy. Benefits falling due more than 12 months after balance sheet date are discounted to present value.

### **(l) Commitments**

Commitments include those operating, capital and other outsourcing commitments arising from non-cancellable contractual or statutory sources are disclosed at their nominal value.

### **(m) Contingent assets and contingent liabilities**

Contingent assets and contingent liabilities are not recognised in the balance sheet, but are disclosed by way of a note and, if quantifiable, are measured at nominal value.

### **(n) Equity**

#### **Contribution by owners**

For additions to net assets which have been designated as contributions by owners are recognised as contributed capital. Other transfers that are in the nature of contributions or distributions have also been designated as contribution by owners.

### **(o) Cash flow statement**

For the purposes of the cash flow statement, cash comprises cash on hand.

### **(p) Functional and presentation currency**

The functional currency of SAC is the Australian dollar, which has also been identified at the presentation currency of SAC.

### **(q) Rounding of amounts**

Amounts in the financial report have been rounded to the nearest dollar, unless otherwise stated.

### **(r) New accounting standards and interpretations**

Certain new accounting standards and interpretations have been published that are not mandatory for 30 June 2007 reporting period. The Department of Treasury and Finance assesses the impact of these new standards and advises departments and other entities of their applicability and early adoption where applicable. SAC has not, and does not intend to, adopt these standards early.

# Notes to the Financial Statements

for the financial year ended 30 June 2007

	2007 \$	2006 \$
<b>Note 2. Income</b>		
<b>(a) Revenue from Government</b>		
Grant from the Department of Justice	1,554,096	1,430,832
Other Revenue	35,694	-
<b>Total revenue from Government</b>	<b>1,589,790</b>	<b>1,430,832</b>

<b>Note 3. Expenses</b>		
<b>Expenses</b>		
<b>(a) Grants and other payments</b>		
Grant to Judicial Conference of Australia	-	10,000
<b>Total grants and other payments</b>	<b>-</b>	<b>10,000</b>
<b>(b) Employee benefit</b>		
Salary and wages	905,012	729,863
Superannuation	69,629	52,178
Annual leave and long service leave expense	106,282	93,383
Other on-costs (fringe benefits tax, payroll tax and workcover levy)	73,864	63,082
Staff Training	34,949	45,441
<b>Total employee benefits</b>	<b>1,189,736</b>	<b>983,947</b>
<b>(c) Depreciation and amortisation</b>		
Depreciation of non-current assets	15,511	12,743
Amortisation of non-current assets	29,827	223,336
<b>Total depreciation and amortisation</b>	<b>45,338</b>	<b>236,079</b>

	2007 \$	2006 \$
<b>(d) Supplies and services</b>		
Contractors and professional fees	82,682	63,046
Printing, stationery and other office expenses	78,572	54,597
Advertising	22,123	15,874
Rent and property services	80,022	71,003
Travel, car parking and accommodation	15,958	46,127
Functions, meetings	5,801	6,612
Office equipment costs and maintenance	13,466	14,907
Electronic communication charge	5,912	25,214
Information technology costs	11,351	47,982
Other	21,136	15,994
<b>Total supplies and services</b>	<b>337,023</b>	<b>361,356</b>
<b>(e) Finance costs</b>		
Other finance costs	1,590	33
<b>Total finance costs</b>	<b>1,590</b>	<b>33</b>
<b>(f) Other operating expenses</b>		
Rental expense relating to operating leases	12,671	14,997
Audit fees - Victorian Auditor-General	10,000	2,800
Net loss on disposal of property, plant and equipment	-	1,187
<b>Total other expenses</b>	<b>22,671</b>	<b>18,984</b>

## Note 4. Receivables

### Current receivables

Amount owing from the Department of Justice	202,205	200,081
Other receivables	-	277
<b>Total current receivables</b>	<b>202,205</b>	<b>200,358</b>

### Non-current receivables

Amount owing from the Department of Justice	54,508	33,027
<b>Total non-current receivables</b>	<b>54,508</b>	<b>33,027</b>
<b>Total receivables</b>	<b>256,713</b>	<b>233,385</b>

# Notes to the Financial Statements

for the financial year ended 30 June 2007

	2007 \$	2006 \$
<b>Note 5. Plant and Equipment</b>		
<b>Classification by 'Public Safety and Environment' Purpose Group - Movements in carrying amounts</b>		
<b>Leasehold fitout</b>		
At cost	446,673	446,673
Less: accumulated amortisation	(446,673)	(423,401)
	<b>-</b>	<b>23,272</b>
<b>Plant and equipment</b>		
At cost	96,148	69,247
Less: accumulated depreciation	(34,003)	(18,492)
	<b>62,145</b>	<b>50,755</b>
<b>Plant and equipment under finance lease</b>		
At cost	31,866	-
Less: accumulated depreciation	(9,534)	-
	<b>22,332</b>	<b>-</b>
<b>Total plant and equipment</b>	<b>84,477</b>	<b>74,027</b>

<b>Classification by 'Public Safety and Environment' Purpose Group - Movements in carrying amounts</b>				
	Leasehold Fitout	Plant and Equipment	Leased plant and equipment	Total
	\$	\$	\$	\$
Opening balance	23,272	50,755	-	74,027
Additions	-	26,901	28,887	55,788
Disposals	-	-	-	-
Depreciation/amortisation expense (note 3c)	(23,272)	(15,511)	(6,555)	(45,338)
<b>Balance at 30 June 2007</b>	<b>-</b>	<b>62,145</b>	<b>22,332</b>	<b>84,477</b>

	2007 \$	2006 \$
<b>Note 6. Payables</b>		
<b>Current payables</b>		
Creditors	18,495	37,160
Fringe benefits tax	2,598	1,977
<b>Total payables</b>	<b>21,093</b>	<b>39,137</b>

## Note 7. Interest Bearing Liabilities

<b>Current</b>		
Secured		
Finance lease liabilities (i) (note 10)	22,611	-
<b>Total current interest bearing liabilities</b>	<b>22,611</b>	<b>-</b>
<b>Non-current</b>		
Secured		
Finance lease liabilities (i) (note 10)	-	-
<b>Total non-current interest bearing liabilities</b>	<b>-</b>	<b>-</b>
<b>Total interest bearing liabilities</b>	<b>22,611</b>	<b>-</b>

*Note:*

(i) Secured by assets leased

## Note 8. Provisions

<b>Current</b>		
Employee benefits (note 8(a))	129,192	110,793
<b>Total current provisions</b>	<b>129,192</b>	<b>110,793</b>
<b>Non-current</b>		
Employee benefits (note 8(a))	54,508	33,027
<b>Total non-current provisions</b>	<b>54,508</b>	<b>33,027</b>
<b>Total provisions</b>	<b>183,699</b>	<b>143,820</b>



# Notes to the Financial Statements

for the financial year ended 30 June 2007

	2007 \$	2006 \$
<b>(a) Employee benefits</b>		
<b>Current employee benefits that:</b>		
Are expected to be utilised within 12 months after the end of the reporting period	106,302	81,005
Are expected to be utilised more than 12 months after the end of the reporting period	6,301	14,722
Other - Accrued Salaries	16,588	15,066
	<b>129,192</b>	<b>110,793</b>
<b>Non-current</b>		
Conditional long service leave entitlements	54,508	33,027
	<b>54,508</b>	<b>33,027</b>
<b>Total employee benefits</b>	<b>183,699</b>	<b>143,820</b>

## Note 9. Superannuation

The SAC contributes superannuation payments on behalf of its employees to the following superannuation funds.

State Superannuation Schemes ( <i>Defined benefits scheme</i> )	(1,910)	(1,904)
VicSuper ( <i>Accumulation scheme</i> )	70,527	51,372
Various Other ( <i>Accumulation schemes</i> )	1,012	2,709
<b>Total</b>	<b>69,629</b>	<b>52,177</b>

Unfunded liabilities associated with the State Superannuation "Revised" and "New" Schemes are assumed by the Department of Treasury and Finance. There are no unfunded liabilities associated with VicSuper and other funds as these are accumulation schemes.

At 30 June 2007 no amounts were owed to any of the above funds and no loans existed between the funds and the SAC.

The SAC has staff who are members of the following Public Sector Superannuation schemes administered by the Victorian Superannuation Board:

- Revised Scheme
- New Scheme
- VicSuper scheme

Employer contributions to the Revised and New schemes are determined actuarially at the rate appropriate to fund the future benefit accrual rates. Any historical shortfall is met from consolidated revenue. Employer contributions to VicSuper satisfy the requirements of the Superannuation Guarantee legislation.

## Benefits and Contributions

### Revised scheme -

Any person completing 30 years service and aged 55 is eligible for approximately 53% of their final average salary as a pension. They have the option of commuting up to half the pension to a lump sum. In June 1995 the Fund changed its status to a taxed fund and commenced to pay rebateable pensions. The illustration above is based on untaxed values which would be reduced to a taxed value on payment.

Employer contributions for Revised Scheme members were set at 15.5% of salary in 2006-07 (2005-06: 15.5%).

### New Scheme -

Retirement benefits vary in accordance with employee contributions and are supported by different employer rates.

Contributions		Benefits
Employee	Employer	
0%	7.3%	10% (10%) of final average salary for each year at the rate
3%	8.8%	16% (16%) of final average salary for each year at the rate
5%	9.8%	20% (20%) of final average salary for each year at the rate
7%	10.8%	24% (24%) of final average salary for each year at the rate

The benefit accrual rates in brackets are the accrual rates applying after the change in tax status of the Fund in June 2006.

### VicSuper Scheme -

From 1 January 1994, new employees' superannuation contributions have been made into the VicSuper accumulation scheme at the rates determined under the Commonwealth Superannuation Guarantee Legislation. The employer contribution rate for 2006-07 was 9% (2005-06: 9%). The VicSuper benefit consists of contributions and interest earned less any administration charges.

The bases for contributions are determined by the various schemes.

All employees of the SAC 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

for the financial year ended 30 June 2007

## Note 10. Leases

### Disclosure for lessees - finance leases

#### *Leasing arrangements*

Finance leases relate to equipment with lease terms of 27 months. SAC has options to purchase the equipment for a nominal amount at the conclusion of the lease agreements.

	<i>Minimum future lease payments</i>		<i>Present value of minimum future lease payments</i>	
	2007	2006	2007	2006
	\$	\$	\$	\$
<b><i>Finance lease liabilities payable</i></b>				
Not longer than 1 year	23,752	-	22,611	-
Longer than 1 year and not longer than 5 Years	-	-	-	-
Longer than 5 years	-	-	-	-
Minimum future lease payments*	23,752	-	22,611	-
Less future finance charges	(1,141)	-		
Present value of minimum lease payments	22,611	-	22,611	-
Included in the financial statements as:				
Current interest bearing liabilities (note 7)	22,611	-	22,611	-
Non-current interest bearing liabilities (note 7)	-	-	-	-
	<b>22,611</b>	<b>-</b>	<b>22,611</b>	<b>-</b>

\* Minimum future lease payments includes the aggregate of all lease payments and any guaranteed residual.

### Disclosure for lessees - operating leases

#### *Leasing arrangements*

Operating leases relate to equipment with lease terms of 4 years. SAC does not have an option to purchase leased assets at the expiry of the lease term.

	2007	2006
	\$	\$
<b><i>Non-cancellable operating leases payable</i></b>		
Within 1 year	10,400	10,400
Later than 1 year but not later than 5 years	1,734	12,134
	<b>12,134</b>	<b>22,534</b>

## Note 11. Commitments for Expenditure

### (a) Capital expenditure commitments

There were no commitments for capital expenditure as at 30 June 2007 (\$Nil - 2006).

### (b) Lease commitments

Finance lease liabilities and non-cancellable lease commitments are disclosed in note 10 to the financial statements.

## Note 12. Contingent Assets and Contingent Liabilities

There were no contingent assets or liabilities at balance date not provided for in the Balance Sheet as at 30 June 2007 (\$Nil - 2006).

## Note 13. Financial Instruments

### (a) Financial risk management objectives

SAC's activities expose it primarily to the financial risks of changes in foreign currency exchange rates and interest rates. SAC does not enter into derivative financial instruments to manage exposure to interest rate and foreign currency risk.

### (b) Significant accounting policies

Details of significant accounting policies and methods adopted, including the criteria for recognition, the basis of measurement and the basis on which income and expenses are recognised, in respect of each class of financial liability and equity instrument are disclosed in Note 1 to the financial statements.

### (c) Significant terms and conditions

Such disclosures have been provided in the respective notes.

# Notes to the Financial Statements

for the financial year ended 30 June 2007

## (d) Interest rate risk

### SAC's exposure to interest rate risk

	Weighted average effective interest rate  %	Maturity dates								Total
		Variable interest rate	Less than 1 year	1-2 years	2-3 years	3-4 years	4-5 years	5+ years	Non Interest Bearing	
2007		\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Financial assets</b>										
Cash and cash equivalents	-	-	-	-	-	-	-	-	4,600	4,600
Trade and other receivables	-	-	-	-	-	-	-	-	256,713	256,713
		-	-	-	-	-	-	-	<b>261,313</b>	<b>261,313</b>
<b>Financial liabilities</b>										
Payables	-	-	-	-	-	-	-	-	21,093	21,093
Finance lease liabilities	6.37	-	22,611	-	-	-	-	-	-	22,611
		-	<b>22,611</b>	-	-	-	-	-	<b>21,093</b>	<b>43,704</b>
<b>2006</b>										
<b>Financial assets</b>										
Cash and cash equivalents	-	-	-	-	-	-	-	-	500	500
Trade and other receivables	-	-	-	-	-	-	-	-	233,385	233,385
		-	-	-	-	-	-	-	<b>233,885</b>	<b>233,885</b>
<b>Financial liabilities</b>										
Payables	-	-	-	-	-	-	-	-	39,137	39,137
		-	-	-	-	-	-	-	<b>39,137</b>	<b>39,137</b>

## (e) Credit risk exposure

The SAC's maximum credit risk exposure at balance date in relation to each class of recognised financial assets is the carrying amount of the assets indicated in the balance sheet.

## (f) Fair values

Management consider that the carrying amount of financial assets and financial liabilities recorded in the financial statements approximates their fair values.

The fair values and net fair values of financial assets and liabilities are determined as follows:

- Cash: The carrying amount approximates fair value because of their short term to maturity.
- Receivables and Payables: The carrying amount approximates fair value because of their short term to maturity.
- Other financial liabilities: The fair values are determined in accordance with generally accepted pricing models based on discounted cash flow analyses.

## Note 14. Notes to the Cash Flow Statement

### (a) Reconciliation of cash and cash equivalents

	2007 \$	2006 \$
Total cash and cash equivalents disclosed in the balance sheet	4,600	500
	<b>4,600</b>	<b>500</b>

### (b) Reconciliation of net result for the period to net cash inflow from operating activities

<b>Net result for the period</b>	<b>(6,568)</b>	<b>(179,567)</b>
<b>Non-cash movements:</b>		
Depreciation and amortisation of non-current assets	45,338	236,079
Loss on retirement of plant and equipment	-	1,187
<b>Movements in assets and liabilities</b>		
(Increase)/decrease in current receivables	(1,847)	(86,712)
(Increase)/decrease in non-current receivables	(21,481)	(7,313)
Increase/(decrease) in current payables	(18,044)	17,324
Increase/(decrease) in current provisions	18,398	45,641
Increase/(decrease) in non-current provisions	21,481	7,313
<b>Net cash provided by operating activities</b>	<b>37,277</b>	<b>33,952</b>

## Note 15. Equity and Movements in Equity

### (a) Contributed by owners

Balance at beginning of the financial year	299,142	299,142
<b>Balance at end of financial year</b>	<b>299,142</b>	<b>299,142</b>

### (b) Accumulated surplus

Balance at beginning of the financial year	(174,187)	5,254
Adjustments on adoptions of AASB 132 and AASB 139	-	126
	(174,187)	5,380
Net result	(6,568)	(179,567)
<b>Balance at end of financial year</b>	<b>(180,755)</b>	<b>(174,187)</b>
<b>Total equity at the end of the financial year</b>	<b>118,387</b>	<b>124,955</b>

# Notes to the Financial Statements

for the financial year ended 30 June 2007

## Note 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.

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

<i>Attorney-General</i>	The Hon. Rob Hulls, MP	1 July 2006 to 30 June 2007
<i>Acting Attorney-General</i>	The Hon. Bob Cameron, MP	1 July 2006 to 2 July 2006
	The Hon. Bob Cameron, MP	8 July 2006 to 16 July 2006
	The Hon. John Lenders, MLC	23 December 2006 to 1 January 2007
	The Hon. Tim Pallas, MP	20 January 2007 to 21 January 2007
	The Hon. Bob Cameron, MP	22 January 2007 to 11 February 2007
	The Hon. John Lenders, MLC	9 May 2007 to 13 May 2007
	The Hon. John Lenders, MLC	22 June 2007 to 8 July 2007
<i>Chief Executive Officer</i>	Ms. Jo Metcalf	1 July 2006 to 30 June 2007
<i>Acting Chief Executive Officer</i>	Dr. Karen Gelb	27 December 2006 to 19 January 2007
	Ms. Victoria Moore	4 June 2007 to 25 June 2007
<i>Chairperson Council Members</i>	Professor Arie Freiberg	1 July 2006 to 30 June 2007
	Carmel Benjamin AM	1 July 2006 to 30 June 2007
	Carmel Arthur	1 July 2006 to 30 June 2007
	Noel Butland	1 July 2006 to 30 June 2007
	Bernie Geary OAM	1 July 2006 to 30 June 2007
	David Grace QC	1 July 2006 to 30 June 2007
	Rudolf Kirby	18 June 2007 to 30 June 2007
	Thérèse McCarthy	1 July 2006 to 30 June 2007
	Professor Jenny Morgan	1 July 2006 to 30 June 2007
	Simon Overland	1 July 2006 to 30 June 2007
	Jeremy Rapke QC	1 July 2006 to 30 June 2007
	Barbara Rozenes	1 July 2006 to 30 June 2007



## Remuneration

Remuneration received or receivable by the Accountable Officer (Chief Executive Officer) in connection with the management of the SAC during the reporting period was in the range:

	Total Remuneration		Base Remuneration	
	2007	2006	2007	2006
	No.	No.	No.	No.
\$130,000 - \$139,999				1
\$140,000 - \$149,999		1	1	
\$150,000 - \$159,999	1			
Total numbers	1	1	1	1

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

There are no Executive Officers other than the above.

## Other transactions

Other related transactions and loans requiring disclosure under the Directions of the Minister for Finance have been considered and there are no matters to report.

## Note 17. Remuneration of Auditors

	2007	2006
	\$	\$
Victorian Auditor-General's Office		
Audit of the financial report	10,000	5,200

## Note 18. Subsequent Events

There were no significant events occurring after reporting date to be reported as at 30 June 2007 (\$Nil - 2006).

# Accountable Officer's and Chief Finance and Accounting Officer's Declaration

We certify that the attached financial statements for the Sentencing Advisory Council 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 operating statement, balance sheet, statement of changes in equity, 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 2007 and financial position of the Council as at 30 June 2007.

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



Dr. Karen Gelb  
Acting Chief Executive Officer  
Accountable Officer  
Sentencing Advisory Council

Melbourne  
1 October 2007



Mr. Tony Cooper  
Chief Financial Accounting Officer  
Sentencing Advisory Council

Melbourne  
1 October 2007



Prof. Arie Freiberg  
Chair  
Sentencing Advisory Council

Melbourne  
1 October 2007

# Auditor-General's Report

## Independent Audit Report



Victorian Auditor-General's Office

### INDEPENDENT AUDIT REPORT

#### Sentencing Advisory Council

##### To the Members of the Parliament of Victoria and Members of the Council

##### *Matters Relating to the Electronic Presentation of the Audited Financial Report*

This auditor's report for the financial year ended 30 June 2007 relates to the financial report of the Sentencing Advisory Council included on its web site. The Members of the Sentencing Advisory Council are responsible for the integrity of the web site. I have not been engaged to report on the integrity of the web site. The auditor's report refers only to the statements named below. An opinion is not provided on any other information which may have been hyperlinked to or from these statements. If users of this report are concerned with the inherent risks arising from electronic data communications, they are advised to refer to the hard copy of the audited financial report to confirm the information included in the audited financial report presented on this web site.

##### *The Financial Report*

The accompanying financial report for the year ended 30 June 2007 of the Sentencing Advisory Council which comprises the operating statement, balance sheet, statement of changes in equity, cash flow statement, a summary of significant accounting policies and other explanatory notes to and forming part of the financial report, and the Accountable officer's and chief finance and accounting officer's declaration has been audited.

##### *The Responsibility of the Members of the Council for the Financial Report*

The Members of the Sentencing Advisory Council are responsible for the preparation and the fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the financial reporting requirements of the *Financial Management Act 1994*. This responsibility includes:

- establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error
- selecting and applying appropriate accounting policies
- making accounting estimates that are reasonable in the circumstances.

##### *Auditor's Responsibility*

As required by the *Audit Act 1994*, my responsibility is to express an opinion on the financial report based on the audit, which has been conducted in accordance with Australian Auditing Standards. These Standards require compliance with relevant ethical requirements relating to audit engagements and that the audit be planned and performed to obtain reasonable assurance whether the financial report is free from material misstatement.

Level 24, 35 Collins Street, Melbourne Vic. 3000

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*Auditing in the Public Interest*

# Auditor-General's Report

## Independent Audit Report

**VAGO**

Victorian Auditor-General's Office

### Independent Audit Report (continued)

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The audit procedures selected depend on judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, consideration is given to internal control relevant to the Council Members' preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Council's internal control. An audit also includes evaluating the appropriateness of the accounting policies used, and the reasonableness of accounting estimates made by the Council Members, as well as evaluating the overall presentation of the financial report.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.


#### *Independence*

The Auditor-General's independence is established by the *Constitution Act 1975*. The Auditor-General is not subject to direction by any person about the way in which his powers and responsibilities are to be exercised. The Auditor-General, his staff and delegates comply with all applicable independence requirements of the Australian accounting profession.

#### *Auditor's Opinion*

In my opinion, the financial report presents fairly, in all material respects, the financial position of the Sentencing Advisory Council as at 30 June 2007 and its financial performance and cash flows for the year then ended in accordance with applicable Australian Accounting Standards (including the Australian Accounting Interpretations), and the financial reporting requirements of the *Financial Management Act 1994*.

MELBOURNE  
4 October 2007



D.D.R. Pearson  
Auditor-General

Level 24, 35 Collins Street, Melbourne Vic. 3000

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*Auditing in the Public Interest*

# Compliance Index Disclosure Requirements

The Annual Report of the Sentencing Advisory Council is prepared in accordance with all relevant Victorian legislations. This index has been prepared to facilitate identification of the Council's compliance with statutory disclosure requirements.

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# Compliance Index Disclosure Requirements

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# Notes



