

**Department of  
Justice**

**Evaluation of  
Sentencing Advisory  
Council**

**August 2008**



**SuccessWorks**

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## Executive Summary

Success Works was commissioned by the Department of Justice to gauge the performance of the Sentencing Advisory Council (SAC) in relation to its statutory functions. The evaluation has been overseen by a Steering Committee involving representatives from the Departments of Justice, Premier and Cabinet and Treasury and Finance.

SAC was established in 2004. Its functions are:

- a. To state in writing to the Court of Appeal its views in relation to the giving, or review, of a guideline judgement
- 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
- f. To advise the Attorney General on sentencing matters.

Funding for the establishment of SAC was provided in the 2003/04 Victorian State budget. Additional funding was provided in the 2007/08 budget. One of the conditions of funding in 2007/08 was that performance of SAC be evaluated.

The evaluation has encompassed both process and summative evaluation. The process evaluation has examined the ways in which the Council has addressed its statutory functions, while the summative evaluation has examined the extent to which the Council has fulfilled its statutory functions and the value that the Council has provided in terms of factors such as efficiency and effectiveness, as well as accessibility and impartiality. The evaluation has been driven by a 'project logic' and 19 evaluation questions.

With the exception of its provision of advice to the Court of Appeal in guideline judgements, the evidence from this evaluation is that SAC has delivered on all of its statutory functions. In summary, SAC has:

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- produced 51 statistical publications
  - undertaken research in 12 areas and produced 24 research publications as well as conducting one international conference resulting in one book
  - undertaken 16 'You be the Judge' public education sessions involving over 1100 individuals and has distributed 780 teacher guides for use in schools
  - conducted:
    - 22 focus groups and forums with members of the community
    - 18 focus groups and meetings with victims of crime and victims organisations
    - 16 focus groups, workshops and meetings with court, legal and police representatives
    - 13 specialist roundtables
    - 12 meetings and workshops with legal/medical representatives
    - 3 focus groups with prisoners and offenders
  - received 185 written submissions
  - prepared 16 research publications in response to specific references from the Attorney General amounting to around 83% of SAC's total research output.

Interviews were conducted with sixty individuals representing various interests in the formation and operation of SAC. Almost without exception, these individuals were positive about the value and contribution of SAC. This level of positivity is unusual in evaluations and is to be commended. Almost all also expressed a strong belief in the ongoing need for SAC, particularly in order to continue the development of sentencing statistics and provide the opportunity for members of the community to have a voice in the development of sentencing policy.

Many felt that SAC had gone a long way toward the achievement of its longer term outcomes. Judicial officers and defence and prosecution representatives felt that SAC has had a significant impact on the consistency of sentences. They, and victims of crime and government representatives, felt that there was improved support for sentencing decisions and for sentencing reforms as a result of the efforts of the SAC. Judicial officers and government interviewees felt that SAC's research and consultation efforts had resulted in sentencing reforms which

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were well grounded and reflecting best practice. Journalists and victims of crime representatives felt that they had a better understanding of sentencing processes and issues as a result of SAC's work.

Based on the evidence obtained in this evaluation, it is the overall conclusion of the evaluators that SAC is a highly effective and successful organisation that represents value for money for the Victorian Government.

Recommendations for the consideration of government are included in Chapter Five.

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# 1. Introduction

Success Works was commissioned by the Department of Justice to gauge the performance of the Sentencing Advisory Council (SAC) in relation to its statutory functions.

SAC is an independent statutory body that was established in 2004. Under section 108C of the Sentencing Act 1991 (as amended in 2003), 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 judgement
- 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
- f. To advise the Attorney General on sentencing matters.

SAC was originally funded in the 2003/04 Victorian State budget (\$6.2m over four years). This funding expired on 30 June 2007. Additional funding was provided in the 2007/08 budget (\$2.9m over two years). One of the conditions of funding in 2007/08 was that performance of the SAC be evaluated.

This evaluation is to inform Government of the performance of the SAC in time for the consideration of ongoing funding in the 2009/10 State Budget.

This report details the findings from the evaluation.

The report is structured as follows:

- Chapter Two addresses the methodology used for this evaluation.
- Chapter Three provides a background to the establishment of the SAC and details findings from the review of relevant literature in relation to similar bodies and relevant findings from the evaluations of such bodies.

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- Chapter Four sets out the findings from the evaluation in accordance with the evaluation questions identified in the Methodology chapter.
  - Chapter Five addresses the overall goals of the evaluation, identifies a number of issues arising from the evaluation and makes relevant recommendations for the future.

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## 2. Methodology

The goals of the evaluation were to examine:

- The ways in which the SAC has addressed its statutory functions
- The extent to which the SAC has fulfilled each of its statutory functions
- The value that the SAC has provided in terms of factors such as:
  - Its efficiency and effectiveness generally
  - The degree of participation afforded to relevant stakeholders
  - The accessibility of its processes and publications (having regard to the relevant target audiences)
  - The impartiality and rationality of its recommendations.
- Any improvements to the ways that the SAC could address its statutory functions in the future.

The evaluation has encompassed both process and summative evaluation. The process evaluation has examined the ways in which the Council has addressed its statutory functions, while the summative evaluation has examined the extent to which the Council has fulfilled its statutory functions and the value that the Council has provided in terms of factors such as efficiency and effectiveness, as well as factors such as accessibility, impartiality and rationality.

The evaluation has involved a quantitative review of SAC's outputs including Council's publications, website statistics, and citations of the Council's work in judgments and the media. As well, the evaluation has entailed qualitative interviews with a total of 60 individuals with an interest in the operations and outputs of the SAC. A list of individuals and groups consulted is provided at **Appendix A**.

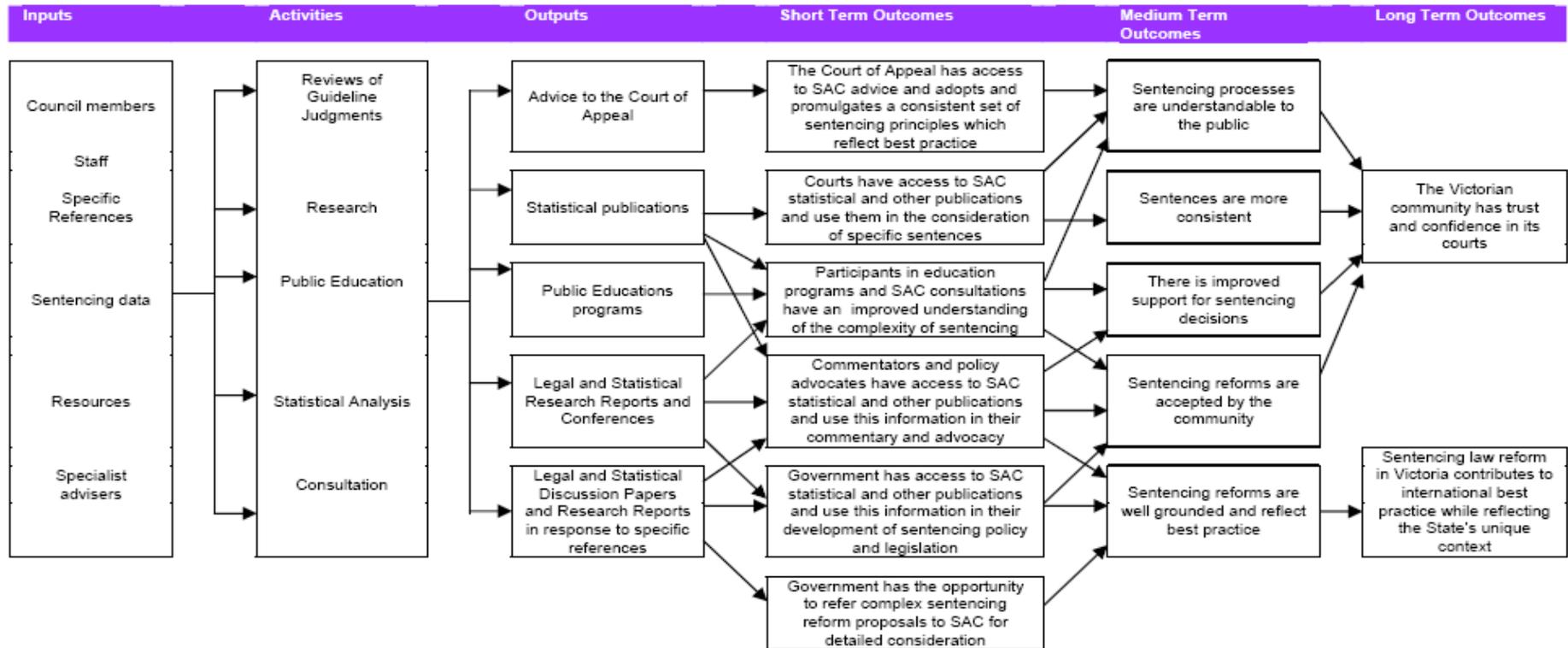
The evaluation has been overseen by a Steering Committee in order to monitor progress and ensure that key milestones are met. The Steering Committee has involved representatives from the Departments of Justice, Premier and Cabinet and Treasury and Finance in order to ensure that the evaluation meets the

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requirements of the funding agencies. It is anticipated that the Steering Committee will manage the process of informing the Expenditure Review Committee of Cabinet of the outcomes of the evaluation. The SAC has been briefed by the Chief Executive Officer on the progress of the evaluation on a regular basis.

The evaluation has been informed by the following 'project logic'. Development of the project logic was guided by consultations with the SAC CEO and Senior Criminologist, SAC Chair and two other Council members as well as the Chair of the Evaluation Steering Committee. The project logic is a visual representation of the logic underpinning the SAC which demonstrates the linkages between its outputs and its short, medium and long term outcomes. By highlighting the underlying logic and assumptions, the project logic allows the evaluator to determine the evaluation questions which in turn drive the data collection tools and processes.

Figure 1: Evaluation Project Logic



**Underlying Assumptions (to be tested during the evaluation process):**

- SAC's publications provide accurate information and considered views about particular issues based on evidence, sound analysis and thorough consultation
- The Attorney General takes notice of the reports prepared by the Sentencing Advisory Council
- SAC has credibility with the government, the court of appeal, other courts, commentators, advocates and the public
- SAC represents a best practice approach to sentencing law reform
- SAC provides value for money and is a cost effective approach to sentencing law reform

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The project logic details the inputs (i.e. what resources are available to SAC); the activities (what SAC spends its time doing); the outputs (what it produces) and the outcomes expected in the short, medium and long term. Evaluation questions are based around the outputs and short term outcomes as these two levels of inquiry are within the control and direct influence of SAC. The achievement of medium and long term outcomes will be impacted by a range of other factors which are largely outside SAC's control.

Based on the project logic, the following evaluation questions were developed:

**Figure 2: Evaluation Questions**

**Outputs (Quantity and Cost):**

1. To what extent has SAC provided advice to the court of appeal? At what cost?
2. To what extent has SAC produced statistical publications? At what cost?
3. To what extent has SAC undertaken public education programs? At what cost?
4. To what extent has SAC undertaken research and produced research reports and conferences? At what cost?
5. To what extent has SAC prepared research reports and discussion papers in response to specific references? At what cost?
6. To what extent has SAC consulted with stakeholders? At what cost?

**Outcomes (Use):**

7. To what extent has the court of appeal made use of its access to specific advice and adopted and promulgated a common set of sentencing principles?
8. To what extent have courts made use of their access to SAC statistical and other publications in the consideration of specific sentences?
9. To what extent have community members made use of their access to SAC statistical and other publications?
10. To what extent have participants in public education programs developed an improved understanding of the complexities of sentencing?
11. To what extent have commentators made use of their access to SAC statistical and other publications in their commentary?
12. To what extent have sentencing policy advocates made use of their access to SAC statistical and other publications in their advocacy?
13. To what extent has government made use of its access to SAC statistical and other publications in their sentencing policy and legislation?
14. To what extent has government used the opportunity to refer complex sentencing reform proposals to SAC for detailed consideration?

**Underlying Assumptions (Quality):**

15. To what extent does the Attorney General take notice of the reports prepared by the Sentencing Advisory Council and adopt their recommendations?
16. To what extent do SAC's publications provide accurate information and include considered views about particular issues based on evidence, sound analysis and thorough consultation?
17. To what extent does SAC have credibility with the government, the court of appeal, courts, commentators, academics, policy advocates and the public?
18. To what extent does SAC represent a best practice approach to sentencing law reform?
19. To what extent does SAC represent value for money and a cost effective approach to sentencing law reform?

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As well as quantitative data collation, qualitative data collection tools were developed based on these evaluation questions. These are detailed at **Appendix B**.

Each evaluation question is answered in Chapter Four.

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## 3. Background

### 3.1 Formation of the SAC

In 2000, Professor Arie Freiberg, then Professor of Criminology at the University of Melbourne, was asked by the Victorian Attorney General, Rob Hulls, to conduct a review of Victoria's sentencing laws in the light of community and media calls to increase the use and severity of imprisonment in Victoria (Freiberg, 2002). Amongst other things, the 2002 review recommended the establishment of a Sentencing Advisory Council to 'conduct research into sentencing, provide information about the availability and effectiveness of treatment programs, provide sentencing statistics, be involved in judicial and public education about sentencing, monitor sentencing trends and gauge public opinion' (Freiberg, 2002: 20). Freiberg also recommended that the Council be made up of 'professional and lay persons' (ibid).

Funding for the establishment of the Sentencing Advisory Council was provided in the 2003/04 Budget to 'provide a means of allowing informed community input to be incorporated into guideline judgements of the Court of Appeal and to the sentencing process on a permanent and formal basis'. The budget papers also indicated that 'the Sentencing Advisory Council will be an independent body that will enable informed community participation in the sentencing process. It will provide submissions to the Court of Appeal on guideline judgements, provide statistical information on sentencing to members of the judiciary, monitor public opinion on sentencing, and stimulate informed public debate on sentencing issues' (2003/04 Budget Papers). Funding for SAC was extended by two years in the 2007/08 budget.

The *Sentencing (Amendment) Act 2003* established the SAC with the roles indicated above as well as allowing it to generate its own research on areas it sees as valuable. Under the legislation, the SAC must comprise between 9 and 12 directors appointed by the Attorney-General, of whom at least:

- two have broad experience in community issues affecting courts;
- one has experience as a senior member of the academic staff of a tertiary institution;

- one is a member of a victim of crime support or advocacy group;
- one is a highly experienced prosecution lawyer;
- one is a highly experienced defence lawyer;
- the remainder have experience in the operation of the criminal justice system.

The SAC currently has 11 members supported by 12 staff. Members of the Council are as follows:

**Table 1: Current members of SAC**

Name	Description	Appointment Commenced
Prof Arie Freiberg	Dean of Law at Monash University. Headed a major review of Victorian sentencing laws during 2001-2002. An authority on sentencing issues and the criminal justice system who has undertaken extensive research on sentencing theory, policy and practice.	26 July 2004
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.	14 Sept 2004
David Grace QC	Has over 30 years experience as a legal practitioner, having appeared in numerous court jurisdictions in a number of leading sentencing cases. Regularly appears in the High Court and Court of Appeal and was the previous Chair of the Criminal Law Section of the Law Institute of Victoria.	26 July 2004
Rudolph Kirby	Practised as a lawyer in regional Victoria before moving to Melbourne in 2007 to manage Koori programs and initiatives at the Magistrates' Court of Victoria. Has been actively involved in a range of Indigenous community associations and programs. Is currently the Deputy Director of Indigenous Issues for the Department of Justice.	18 June 2007

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Name	Description	Appointment Commenced
Andrea Lott	Has over 10 years' experience in the delivery and management of services in the community sector; particularly in working with families and individuals who are homeless or at risk of homelessness and those who have come into contact with the criminal justice system. Is the CEO of the Victorian Association for the Care and Resettlement of Offenders (VACRO).	27 July 2007
Therese McCarthy	Has a long history of involvement with community organisations such as Centre Against Sexual Assault (CASA) House and Court Network. Has also worked with Australian courts to enhance the relationship between the courts and the community. Possesses a community perspective on a range of criminal justice issues including domestic violence and sexual assault.	26 July 2004
Prof Jenny Morgan	Is a member and previous co-chair of the Women's Domestic Violence Crisis Service and has extensive experience in victims' issues. 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.	26 July 2004
Simon Overland	Has extensive experience in law enforcement and administration at senior executive levels with the Australian Federal Police and with Victoria Police as Assistant Commissioner (Crime) and now as Deputy Commissioner.	26 July 2004
Barbara Rozenes	Is Vice President of Court Network, a community organisation designed to assist court users. Has had close contact with victims of crime and others in over 16 years service as a weekly volunteer networker in the Supreme and County Courts. In 2006, was elected to the Committee of the Victorian Association of Restorative Justice and completed a Certificate in Mediation to become an Associate Member of the Australian Institute of Arbitrators and Mediators.	26 July 2004

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Name	Description	Appointment Commenced
Gavin Silbert SC	Has over 30 years experience as a barrister having appeared in all jurisdictions, including the Court of Appeal and the High Court. Was appointed a Senior Crown Prosecutor in 2007 and as Chief Crown Prosecutor in March 2008.	2 November 2007
David Ware	Has over 20 years' experience in public administration within Victoria, with a particular focus on strategy, planning, policy and development across a range of social policy areas. Is the Director of Wagering Licence Allocation for the Gambling Licences Review, Is qualified as a Barrister and Solicitor of the Supreme Court of Victoria.	27 July 2007

In addition, the following individuals have ceased membership of the Council:

- Susan Tait (26 July 2004 to 19 August 2004)
- William Morgan-Payler QC (26 July 2004 to 25 October 2004)
- Andrew Jackomos (26 July 2004 to 6 March 2006)
- Jeremy Rapke QC (26 October 2004 - 25 October 2007)
- Noel Butland (26 July 2004 to 26 July 2007)
- Carmel Benjamin AM (26 July 2004 to 26 July 2007)
- Bernie Geary (26 July 2004 to 24 June 2008)

SAC is described as 'bridging the gap between the community, the courts and the government by informing, educating and advising on sentencing issues' (Freiberg and Gelb 2008: 155).

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## 3.2 Role of Sentencing Advisory Councils

Bodies such as SAC have emerged in relatively recent times in response to the evolution of public opinion on penal policy. At the same time there have been greater levels of victim awareness as victims' rights have been vocalised. In general, there has also been a greater salience of public opinion in politics in general. As Arie Freiberg writes, sentencing councils have generally been reactive – established post crisis by the government wanting to be seen to be taking public opinion seriously (Freiberg and Gelb 2008: 2). At the same time, there has been a global shift away from control by the state, and a move towards privatisation, decentralisation and network governance (Considine, 2005).

The evolution in political thought has also had an impact on the Judiciary, who have become less conservative and more responsive to public movements. The Judiciary used to be considered untouchable and of infallible judgment; however, this is no longer the case (Gertner in Freiberg and Gelb 2008: 105). Bodies like SAC have been called upon, to 'redress the balance' and satisfy the public regarding the 'subjective' nature of judicial law. Developments in court and penal policy, such as therapeutic jurisprudence and restorative justice have also sometimes been ahead of public opinion, at least as it is channelled through and by the media (Freiberg and Gelb 2008: 2).

The willingness of politicians to 'tap into' insecurity is also a more recent trend; particularly post 9-11, that has not bypassed penal policy. Known as the 'politics of fear', it is one of the least ethical ways for a government to maintain, or regain popularity by being seen to be responsive to a fear that the general public did not know they had. Once mobilised, public opinion can be difficult to contain, especially where the theory guiding sentencing policy and public desire for justice and retribution are seen as competing paradigms. As Pratt puts it, "emotive, ad hoc and volatile forces of populism can now override scientific expertise and the rationalities of penal bureaucracies" (Pratt in Freiberg and Gelb 2008: 3).

SAC's role is partly to mediate between these potentially competing interests. Robertson states that "there is an ongoing challenge for us all in how we engage with politicians, the bureaucracy, the Judiciary and the wider community without being captured by any of them" (Robertson 2005: 12). While the SAC is

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funded by, and reports to the government, it is independent and able to express its own views. It is also guided to a limited degree by the court of public opinion, and is responsible for gauging and informing public opinion from all the sectors of the community – not just the loudest.

Freiberg and Gelb caution that “bending to the perceived punitive desires of the public may be electorally popular, but it comes with a high financial and social cost” (Freiberg and Gelb 2008: 4). The most obvious cost is the possibility of an increased prison population if the Judiciary respond to public pressure to impose longer and more frequent prison sentences. It is a fine art to make recommendations that balance the practical impact of sentencing reform, with the greater public interest. There is also a political context that any Law Reform Commission or SAC must operate within. Robertson writes “often reforms will be uncomfortable or challenging to some who are particularly influential within society and who will endeavour to avoid change being implemented” (Robertson 2005: 14).

### 3.3 Other Similar Bodies

The plethora of law reform or SAC-type bodies across the world are heterogenous and have generally been established at different times and in some cases with a limited life span (Freiberg and Gelb 2008: 8). They vary widely in their scope and terms of reference. Some Sentencing Councils have judicial representation and others do not. Most have representatives from a variety of interest groups. While general law reform bodies have been around for several decades, most Sentencing Councils have been established since 2000 with the US leading the way. In some cases the Law Reform Commission (as in New Zealand) doubles as a Sentencing Council.

#### 3.3.1 New South Wales

NSW has four separate bodies which broadly address the functions undertaken by SAC.

The NSW Sentencing Council was established in 2003 under the *Crimes (Sentencing Procedure) Act 2003*. Broadly, its functions are:

- to advise and consult with the Attorney General on standard non-parole periods;

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- to advise and consult with the Attorney General on guideline judgment matters;
  - to monitor, and report annually to the Attorney General on sentencing trends and practices; and
  - at the request of the Attorney General, to prepare research papers or reports on particular sentencing matters (NSW Sentencing Council 2008).

Unlike SAC, the NSW Sentencing Council does not have the capacity to generate its own research or reports. Also, given its broader role in relation to public engagement and the provision of sentencing data, the Victorian SAC's responsibilities are considerably more extensive than those of the NSW Sentencing Council (Abadee 2006: 2).

The NSW Judicial Commission was established in 1987. 'The Judicial Commission consists of six official members, being the heads of jurisdiction of the State's five courts and the President of the Court of Appeal, together with four members appointed by the Governor of New South Wales' (Judicial Commission, 2008).

The Judicial Commission was established under the Judicial Officers Act 1986 to:

- provide continuing education and training for judicial officers,
- assist courts to achieve consistency in imposing sentences, and
- examine complaints against judicial officers.

The Judicial Commission's 2006-2007 Annual Report states that "the Commission is recognised as a world leader in judicial education, sentencing research and judicial support systems. Other similar Australian and international organisations have modelled their activities on its programs" (Judicial Commission 2007). The Commission was established significantly earlier than the SAC in Victoria.

The NSW Law Reform Commission was established in 1966. The NSW LRC was the first law reform body established in Australia. Its role is to recommend changes to the law, in consultation with the Judicial Commission, and it has the responsibility for measuring public opinion.

The NSW Bureau of Crime Statistics and Research was established in 1969. Its aims are to:

- develop and maintain statistical databases on crime and criminal justice in NSW;
- conduct research on crime and criminal justice issues and problems;

- 
- monitor trends in crime and criminal justice;
  - provide information and advice on crime and criminal justice in NSW (Bureau of Crime Statistics and Research (nd))

Whilst their major focus is on crime statistics, the data produced by the NSW Bureau of Crime Statistics and Research includes sentencing data for Magistrates and higher courts including regular reports on penalties for principal offences, percentage of persons sentenced to prison and average length of imprisonment (ibid).

### 3.3.2. New Zealand

There are two bodies of relevance to the Sentencing Advisory Council in New Zealand: the Law Commission and the Sentencing Council.

A Law Revision Committee was first established in 1937 "chaired by the Attorney-General and including departmental and academic members" (Robertson 2005: 5). By the 1960s this had evolved into a series of part-time law reform Committees providing advice to the law reform division of the Department of Justice. The current NZ Law Commission was established in 1987 as a full time law reform body. Its mandate is to improve:

- the content of the law
- the law-making process
- the administration of the law
- access to justice
- dispute resolution between individuals
- dispute resolution between individuals and the State (Law Commission 2008).

Sentencing and punishing crime was given a boost in New Zealand in 1999 when a referendum was conducted asking the voters "Should there be a reform of the criminal justice system placing greater emphasis on the needs of victims, providing restitution and compensation for them and imposing minimum sentences and hard labour for all serious violent offences?" The referendum received a 92% 'yes' vote and was the impetus for the reinvigoration of the Law Commission. Contrary to public opinion the crime rate had in fact dropped in New Zealand in the four years prior to the referendum and the Judiciary had

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already begun imposing harsher penalties for violent crime (Pratt in Freiberg and Gelb 2008: 32).

Despite these developments in NZ, the Law Commission is not specifically required to measure public opinion. The present NZ Law Commission is required under its Act to prioritise matters referred to it by the government and retains the option to determine its own terms of reference. Robertson writes that Law Reform Commissions can be too inward looking and with “norms, standards and approaches maintained for the benefit of those who are already within the group or club and insufficiently directed to the needs and rights of the general populace” (Robertson 2005: 9). Prioritising projects referred to it by the government is one means of ensuring this does not happen.

NZ established a Sentencing Council in 2007. The role of the council is to produce guidelines about sentencing and parole in order to:

- promote consistency in sentencing practice between different courts and Judges:
- ensure transparency in sentencing policy:
- promote consistency and transparency in Parole Board practice
- facilitate the provision of reliable information to enable penal resources to be effectively managed
- enable the development of sentencing and parole policy to be based on a broad range of experience and expertise:
- inform members of Parliament and policymakers about sentencing and parole practice and reform options
- inform and educate the public about sentencing and parole policies and decision making, with a view to promoting public confidence in the criminal justice system.

Members of the NZ Council comprise:

- a Judge of the Court of Appeal appointed by the President of the Court of Appeal in consultation with the Chief Justice:
- a Judge of the High Court appointed by the Chief High Court Judge in consultation with the Chief Justice:
- two District Court Judges appointed by the Chief District Court Judge in consultation with the Chief Justice:

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- the chairperson of the Parole Board:
  - 5 members who are not Judges, appointed by the Governor General on the recommendation of the House of Representatives.

### 3.3.3 United Kingdom

The UK has a Sentencing Guidelines Council and a Sentencing Advisory Panel whose combined efforts most closely mirror the SAC. 'The Sentencing Advisory Panel's role is to advise on sentencing guidelines for particular offences or categories of offences, and other sentencing issues' (Sentencing Guidelines Council n.d) and the Sentencing Guidelines Council 'receives advice from the Sentencing Advisory Panel on a particular sentencing topic and uses this to formulate sentencing guidelines on the subject. These 'draft' guidelines are published, consulted on and then revised' (Ibid).

The Sentencing Advisory Panel has fifteen members appointed by the Lord Chancellor in consultation with the Secretary of State and the Chief Justice. The Sentencing Guidelines Council has seven judicial members appointed by the Lord Chief Justice and the Lord Chancellor and four appointed non-judicial members. The main difference between them is that the Advisory Panel does the public consulting, passes its findings and recommendations on to the Council, who then prepare the sentencing guidelines. Guidelines are approved directly by the Council and then apply in all courts.

For the most part, the Sentencing Advisory Panel conducts its consultations via consultation papers which are disseminated to relevant individuals and organisations with a request for written submissions. The Panel then takes these into account in developing its final recommendations to the Sentencing Guidelines Council. The Guidelines Council is under no obligation to take the Sentencing Advisory Panel's advice when preparing its draft guidelines for the government (Freiberg and Gelb 2008: 5).

Both the Sentencing Guidelines Council and Sentencing Advisory Panel are supported by the Sentencing Guidelines Secretariat.

There have been recent calls by the Prison Trust in the United Kingdom for a new independent sentencing commission to advise judges on sentencing options in order to prevent "sentence inflation," and tackle prison overcrowding as well as providing information to the public about sentencing matters (BBC News Report, 7 July 2008).

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### 3.3.4 Scotland

In contrast to most sentencing bodies Scotland had a time-limited Sentencing Commission established between 2003 and 2006. It had a broad set of tasks to complete in this time. Specifically, it was to make recommendations to the Scottish Executive on:

- the use of bail and remand
- the basis on which fines are determined
- the effectiveness of sentences in reducing re-offending
- the scope to improve consistency of sentencing
- the arrangements for early release from prison, and supervision of prisoners on their release (Hutton in Freiberg and Gelb 2008: 139).

As Neil Hutton observes, this is a 'curious' mix of specific technical issues and broader research questions (Ibid). The Commission was asked to examine the technical issues first, as these were areas of particular political concern. The Commission met for one half day a month over three years, and at the end of its tenure produced reports on each of its areas of jurisdiction, containing recommendations for each one. Although some members of the Commission hoped they would be able to make some fairly radical reforms to sentencing policy in Scotland (as stated by Hutton in Freiberg and Gelb 2008: 144), the Commission's final reports contained only modest recommendations and as yet no legislative changes have resulted. The Sentencing Commission was in fact established to provide some 'tough' legislative options the government could then put to the public to gain electoral support. When this did not happen their recommendations were ignored (Hutton in Freiberg and Gelb 2008: 145).

### 3.3.5 United States

The United States Sentencing Commission (USSC) is an independent federal body established in the US by the *Sentencing Reform Act* of 1984. The Commission has seven members appointed by the President with Senate support and each serves six year terms. As a federal body, the USSC's guidelines only apply to US federal courts. Despite this, the USSC's role is similar to that of the SAC in Victoria. Its responsibilities are:

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- to establish sentencing policies and practices for the federal courts, including guidelines to be consulted regarding the appropriate form and severity of punishment for offenders convicted of federal crimes
  - to advise and assist Congress and the executive branch in the development of effective and efficient crime policy; and
  - to analyse, research, and distribute a broad array of information on federal crime and sentencing issues, serving as an information resource for Congress, the executive branch, the courts, criminal justice practitioners, the academic community, and the public (USSC n.d: 1).

As in other jurisdictions the US Judiciary retain the right to decide a sentence within a range, however the Sentencing Commission provides guidelines on the issues the Judiciary should consider when determining this sentence. 'The guidelines take into account both the seriousness of the criminal conduct and the defendant's criminal record. Based on the severity of the offense, the guidelines assign most federal crimes to one of 43 "offense levels"' (USSC n.d: 2). The Judiciary can depart from these guidelines when they believe their case has particular circumstances that the USSC may not have considered. One of the most publicised recent amendments to the sentencing guidelines was the USSC reducing penalties for crack cocaine offences (The Sentencing Project 2007).

Significantly, measuring public opinion in any organised way is also not one of the USSC's responsibilities, although the Act does require it to 'consider' public opinion when setting guidelines. Judge Nancy Gertner writes that "the public's punitive sensibilities were readily – some might say too readily – reflected in the existing law" (Gertner in Freiberg and Gelb 2008: 103). The Commission has been criticised for a lack of transparency – making decisions that are "off the record" and too often at the behest of the government (Gertner in Freiberg and Gelb 2008: 107). The Commission has also found itself somewhat handicapped by the requirement that its recommendations are endorsed by Congress. It has been described as a "junior varsity" legislature because it has inadvertently been caught up in the political game it was supposed to be insulated from (Gertner in Freiberg and Gelb 2008: 103). The Commission has also been widely criticised for reflecting political will in its recommendations, not public will, and Gertner argues that the public are generally less punitive and more open to reform than the Commission has been (Ibid).

The other criticism Gertner makes of the USSC is that its role is to create guidelines around a "chaotic and ill-conceived" federal law, rather than making crucial reform to the law itself (Gertner in Freiberg and Gelb 2008: 104).

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### 3.4 Evaluation of Law Reform Bodies

Over the past fifteen years or so, evaluation has become an essential part of the process of funding and re-funding of government programs. Evaluations tend to focus on 'outputs', and develop measures accordingly. However the difficulty of assigning a measure or standard of performance to a SAC or law reform body is compounded by the fact that much of its work is immeasurable and of such complexity that a 'cost per publication' measure for example (Opeskin and Weisbrot 2005: 208) would dilute the quality of its work or present a distorted picture of its worth.

Opeskin and Weisbrot (who are, respectively, a former Commissioner and current President of the Australian Law Reform Commission) affirm, however, that "law reform agencies would be seriously deficient if their processes, outputs and outcomes lack the quality that the public is entitled to expect' (Ibid), noting though, that the public are not necessarily the best judges of whether 'quality' has or has not been attained.

Opeskin and Weisbrot assert that it is not feasible to evaluate any law reform body based on outcomes over which it has no control. Like other law reform bodies, SAC makes recommendations to government about sentencing issues. While recommendations should be conceptually sound, have the backing of solid awareness of public opinion, and be well researched and considered, government is under no obligation to act on them. Opeskin and Weisbrot suggest that while the frequency with which recommendations are endorsed by government is something an evaluator should investigate, it should not be a deciding factor in determining the effectiveness of the law reform body.

Opeskin and Weisbrot also caution that evaluators should not place too much weight on "economy, efficiency and effectiveness" over "accessibility, openness, fairness, impartiality, legitimacy, participation, honesty and rationality" (Opeskin and Weisbrot 2005: 208). The evaluator should ensure that equal weight is given to all the factors that make up a quality service. Opeskin and Weisbrot are of the opinion that "timeliness" and "the extent to which they stimulate public debate" (Opeskin and Weisbrot 2005: 209) are also measurable aspects of a law reform/advisory body's work, and the evaluator should identify factors like these to balance out the 'intangibilities' of other aspects of the body's work.

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Other indicators of quality are the opinions of third party 'experts' on the quality of the work the organisation does. The Australian Law Reform Commission (ALRC) currently measures these factors: specifically "positive critical feedback on quality of report" and "the extent to which publications are well received by stakeholders" as part of its reporting structure (Ibid).

The issue of public opinion and public engagement is also noted as a necessary and complicating factor in investigating any sort of law reform body. The extent to which the public sets the agenda of the SAC or responds to a judicial/statutory directive will always be open for dispute. However community engagement can still be measured in an evaluation as 'an end in itself and as an input in the process of providing legal policy advice' (Opeskin and Weisbrot 2005: 215). While the outputs and outcomes chosen to evaluate any law reform body will vary widely, Opeskin and Weisbrot suggest that the evaluator can, through strict methodology and an open mind, ensure their report presents a fair, honest, concise and thoroughly researched account of the performance of the law reform/advisory body.

### 3.4.1 Relevant Evaluations

Despite an extensive internet search, Success Works has been able to locate only two previous evaluations of relevance to the evaluation of SAC.

In 2000 the NSW Law Reform Commission was evaluated in relation to its consultation processes in regard to a specific issue – the Disability Services Act 1993 and Community Services Complaints, Appeals and Monitoring Act 1993. The evaluators' role was to measure:

- how the project was publicised
- the ease with which people could obtain information from the Commission
- who received a copy of the Issues Papers, in what format, and whether they were satisfied with the format
- how people participated in the research and consultation process
- the effectiveness of the seminars, focus groups and the submission process
- views on the research and consultation process as a whole, and

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- demographic details of respondents, including whether or not they had access to email (LRC 2004: 1).

This evaluation had a tight mandate and methodology, and evaluated the above issues via a questionnaire distributed to those people who had been consulted as part of the NSW LRC's original project. Based on a response rate of 54% to the evaluator's mailed out questionnaire this limited evaluation was able to conclude that there was a high degree of satisfaction with the NSW LRC's methods of public consultation. The evaluation found a trend towards increasing use of internet-based mediums (NSW LRC 2004: 12).

The New Zealand Government commissioned an evaluation of the New Zealand Law Commission in 2000 (Palmer, 2000). The evaluation was undertaken by Sir Geoffrey Palmer, the former Minister for Justice responsible for the establishment of the Law Commission in 1987 and former Prime Minister of NZ (1989-90) and now President of the NZ Law Commission. The evaluation was commissioned by the Associate Minister of Justice. The terms of reference for the evaluation were:

- To evaluate the performance of the Law Commission in the fifteen years of its existence in relation to:
  1. strengths and achievements;
  2. any weaknesses in the Commission's structure, legislative mandate or performance;
  3. the relationship of the Commission to Ministers, the Ministry of Justice, and the government system generally;
  4. whether any improvements could be made, and if so, what?
- To examine and report on:
  1. what has the Commission produced?
  2. how many of its reports have led to parliamentary enactments?
  3. how does the Commission relate to the Minister of Justice and the Government?
  4. how is the division of responsibilities for law reform work allocated between the Ministry of Justice and the Commission?
  5. how efficient has the Commission been in using its resources?
  6. has it achieved its statutory objectives?
  7. how do the statutory objectives stand up in light of experience?

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8. to what extent are the Commission's work programs organised in accordance with the Government's legislative priorities?
  9. what skills, experience, and qualifications are desirable in the Commission, including the Commissioners themselves?
  10. what improvements, if any, could be made to the structure, processes and position of the Commission within the New Zealand government system?
- To undertake qualitative interviews with selected members of the Commission and seek the views of those individuals and representatives of the institutions most closely connected with the work of the Commission.
  - Research trends in overseas law reform commissions in countries with legal systems similar to New Zealand's.

For his evaluation, Palmer relied on 'library research and interviewing' (Palmer, 2000: 5). Interviewees were mainly the current and past Law Commissioners as well as government staff in the Ministries of Justice, Treasury, Economic Development and Parliamentary Counsel Office as well as representatives of the New Zealand Law Society.

Sir Geoffrey acknowledges that, as the person who established the Law Commission in the first place, he was unlikely to recommend that the body be abolished and unsurprisingly, found that 'the Law Commission is a useful public institution and should be retained'. However, he also found that 'the contribution of the Law Commission in terms of legislation passed or administrative change has not been proportionate to the amount of public money spent on it [in that] less than 50 percent of the Commission's proposals [have been] being enacted into law' (Ibid:10). To address this issue (which he saw more as a failure of the bureaucracy to understand the importance of law reform than any failure on the part of the Commission) he recommended a move in responsibility for the Law Commission from the Ministry for Justice to the Attorney-General which would achieve 'a renewed commitment to the values that underpin the law reform enterprise' (Ibid). He also recommended that the Law Commission not be restricted to reform projects within the Justice Portfolio but that the Attorney-General should call for proposals for Law Commission projects from all Ministers.

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Sir Geoffrey was critical of the timelines for some of the work of the Law Commission recommending that 'no Law Commission Report should take more than five years to produce' (Ibid: 13). He also identified the need for Law Commission Commissioners and staff to build up their public policy skills in recognition of the different set of skills required to 'determine what a law ought to be rather than what it is' (Ibid: 14). He recommended that the Law Commission remain independent of government but that it work closely with government recognising the tensions in this relationship, noting that '(t)he closer the Commission gets to Government, the more imperilled its independence. The more the Commission exercises its independence, the less likely its proposals are to find favour with the Government of the day' (Ibid)

## 4. Evaluation Findings

In this section, the qualitative and quantitative data collected by this evaluation are set out in accordance with the evaluation questions. At the end of each section a brief conclusion details the findings from the evaluation in relation to the evaluation question based on the data. The final section sets out each evaluation question and the relevant conclusions based on the data analysis.

### 4.1 Evaluation Data

The following table indicates the data used to answer each of the evaluation questions.

**Table 2: Evaluation Data by Question**

Evaluation Questions	Quantitative		Qualitative Interviews						Specific data analysis		
	Court of Appeal Cases	Data Collected by SAC	SAC members	Judicial officers	AG and staff	Legal Profession	Government Staff	Commentators & Advocates	Newspaper reports	Government sentencing reforms	Impact of specific reports
1. To what extent has SAC provided advice to the court of appeal? At what cost?		✓	✓	✓							
2. To what extent has SAC produced statistical publications? At what cost?		✓	✓								
3. To what extent has SAC undertaken public education programs? At what cost?		✓	✓								
4. To what extent has SAC undertaken research and produced research reports and conferences? At what cost?		✓	✓								
5. To what extent has SAC prepared research reports and discussion papers in response to specific references? At what cost?		✓	✓								
6. To what extent has SAC consulted with stakeholders? At what cost?		✓	✓								

Evaluation Questions	Quantitative		Qualitative Interviews						Specific data analysis		
	Court of Appeal Cases	Data Collated by SAC	SAC members	Judicial officers	AG and staff	Legal Profession	Government Staff	Commentators & Advocates	Newspaper reports	Government sentencing reforms	Impact of specific reports
7. To what extent has the court of appeal made use of its access to specific advice and adopted and promulgated a common set of sentencing principles?	✓		✓	✓							
8. To what extent have courts made use of their access to SAC statistical and other publications in the consideration of specific sentences?	✓			✓							
9. To what extent have community members made use of their access to SAC statistical and other publications?		✓									
10. To what extent have participants in public education programs developed an improved understanding of the complexities of sentencing?		✓									
11. To what extent have commentators made use of their access to SAC statistical and other publications in their commentary?		✓						✓	✓		
12. To what extent have policy advocates made use of their access to SAC statistical and other publications in their advocacy?								✓			
13. To what extent has government made use of their access to SAC statistical and other publications in their sentencing policy and legislation?					✓		✓		✓	✓	
14. To what extent has government used the opportunity to refer complex sentencing reform proposals to SAC for detailed consideration?		✓			✓		✓		✓		
15. To what extent does the Attorney General take notice of the reports prepared by the Sentencing Advisory Council and adopt their recommendations?					✓				✓	✓	

Evaluation Questions	Quantitative		Qualitative Interviews					Specific data analysis			
	Court of Appeal Cases	Data Collated by SAC	SAC members	Judicial officers	AG and staff	Legal Profession	Government Staff	Commentators & Advocates	Newspaper reports	Government sentencing reforms	Impact of specific reports
16. To what extent do SAC's publications provide accurate information and include considered views about particular issues based on evidence, sound analysis and thorough consultation?			✓	✓	✓	✓	✓	✓			
17. To what extent does SAC have credibility with the government, court of appeal, courts, commentators, advocates and the public?			✓	✓	✓	✓	✓	✓			
18. To what extent does SAC represent a best practice approach to sentencing law reform?			✓	✓	✓	✓	✓	✓			
19. To what extent does SAC represent a cost effective approach to sentencing law reform?		✓									

## 4.2 Evaluation Questions

### 4.2.1 Outputs

#### 1. To what extent has SAC provided advice to the court of appeal? At what cost?

SAC's role in providing advice to the Court of Appeal has not commenced at this stage.

The concept of guideline judgements was introduced in Victoria in the *Sentencing (Amendment) Act 2003*; the same Act which established the Sentencing Advisory Council. As a whole package, the 2003 Victorian Act establishes a similar structure to that which applies in the UK, where the UK Sentencing Advisory Panel provides advice to the Sentencing Guidelines Council in the development of guideline judgements.

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Under the Victorian Act, a guideline judgement is 'a judgment that is expressed to contain guidelines to be taken into account by courts in sentencing offenders'. Under the Act, a guideline judgment may be made by the Court of Appeal to apply generally, or in relation to a particular court; offence; penalty or class of offenders.

In preparing to make a guideline judgement, the Court of Appeal is required to notify SAC and to take notice of its advice. The Court must also give the Director of Public Prosecutions and Victoria Legal Aid the opportunity to make submissions on the matter.

A guideline judgment may set out criteria to be applied in selecting among various sentencing alternatives; the weight to be given to the various purposes for which a sentence may be imposed; the criteria by which a sentencing court is to determine the gravity of an offence; the criteria which a sentencing court may use to reduce the sentence for an offence; the weighting to be given to relevant criteria; or any other matter.

Success Works has been informed that, to date, the Court of Appeal has chosen not to exercise its powers to develop guideline judgements and hence, SAC has not been called upon to provide advice to the Court of Appeal in relation to these matters.

It is understood however, that the current President of the Court of Appeal is giving current consideration to the option of guideline judgements and that this situation may change in the near future.

It is also noted that SAC has developed a draft paper on the various models of guideline judgments in operation around the world and that the Chair of the Council provided a presentation to the Court of Appeal and interested judges in June 2008.

**Conclusion:**

SAC has not been able to provide advice to the Court of Appeal in accordance with the *Sentencing (Amendment) Act 2003* because the Court of Appeal has chosen not to exercise its powers to make guideline judgements to date.

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## 2. To what extent has SAC produced statistical publications?

### At what cost?

To date, SAC has produced 51 statistical publications. These are detailed at **Appendix C**.

The following table provides a summary of the statistical publications produced by SAC:

**Table 3: Statistical Publications by year and number of pages**

Year	Number of Statistical Reports	Total pages
2004/05	3	5
2005/06	6	31
2006/07	17	146
2007/08	25	212
TOTAL	51	394

The costs for the provision of statistical publications are contained with the salaries and on costs for two staff: a Senior Data Analyst and a Data Analyst (SAC Annual Report, 2006/07) plus printing and distribution costs. The costs in 2006/07 are therefore estimated to have been approximately \$240,000 based on this area of responsibility representing 15% of the overall budget.

By way of comparison, the NSW Judicial Commission produces a similar publication *Sentencing Trends & Issues*. They describe these publications as 'short empirical studies of sentencing practice' with each issue analysing a particular aspect of New South Wales sentencing statistics and related topics. Based on their website the rate of production of these statistical publications is approximately 4 per year (<http://www.judcom.nsw.gov.au>).

#### Conclusion

SAC has produced 51 statistical publications in a little over three years. Annual costs are estimated to have been \$240,000 in 2006/07.

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### 3. To what extent has SAC undertaken public education programs? At what cost?

SAC has developed an education program called 'You be the Judge'. In 2006/7 SAC contracted the Curriculum Corporation to adapt the materials to be incorporated into the VCE Legal Studies curriculum as well as clearly linked to the learning outcomes in the Victorian Essential Learning Standards (VELS). This project resulted in the development of a Teacher Guide (in book and CD form) which is also downloadable from the SAC website.

The program is also able to be used in adult community education sessions. The aim of the program is to provide participants with the tools necessary to understand the aims, principles and practice of sentencing (You be the Judge: Teacher Guide: 5)

The program involves interactive sessions based on real cases and aims to provoke discussion and achieve understanding of the complexities inherent in the sentencing process.

To date, the following public education programs have been provided by SAC using the 'You Be The Judge' program:

**Table 4: 'You Be The Judge' public education programs**

Date	Event	Number of participants
May 2005	Law Week (Melbourne)	80
August 2005	MacRobertson Girls HS and Melbourne HS	100
November 2005	Victorian Commercial Teachers Association Annual Conference	40
May 2006	Law Week (Melbourne)	100
July 2006	Young Presidents Association	40
August 2006	Shepparton Community Forum	25
November 2006	Court Network Annual General Meeting	200
November 2006	Victorian Commercial Teachers	40

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Date	Event	Number of participants
	Association Comview Conference	
May 2007	Law Week (Morwell)	65
August 2007	Professional development session for teachers	51
September 2007	Victorian Law Foundation Civics Roadshow (Mildura)	50
November 2007	Victorian Commercial Teachers Association Comview Conference	60
March 2008	Professional development session for Court Network volunteers	52
April 2008	Victorian Law Foundation Civics Roadshow (Warnambool)	80
May 2008	You be the Judge – Caulfield Grammar	50
May 08	Professional development session for tour guides at Old Melbourne Gaol Precinct	12
May 08	Law Week (Ringwood)	60
TOTAL	16 Sessions	1105

SAC has recognised that there is a limit to how many members of the community it can reach directly through this program. Accordingly, SAC has focussed on particular groups such as secondary school teachers and Court Network volunteers, who are in a position to educate others.

It should also be noted that ‘You Be The Judge’ is only one aspect of SAC’s public education role. Public education is also provided through public forums on specific issues and through SAC’s media interviews and media briefings.

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Approximately 320 copies of the Teachers' Guide have been distributed in hardcopy and on CD. As at April 2008, downloads of the Teachers Guide were as follows:

**Table 5: Downloads of the You be the Judge Teacher Guide and Resources**

You be the Judge Teachers' Kit	Downloads between July 07 and March 2008
YBTJ Teacher guide	462
VCE Armed robbery Notes	267
VCE Armed robbery Slides	349
VCE Culpable drive Notes	214
VCE Culpable drive Slides	326
VELS Causing serious injury Notes	128
VELS Causing serious injury Slides	249
TOTAL	1995

The costs of providing public education are contained within the salaries for the community engagement officer. This staff member and associated costs represent approximately 5% of the overall budget for the SAC. The cost in 2006/07 would have been around \$80,000.

**Conclusion**

SAC has undertaken 16 public education sessions involving over 1100 individuals and has distributed 780 teacher guides (in hardcopy, on CD and by download). Annual costs are estimated to have been \$80,000 in 2006/07.

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#### 4. To what extent has SAC undertaken research and produced research reports and conferences? At what cost?

In addition to the statistical publications detailed above, SAC has produced 24 reports and publications as follows:

- Reports - 6
- Discussion papers – 4
- Final reports - 4
- Information or issues papers – 4
- Statistical profiles - 3
- Research reports – 2
- Interim reports – 1

A list of publications is included at **Appendix D**. In summary, the number of publications per year is as follows:

**Table 6: Publications per year and number of pages**

Year	Number of Publications	Total pages
2004/05	2	203
2005/06	3	260
2006/07	8	850
2007/08	11	971
TOTAL	24	2,284

SAC research interests are determined by references from the Attorney General or other sources (to date only the VLRC) or may be self initiated. The following table details the 12 areas of research interest generated by each source since the inception of SAC:

**Table 7: Research Interests by Source**

Attorney General	SAC	VLRC
Suspended Sentences	Maximum Penalties for Repeat Drink Driving	Homicide in Victoria: Offenders, Victims and Sentencing
High Risk Offenders: Continued Detention and Supervision	Myths and Misconceptions: Public Opinion vs. Public Judgement about Sentencing	Provocation in Sentencing
Maximum Penalties for Preparatory Offences	Driving While Disqualified or Suspended	
Sentence Indication and Specified Sentence Discounts	Corrections Statistical Profiles	
Maximum Penalty for Negligently Causing Serious Injury		
Breaching Intervention Orders		

SAC sponsored an international sentencing conference in July 2006. Titled *“Sentencing and the Community: Politics, Public Opinion and the Development of Sentencing Policy”* the conference involved approximately 130 members of the public, public servants, criminologists, judicial officers and members of sentencing advisory panels, councils or commissions from around the world. SAC’s research paper *Myths and Misconceptions: Public Opinion versus Public Judgment about Sentencing* formed the foundation of the conference. 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.

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An outcome of this conference was the publication of an edited volume of the key conference papers in early 2008. Edited by Professor Arie Freiberg and Dr Karen Gelb the book is titled *Penal Populism, Sentencing Councils and Sentencing Policy* and has been jointly published by Hawkins Press in Australia and Willan Publishing in the United Kingdom.

Costs of the research program consume the majority of the salaries and other budget of the SAC. Research is undertaken by one principal legal policy officer, two senior legal policy officers and one legal policy officer, and one senior criminologist representing around 60% of the SAC staff salaries. Based on this estimate the approximate annual cost for SAC's research in 2006/07 would have been approximately \$960,000.

**Conclusion**

SAC has undertaken research in 12 areas and produced 24 research publications as well as conducting one international conference resulting in one book. Annual costs are estimated to have been \$ 960,000 in 2006/07.

**5. To what extent has SAC prepared research reports and discussion papers in response to specific references? At what cost?**

As indicated above, SAC has undertaken research at the request of the Attorney General and at the suggestion of the VLRC and by its own volition. Six areas of inquiry out of a total of 12 have been in response to specific references from the Attorney General.

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The following table provides greater insight into the number of reports generated as a result of the specific references from the Attorney General compared with the overall research output (detailed in Table 2):

**Table 8: Research Publications in response to specific references**

Year	No of Publications in relation to Specific References	Total pages	Proportion of Annual Output (pages)
2004/05	2	203	100%
2005/06	2	212	82%
2006/07	6	772	91%
2007/08	7	711	73%
TOTAL	17	1,898	83%

As a simple calculation, the cost of undertaking research in response to specific references from the Attorney General accounts for approximately 30% of the overall budget, or approximately \$480,000 in 2006/07.

**Conclusion**

SAC has prepared 16 research publications in response to specific references from the Attorney General amounting to around 83% of SAC's total research output. Annual costs are estimated to have been \$480,000 in 2006/07.

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## 6. To what extent has SAC consulted with stakeholders? At what cost?

As part of its research into various initiatives, SAC has consulted with a variety of stakeholders:

SAC has developed a consultation strategy that involves both seeking expert advice and gauging public opinion on sentencing matters. SAC has conducted numerous consultations with key stakeholders, including:

- Community members including individuals and groups
- Government Departments and agencies
- Judiciary
- Legal profession and peak professional bodies
- Experts

Since July 2004, the Council has undertaken the following consultations:

- Suspended sentences consultations for interim report
  - 6 community forums
  - 4 focus groups and workshops with victims' groups
  - 5 specialist roundtables
  - 54 submissions received
- Suspended sentences consultations for final report part 1
  - 4 specialist roundtables
  - 25 submissions received
- Repeat drink driving consultations
  - 1 meeting with victims' groups
  - 3 meetings with police and the legal profession
  - 1 specialist roundtable
- Preparatory offences consultations
  - 2 specialist roundtables
- Negligently causing serious injury consultations

- 
- 2 roundtables and meetings with victims' groups
  - 1 meeting with the County Court
  - 12 submissions received
  - High risk offenders consultations before issues paper
    - 7 preliminary submissions
    - 2 meetings with victims' groups
    - 4 meetings with legal and medical organisations
  - High risk offenders consultations after issues paper
    - 24 submissions
    - 2 focus groups with the general public
  - High risk offenders consultations after discussion paper
    - 34 submissions
    - 1 community forum
    - 4 meetings with victims' groups
    - 8 meetings with legal and medical organisations
    - 1 visit to the Extended Supervision Order Temporary Accommodation Centre
    - 4 focus groups with the general public
  - Sentence indication consultations
    - 5 meetings with victims' groups
    - 12 meetings with the courts and the legal profession
    - 3 focus groups with prisoners and offenders in the community
    - 5 focus groups with the general public
    - 4 information sessions with the public and justice organisations
    - 29 submissions
  - Drive while disqualified consultations after information paper
    - 1 workshop with expert advisory group

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The cost of conducting consultations represents approximately 20% of the overall budget. Based on this, it is estimated that the cost of consultations in 2006/07 was approximately \$320,000.

#### **Conclusion**

SAC has conducted: 22 focus groups and forums with members of the community; 18 focus groups and meetings with victims of crime and victims organisations; 16 focus groups, workshops and meetings with court, legal and police representatives; 13 specialist roundtables; 12 meetings and workshops with legal/medical representatives; 3 focus groups with prisoners and offenders. It has also received 185 written submissions. Annual costs are estimated to have been \$ 320,000 in 2006/07.

## **4.2.2 Outcomes**

### **7. To what extent has the court of appeal made use of its access to specific advice and adopted and promulgated a common set of sentencing principles?**

As outlined above, the Court of Appeal has not yet exercised its power to consider the making of guideline judgements. As a result this outcome has not been achieved to any extent.

The President of the Court of Appeal indicated to Success Works that the Court of Appeal was now giving active consideration to the concept of guideline judgements. He indicated that while the Court of Appeal was unlikely to accept the notion of a tariff based sentencing system as applies in the some states in the US, it was interested in considering the notion of guidelines that set out the propositions and principles that judges should take into account in sentencing (such as the guidance provided by SAC in relation to provocation in murder).

Other judicial officers and several in the legal profession also expressed reservations about any process which sought to standardise sentence types or length through guideline judgements. However, there is a degree of interest in a more principle based approach although several retain a high level of scepticism.

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It is noted that during the period of the evaluation, the Chair of SAC made a presentation to the Court of Appeal in relation to the concept of guideline judgements.

**Conclusion**

SAC has not been asked to provide advice to the Court of Appeal in relation to guideline judgements.

**8. To what extent have courts made use of their access to SAC statistical and other publications in the consideration of specific sentences?**

Judicial officers consulted for this review confirmed that they access SAC statistical publications and use them extensively in their consideration of sentences. Prosecutors also confirmed that they have been asked by several judicial officers to provide SAC data in their submissions on sentencing. Judicial officers indicated that they generally access the sentencing snapshots via JOIN (the judicial officers' intranet).

A search of court reports from the Court of Appeal reveals specific references to SAC in 19 cases (see **Appendix E**). The number of citations per year indicates an increase in the use of SAC material over time:

**Table 9: Court of Appeal Citations**

Year	Number of Citations
2004/05	0
2005/06	2
2006/07	6
2007/08	11
TOTAL	19

**Conclusion**

Judicial officers report making extensive use of SAC's statistical and other publications. Data from the Court of Appeal indicate increasing use of SAC material in the appeal process.

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## 9. To what extent have community members made use of their access to SAC statistical and other publications?

Downloads from the SAC website are an indication of the extent to which community members are making use of their access to SAC statistical and other publications.

Between July 2007 and the June 2008, 5,798 statistical snapshots were downloaded from the SAC website. The top five topics for statistical downloads were:

- Snapshot 26: Sentencing trends for rape in the higher courts of Victoria, 2001-02 to 2005-06 (398 downloads)
- Snapshot 29: Sentencing trends for culpable driving causing death in the higher courts of Victoria, 2001-02 to 2006-06 (344 downloads)
- Snapshot 20: Sentencing trends for arson in the higher courts of Victoria, 2001-02 to 2005-06 (312 downloads)
- Snapshot 27: Sentencing trends for murder in the higher courts of Victoria, 2001-02 to 2006-06 (310 downloads)
- Snapshot 24: Sentencing trends for indecent assault with a child aged under 16 in the higher courts of Victoria, 2001-02 to 2005-06 (267 downloads)

During the same period, 15,275 reports were downloaded from the SAC website. The top five reports were (number of downloads noted in brackets):

- Suspended Sentences: Final Report Part 2 (802)
- Suspended Sentences: Final Report Part 1 (793)
- Recidivism of Sex Offenders: Research Paper (784)
- Pathways (749)
- High Risk Offenders: Post Sentence Supervision and Detention Final Report (600)

### Conclusion

Members of the community are accessing SAC material in written and downloadable form.

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## 10. To what extent have participants in public education programs developed an improved understanding of the complexities of sentencing?

It has not been possible to directly interview participants in the public education programs to determine their level of improved understanding. Secondary sources of data have included the Public Education Officer at the Law Institute of Victoria and the Law Foundation's Schools Consultant as well as SAC Council members and staff and others who have witnessed or participated in the public education programs.

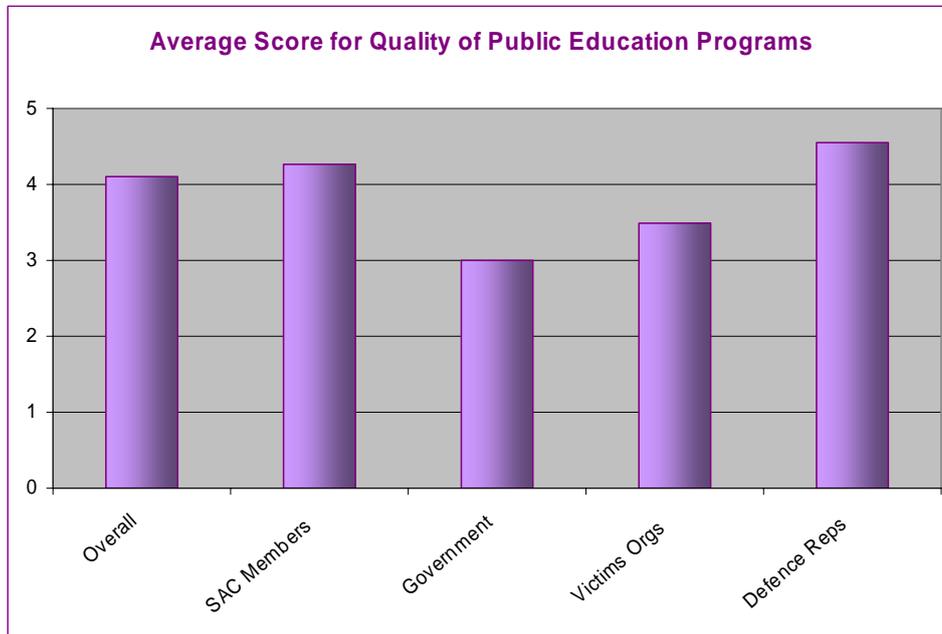
Interviewees were generally positive about the content of the SAC education program "You Be The Judge". They noted that participants in this program often change their recommended sentence once they are educated about the role and purpose of sentencing and provided with evidence of mitigation (consistent with the SAC's findings in *Myths and Misconceptions: Public Opinion vs. Public Judgment about Sentencing*). Interviewees suggested that the fact that participant's changed their views signified the impact of the program in providing an improved understanding of the complexities of sentencing.

It should be noted at this point, that 'You Be The Judge' is only one aspect of SAC's public education role. Public education is also provided through public forums on specific issues and through SAC's media interviews and media briefings.

As part of the interview process, interviewees were asked to rate the effectiveness of the SAC's public education program on a scale of 1 (poor) to 5 (excellent). The following figure provides the total average response for each major category of interviewee (smaller groups of interviewees have not been separately identified for confidentiality reasons). The overall average response was 4.1 out of 5 (SD+/- 0.45):

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**Figure 3: Ratings for quality of public education programs**



Interviewees said things like:

- I'm really impressed with the way that SAC has opened its offices to meet with teachers. The material produced by SAC is very easy to access and I know that teachers really appreciate that. It's only anecdotal but teachers say that they really like SAC's materials and use them a lot. It's very rewarding to see an organisation really take a teacher and student focus in what they do. It's very rare.
- Sentencing can be such an emotive issue and really feeds a tabloid media perspective. One of our biggest problems is that small groups of unhappy or disaffected victims can present themselves in the media as the majority. The media and the general public gets the wrong perspective on what it is that victims really think. Often victims are just looking for someone to explain it [the sentence] to them. SAC does an enormous amount to counter that tabloid perspective –and get it all back into proportion.

- 
- You Be The Judge is great – but its only possible to get to a few people though this program – and they are the one’s who are interested anyway. Sentencing education needs to be a much broader thing – somehow we need to reach those who only read the Herald Sun, listen to Neil Mitchell and watch A Current Affair.
  - I have attended several roundtables organised by SAC. They have been interesting. It’s really useful to hear other perspectives and have the chance to give our perspective. I’ve learnt a lot from participating in them.
  - I don’t really know what they do in the public education programs but this area is so important. We need more of it.

Interviewees were therefore generally positive about SAC’s public education programs and expressed a strong interest in seeing the program expanded in the future.

#### Conclusion

Participants in public education programs are thought to have improved their understanding of sentencing matters as a result of their participation. There is strong support for an expanded public education role for SAC in the future.

### 11. To what extent have commentators made use of their access to SAC statistical and other publications in their commentary?

Interviews were conducted with two journalists (one from the Herald Sun and one from The Age). Both said that they make extensive use of SAC statistical and other publications and regularly access the Chair of the SAC for on and off the record discussions about sentencing matters. Both were highly complimentary about the SAC and its publications and about the accessibility of the Chair for comment. Both were also appreciative of the support they had received from SAC when major reports were being released (advance briefings etc to allow articles to run on the same day as release).

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Both journalists indicated that the material provided by SAC had informed them and their readership:

- " We do conflict well; we don't do sweeping quiet change well and that is what SAC is about"
- "SAC is good at decompressing media moral panic"
- "SAC explains the logic and rationale of sentencing. It demystifies sentencing for people who are interested – very effectively!"
- "Their frankness is appreciated. Some organisations associated with government we're cynical about, but not SAC. I have never questioned their openness or honesty or direction. I treat what they have to say accordingly – it's reliable and effective"

An internet search for SAC on mainstream media websites indicated 69 articles referring to SAC (detailed at **Appendix F**). Analysed by year, these data indicate increasing interest in the SAC over time (noting, of course, that the increase in the most recent financial year may also relate to the way in which media organisations archive their stories).

**Table 10: Media articles by year**

Year	Number of Media Articles
2004/05	7
2005/06	7
2006/07	15
2007/08	39
TOTAL	69

SAC have recorded a much higher level of media interest based on their daily monitoring process (82 newspaper articles and 133 mentions on radio and television between July 2006 and February 2008).

Other interviewees identified media accessibility and media education as one of SAC's strengths. Judicial officers, in particular, value the independent voice of SAC on sentencing issues in the media.

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### Conclusion

Media commentators have made extensive use of their access to SAC statistical and other publications. The role of SAC in informing the media is valued by media representatives and other stakeholders.

## 12. To what extent have sentencing policy advocates made use of their access to SAC statistical and other publications in their advocacy?

A number of interviewees for this evaluation represent sentencing policy advocacy groups, including:

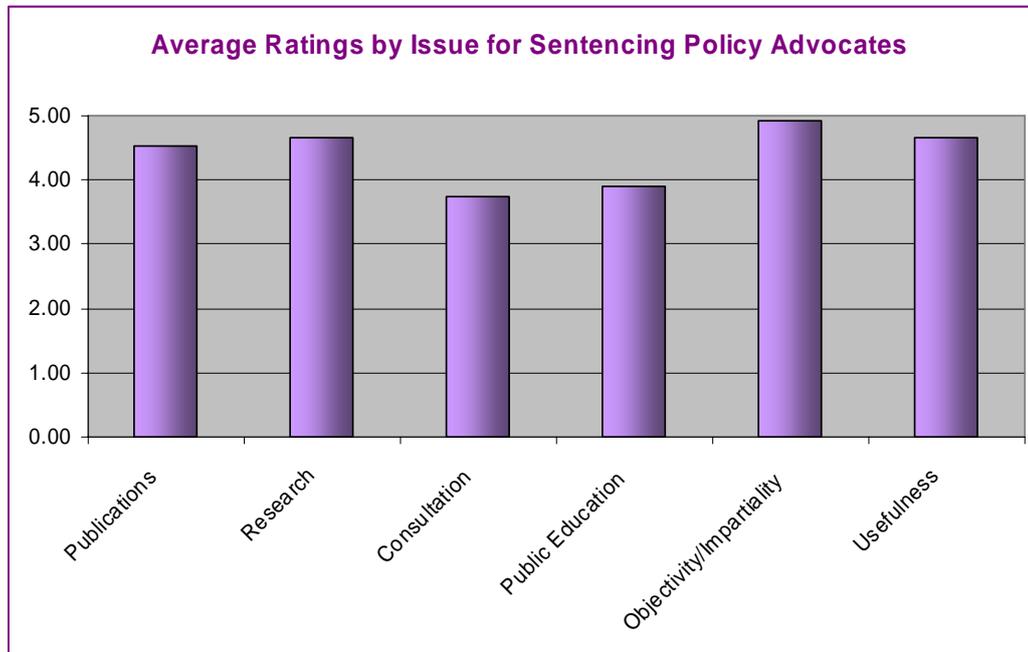
- Law Institute of Victoria
- CASA Forum
- Victims of Crime Groups
- Federation of Community Legal Centres
- Law Foundation

Interviewees made the following comments in relation to their use of SAC materials:

- “They are an extremely good organisation. Their publications force me to think about things I wouldn’t otherwise have to think about”
- I’ve used their data to prepare training materials and when I’ve been asked to make a comment to the media about a sentencing issue”
- “No one else has time to do literature reviews. It’s great to have access to this material. It’s intellectually strong while also being understandable and accessible”

The following table presents the ratings out of five provided by interviewees from these groups in relation to SAC:

**Figure 4: Sentencing Policy Advocates ratings out of 5**



It is significant that sentencing policy advocates rate 'quality of publications', 'quality of research', 'objectivity/impartiality' and 'usefulness' at more than 4 out of five. The high rating for objectivity/impartiality is particularly important in terms of sentencing policy advocates seeing value in, and using, SAC materials in their own advocacy. This is reinforced by the very high rating for the *usefulness* of SAC materials.

**Conclusion**

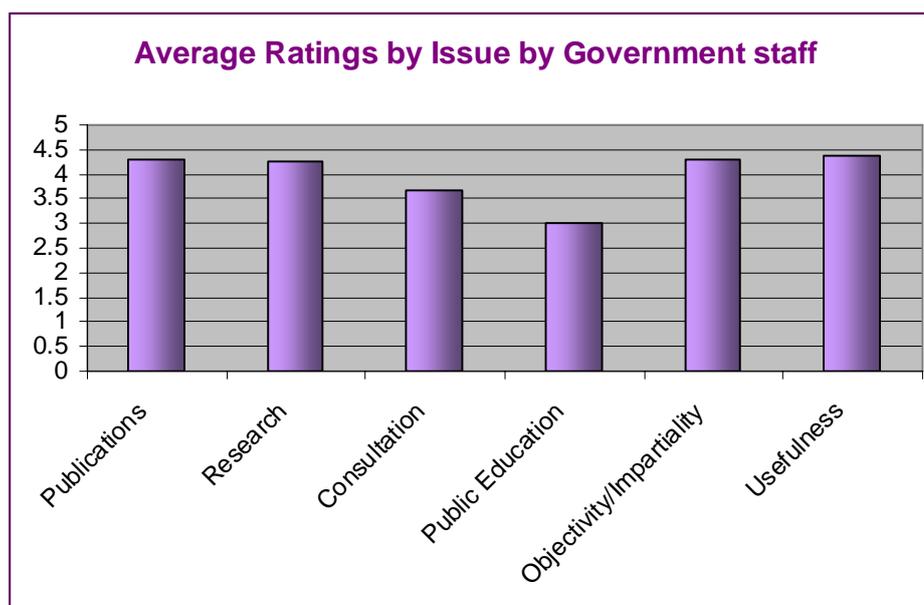
Sentencing policy advocates access SAC statistical and other publications and use SAC research and data in their own advocacy activities. They value the objectivity and impartiality of SAC's publications

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### 13. To what extent has government made use of their access to SAC statistical and other publications in their sentencing policy and legislation?

Government interviewees rated SAC as follows:

**Figure 5: Government staff ratings out of 5**



Government staff rated 'quality of publications', 'quality of research', 'objectivity/ impartiality' and 'usefulness' at more than 4 out of five. Staff in the Department of Justice, in particular, indicated they regularly used SAC data and other materials in internal briefing materials and policy documents.

Government staff indicated as follows:

- "The sentencing snapshots are terrific. Now we can argue about facts not views"
- "SAC has the space and time to consult and do the research properly. The Department just doesn't have the capacity to do that"
- "We refer correspondence and individuals to SAC when they want to raise grievances about sentencing. It is incredibly useful to have somewhere to refer these people to. Otherwise their anger has nowhere to go"

Eight reports have been prepared by SAC containing recommendations for the consideration of Government. The following table indicates government's response to each report. In summary, four reports have been implemented in full, one has been accepted in full (recommended no change), one has been partially implemented and two remain under consideration:

**Table 11: Government's acceptance of SAC recommendations**

SAC Final Report	Major Recommendations	Government Response
Maximum Sentences for Repeat Drink Driving (Sept 2005)	Changes to six repeat drink driving offences under section 49(1) of the Road Safety Act 1986	Implemented in the Road Legislation (Projects and Road Safety) Act 2006
Suspended Sentences: Final Report Part 1 (May 2006)	Phasing out of the suspended sentence option to be replaced with conditional sentencing orders.  Modifications to the suspended sentence order in the interim including guidelines for when suspension is inappropriate, restricting access for serious offences and reinforcing strict breach requirements	Partial acceptance of recommendations  Amendments to modify the suspended sentence order were implemented in the Sentencing (Suspended Sentences) Act 2006
Review of Maximum Penalties for Preparatory Offences Report (Dec 2006)	No change to the current maximum penalties for preparatory offences.	Accepted
High Risk Offenders: Post Sentence Supervision and Detention Final Report (May 2007)	A majority (not unanimous) view that continued detention is not warranted.  The use of other strategies to reduce the risk of reoffending as a higher priority than continuing detention.  If the Government introduces a continuing detention scheme, it should incorporate safeguards including a risk management monitor, high risk offenders board, shorter orders, DPP driven applications, appeals to the court of appeal and independent evaluation after 5 years	Under consideration

SAC Final Report	Major Recommendations	Government Response
Sentence Indication and Specified Sentence Discounts: Final Report (Sept 2007)	<p>Courts to state the effect of the guilty plea in the sentence</p> <p>Statutory support for sentence indication in summary cases</p> <p>A pilot sentence indication project in the County Court</p> <p>Statutory support for sentence indication in the county court</p>	Implemented
Maximum Penalty for Negligently Causing Serious Injury Report (Oct 2007)	<p>Maximum penalty should be increased from five years to 10 years</p> <p>Split offence of dangerous driving causing death or serious injury into two separate offences with different maximum penalties.</p>	<p>Implemented</p> <p><i>(Crimes Amendment (Child Homicide) Act 2008 (Vic))</i></p>
Suspended Sentences: Final Report Part 2 (April 2008)	<p>Deferring the removal of the power to suspend sentences until such time as proposed reforms to other intermediate sentencing orders have been made and fully tested</p> <p>Home detention and ICO recast as sentences in their own right</p> <p>ICOs and CBOs remain as separate sentencing options.</p> <p>Introduce a new Community-Based Order for Young Adult Offenders (CBO (YAO))</p> <p>The power to defer sentencing extended to the County Court, and the current age restrictions removed</p>	Under consideration
Breaching Intervention Orders (June 2008)	<p>The same maximum penalty for each of the three offences (breach of a family violence intervention order; breach of a stalking intervention order; and breach of a police-issued family violence safety notice)</p>	<p>Implemented.</p> <p>Relevant amendments are contained within the <i>Family Violence Protection Bill 2008</i> currently before the Victorian Parliament</p>

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SAC Final Report	Major Recommendations	Government Response
	<p>No separate offence with a higher maximum penalty for a second or subsequent offence of breach.</p> <p>No separate aggravated offence with a higher maximum penalty.</p>	

#### Conclusion

Government staff access SAC statistical and other publications and use SAC research and data extensively in their work. Four SAC reports have been fully implemented by government, one has been fully accepted, one has been partially implemented and two are under consideration. None has been rejected.

#### 14. To what extent has government used the opportunity to refer complex sentencing reform proposals to SAC for detailed consideration?

As indicated above, six research areas have been referred to SAC the Attorney General since its inception. Two other matters have been referred by the Victorian Law Reform Commission.

The areas of inquiry referred to SAC include several which were acknowledged by interviewees as complex. They particularly highlighted the research and consultations in relation to:

- Suspended Sentences
- High risk offenders: Continued detention and supervision
- Provocation in sentencing

As well, interviewees acknowledged the complexity of rationalising strong views and emotions in relation to seemingly more straightforward matters such as sentence indication and the penalties for negligently causing serious injury.

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Success Works has examined the range of sentencing reforms pursued by the government since 2004/05 that were not referred to SAC. Based on a search of government media releases and statutory reforms, the following reforms to sentencing law were noted:

- 2006 - Minister for Roads and Ports – Introduction of alcohol interlocks for first time drink driving offenders on probationary license or aged under 26 as the first phase of a Graduated Licensing System
- October 2007 - Minister for Police and Emergency Services – ‘Anti-Hoon’ laws allowing the confiscation of vehicles for set periods of time (Justice and Road Legislation Amendment (Law Enforcement) Act 2007)
- April 2008 – Minister for Police and Emergency Services – Anti-graffiti laws (Graffiti Prevention Act 2007) creating new offences, on the spot fines and penalties of up to 2 years imprisonment
- April 2008 – Minister for Roads and Ports – Tougher level crossing penalties with traffic fines for level crossing offences increasing from \$182 and three demerit points to \$551 and four demerit points.

These reforms do not appear to be of a complex nature.

It is notable that there have been no sentencing reforms announced by the Attorney General since the formation of SAC that have not had SAC involvement.

**Conclusion**

Government has referred six complex areas to the SAC for detailed consideration. Since its formation, no complex sentencing reforms have been made by the government without SAC involvement.

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### 4.2.3 Underlying Assumptions (Quality)

#### **15. To what extent does the Attorney General take notice of the reports prepared by the Sentencing Advisory Council and adopt their recommendations?**

As indicated above four reports have been implemented in full, one has been accepted in full (recommended no change), one has been partially implemented and two remain under consideration.

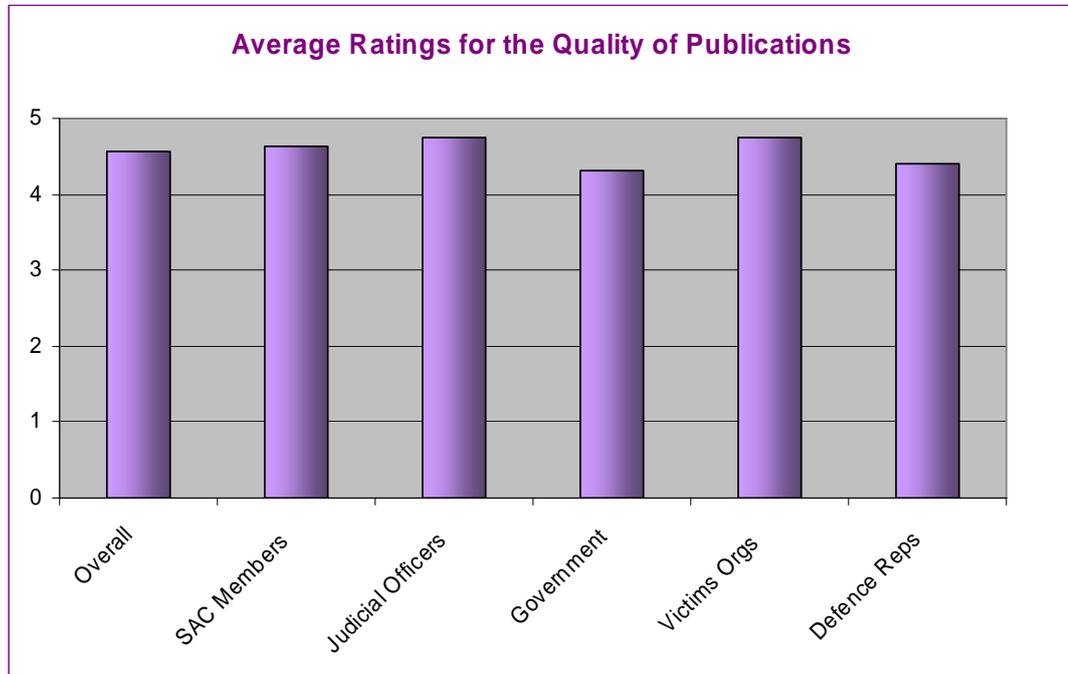
**Conclusion**

The Attorney General has accepted five out of eight reports in full and a sixth report has been partially accepted.

#### **16. To what extent do SAC's publications provide accurate information and include considered views about particular issues based on evidence, sound analysis and thorough consultation?**

Interviewees were asked to rate the quality of SAC's publications on a scale of 1 (poor) to 5 (excellent). The following table indicates the overall scores and the scores for particular groups who are able to be separately identified:

**Figure 6: Average ratings for SAC publications**



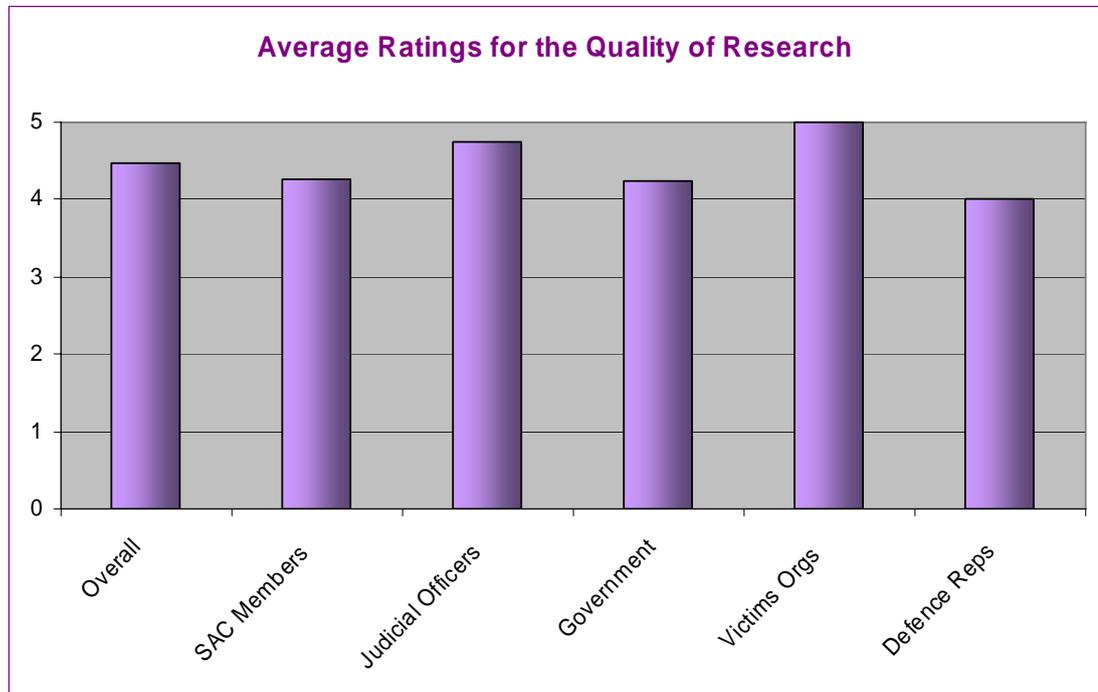
All interviewees rated the quality of publications highly. In fact no individuals rated the quality of publications at any lower level than 4 out of 5. Several noted that the quality of the publications produced by SAC was “as good as any produced by a law reform commission”.

While all interviewees acknowledged that SAC publications are accurate and present considered views based on evidence and sound judgement, several did indicate that they had concerns about the length and complexity of SAC’s research reports (as opposed to the Sentencing Snapshots). There was a view that while it is important to be comprehensive at one level, there is the danger that a comprehensive report will remain unread which would be counterproductive. These interviewees recommended the development of briefer reports (summary reports) with some suggesting that now that the credibility of SAC is established it shouldn’t be necessary to spend so much time justifying itself or its position in reports.

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Interviewees were asked as well to rate the quality of the research undertaken by SAC:

**Figure 7: Average ratings for the quality of SAC's research**

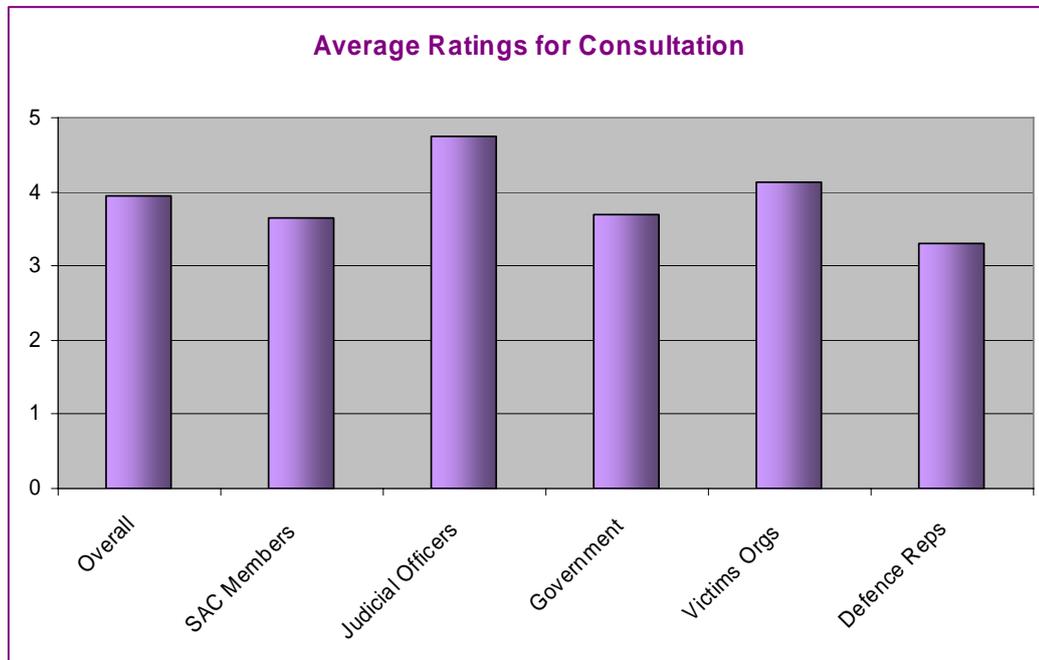


Once again, the results for each group are high with the lowest rating of any individual being 3.5 out of 5. It is significant that judicial officers (as principal users of the research) and victims of crime organisations (as significant potential critics of the research) both rate the quality of the research extremely highly (with a universal response of 5 out of 5 for victim's organisations).

Interviewees were also asked to rate the quality of the consultation processes used by SAC:

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**Figure 8: Average ratings for consultation**



This chart indicates a slightly lower rating for SAC's consultation processes (with the exception of judicial officers). On interview, while all interviewees valued the consultation processes, some raised specific concerns such as:

- Consultations are too focused on the 'usual suspects'. The same individuals and groups are consulted on each occasion
- Consultation processes are unimaginative and follow a set pattern
- Certain groups are not adequately consulted (particularly defence representatives and offenders)

Nevertheless, many interviewees were strongly complimentary about the consultation process:

- 'I always feel we've been listened to, even if we don't win!'

- 
- 'I was originally unhappy about there only being one victim of crime on the Council but it's working pretty well – they keep us in the loop and we can refer issues to them and get advice'
  - 'They run good consultations. They are clear about what they are wanting from you, what they are thinking about an issue and they are prepared to listen, change their views and provide you with feedback. It is best practice consultation in my view'

Government staff were also generally supportive of the consultation processes and particularly appreciated being consulted as final reports were nearing completion.

**Conclusion**

SAC's publications and research approaches are highly rated. SAC's consultation processes are highly rated but with some suggested areas for improvement.

**17. To what extent does SAC have credibility with the government, court of appeal, courts, commentators, advocates and the public?**

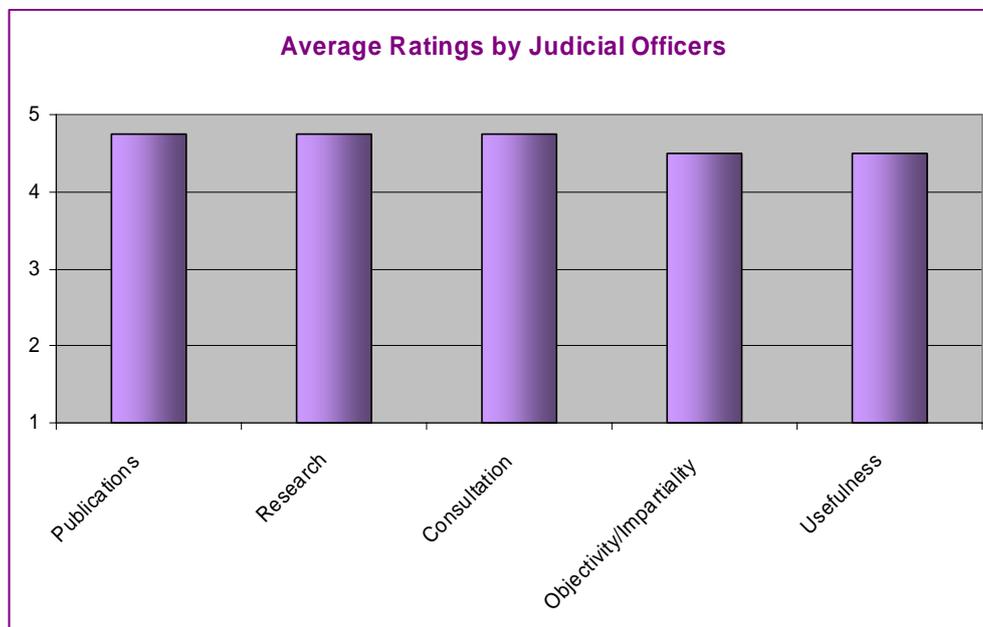
Based on the interviews, SAC is a highly credible body. A government representative indicated that SAC is "as important, if not more important, than the VLRC".

To demonstrate the credibility of SAC with judicial officers, the following chart indicates the ratings they provided for each of the ratings scales nominated by the evaluators<sup>1</sup>.

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<sup>1</sup> Judicial officers were not asked to rate the quality of the public education programs as none of them felt they had sufficient knowledge of the programs to do so.

**Figure 9: Average ratings by Judicial Officers**



Judicial Officers rated all items at 4 out of 5 or above.

The chart detailing ratings for government staff (Figure 5) indicates that government staff rated 'publications', 'research', 'objectivity/impartiality' and 'usefulness' as more than 4 out of 5. Their lowest rating (3 out of 5) was given to public education reflecting concerns about the *amount* of public education SAC is able to undertake within its current budget rather than the quality of the public education programs.

The chart detailing the same ratings for sentencing policy advocates (Figure 4) indicates that they rate also 'publications', 'research', 'objectivity/impartiality' and 'usefulness' at more than 4 out of five. Sentencing policy advocates rated 'consultation' as the lowest (3.75 out of 5).

**Conclusion**

SAC has a high level of credibility with government, court of appeal, courts, commentators and sentencing policy advocates. Credibility with the public has not been able to be assessed but is felt to be an area for improvement for SAC.

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## 18. To what extent does SAC represent a best practice approach to sentencing law reform?

Interviewees were asked to nominate aspects of SAC's operations or approach which represent best practice in their view. Interviewees nominated the following:

- Consultation processes – While some interviewees identified the need for improvements in the consultation process (particularly broadening the base away from the 'usual suspects'), a number of interviewees said that SAC's consultation processes were excellent and presented a model for other bodies and government agencies to emulate. They referred to the clarity with which SAC approaches a consultation and their willingness to share their current thinking, even though that might change over the course of the research. They also appreciated the provision of feedback following the consultation process. Interviewees said they felt that they had been listened to and provided with respect in the consultation process. Some also felt that the consultation process was educative, providing them with a broader understanding of the issues as well as an opportunity to state their views: a 'two way street'.
- Quality of reports – as mentioned, all interviewees rated the quality of the reports as 4 out of 5 or higher.
- Accessibility – Many interviewees nominated the accessibility of the Chair of the SAC and SAC CEO and staff as a major feature in its credibility. Journalists in particular were grateful for the willingness of the Chair to provide on and off the record information. Judicial officers were also grateful for the presence of an independent voice in the sentencing debate.
- Public education programs – Many interviewees nominated the 'You Be The Judge' program as an excellent public education program. Those involved in school education also noted the adaptation of the materials for implementation as part of the VCE Legal Studies curriculum as a particularly smart move and felt that over time, this will result in a much wider dissemination of the program. It is noted, once again, that SAC's public education role encompasses a broader set of activities than just You Be The Judge, particularly including media education and the use of consultation forums as an educative process.

- 
- Lack of bias/fairness in approach – Impartiality and objectivity were rated highly by all interviewees; even those who felt that the consultation processes did not always adequately obtain the defence/defendants' viewpoints.
  - Flexibility and responsiveness – Many interviewees nominated the change in position by the SAC in relation to the winding down of suspended sentences (between final report 1 and final report 2) as indicative of a high degree of flexibility and responsiveness which they saw as best practice in a law reform body. Others, however, perceived that change in view as “a backflip” or as “pragmatism overriding philosophy” and felt that it had damaged some of SAC's credibility as an independent body.
  - Diverse membership – Several interviewees nominated the diverse membership of the SAC as a strength and representing best practice in any law reform body. SAC members confirmed that their diverse perspectives and strong views resulted in robust debates and in better quality research and stronger recommendations as a result.
  - High quality staff – one Judicial officer said “I am increasingly impressed with the quality of the research staff as I meet them. They are clearly recruiting smart capable research staff and they are growing in strength as a result”. Other interviewees also commented that SAC is clearly a desirable place to work resulting in the recruitment and retention of high quality staff.
  - High quality and well known Chair – the skills and reputation of the Chair of SAC were noted by many interviewees. Professor Freiberg has an international reputation in sentencing law and many interviewees suggested that much of SAC's credibility, particularly with the media and legal profession has been due to his high level reputation.

A number of interviewees compared SAC favourably to the VLRC (a body that is also highly valued and respected). One or two said that the differences between the SAC and the VLRC required further delineation in their view.

Interviewees from the New South Wales Sentencing Council and the UK Sentencing Guidelines Council nominated the following in relation to SAC's representation of best practice:

- The production of 'authoritative and readable reports'
- Independence from government and the judiciary

- 
- Capacity to its generate own research agenda
  - Linking of public education and consultation with sentencing research allowing the voice of the community to be represented in sentencing reform.

#### **Conclusion**

SAC represents a best practice approach to sentencing law reform in relation to its consultation processes; quality of reports; accessibility; public education programs; lack of bias; diverse membership; high quality staff and chair; independence from government and judiciary; capacity to generate its own research and the provision of a voice for the community in the sentencing process .

### **19. To what extent does SAC represent a cost effective approach to sentencing law reform?**

In order to determine the cost effectiveness of the SAC comparisons were made with 'like' organisations<sup>2</sup> vis:

- Victorian Law Reform Commission (VLRC)
- New South Wales Law Reform Commission (NSW LRC)
- NSW Bureau of Crime Statistics and Research (NSW BCSR)
- NSW Sentencing Council (NSW SC)
- UK Sentencing Guidelines Council (UK SGC)

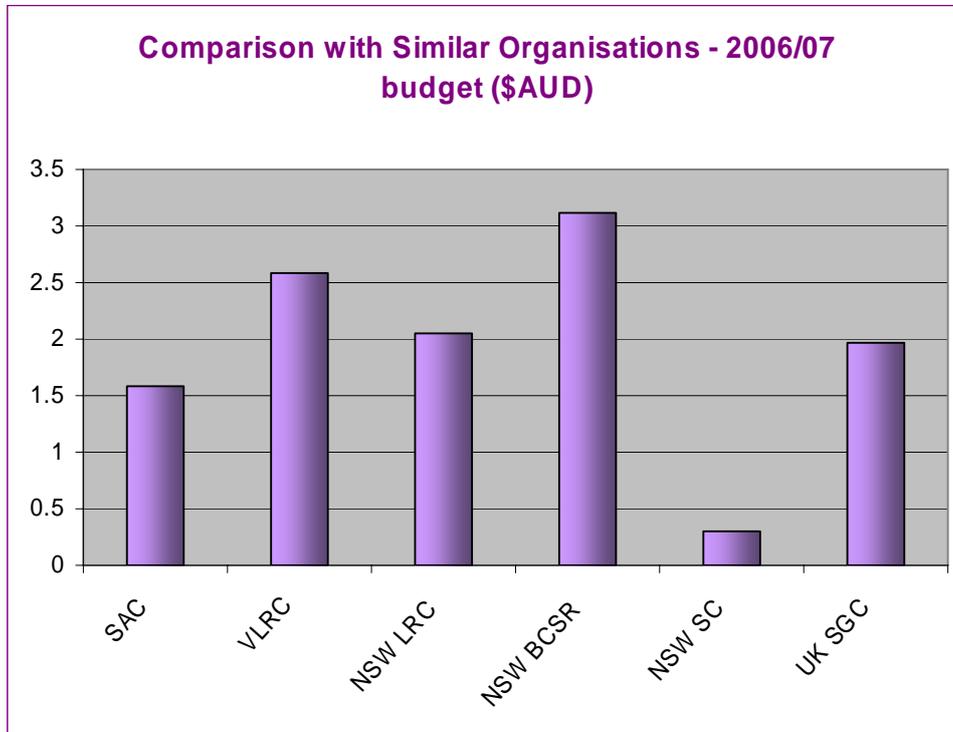
A comparison of total annual budget (in Australian dollars) reveals as follows:

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<sup>2</sup> While there are no organisations exactly 'like' SAC we have selected a sample of similar organisations for comparative purposes.

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**Figure 10: SAC budget in 2006/07 compared with 'like' organisations**

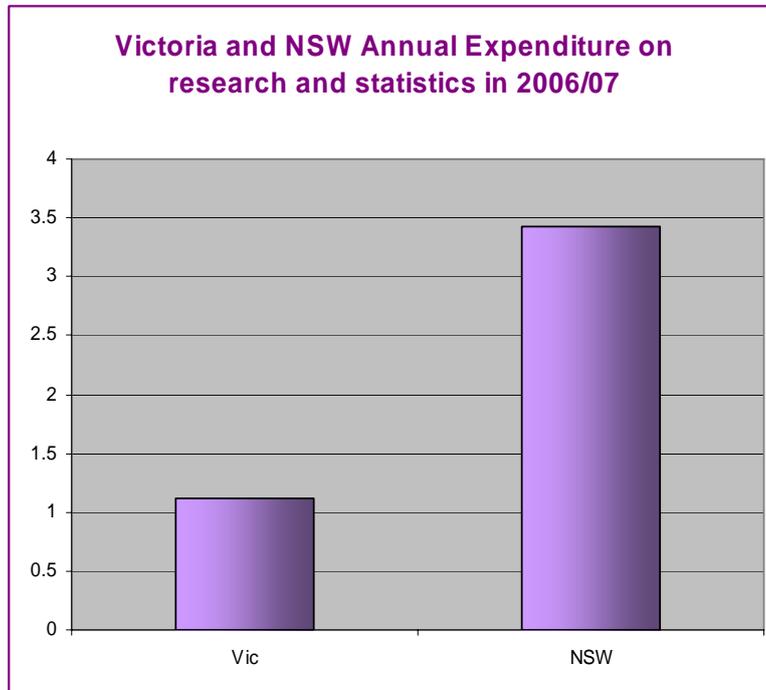


SAC is funded at a mid range point compared with 'like' organisations. However, as there is no other organisation with exactly the same role as SAC, it is worth taking this comparison a little further.

In NSW, many of the functions undertaken by SAC are managed jointly by the Bureau of Crime Statistics and Research and the Sentencing Council. Neither body, however, has responsibility for public education. Therefore, if one compares the resources available through SAC for sentencing research (equivalent to NSW SC) and statistical publications (equivalent to NSW BCSR) the comparison is as follows:

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**Figure 11: Vic and NSW expenditure on research and statistics in 2006/07**

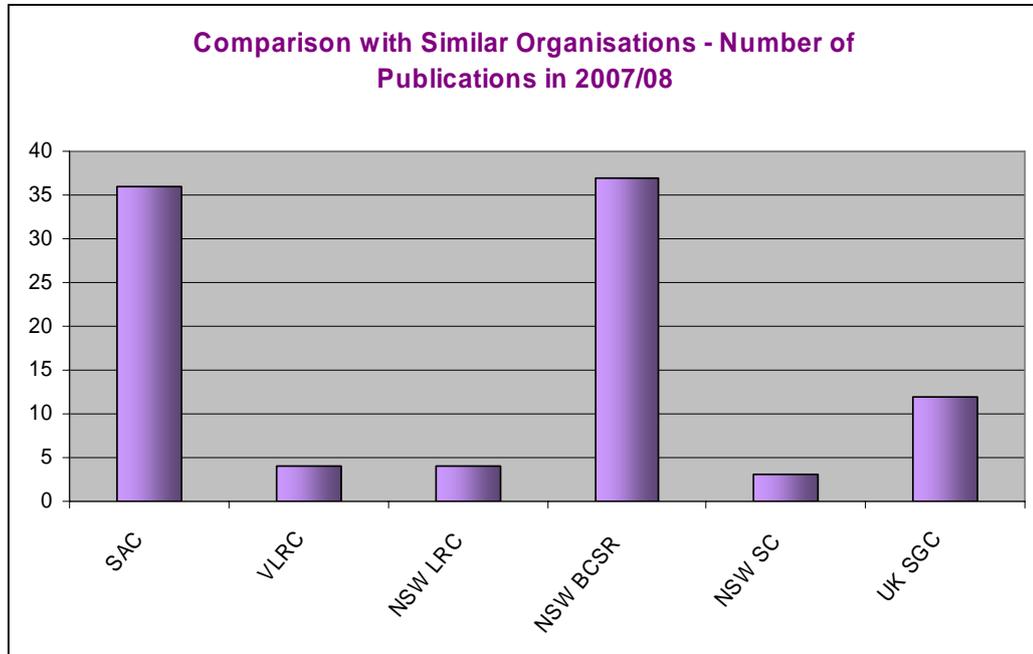


As can be seen, on this comparison the SAC could be said to be significantly underfunded in comparison with NSW. As they also perform more functions than the combined NSW organisations, there seems little doubt that SAC represents a cost effective approach.

An analysis of the number of publications for each organisation in 2007/08 reveals as follows:

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**Figure 12: Number of publications in 2007/08**

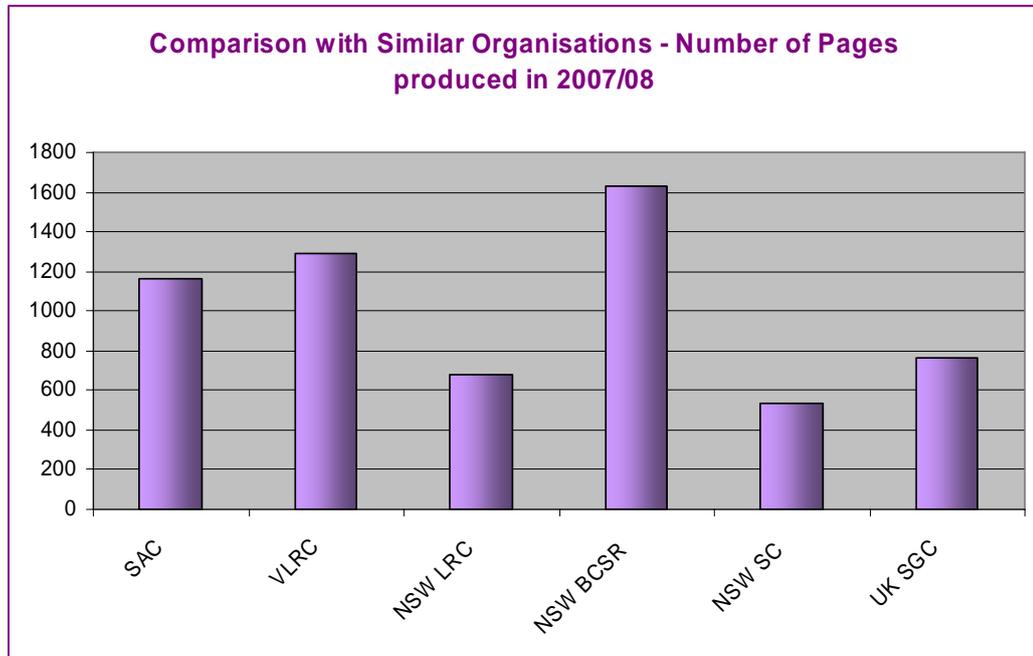


However, as SAC has a mix of statistical and research publications it is not directly comparable to any of the other organisations. That is, the total number of statistical publications is less than those produced by NSW Bureau of Crime Statistics and Research and the total number of research publications is greater than those produce by the Victorian and NSW Law Reform Commissions.

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A further comparison of the number of 'pages' produced by each organisation is as follows:

**Figure 13: Number of pages produced in 2007/08**

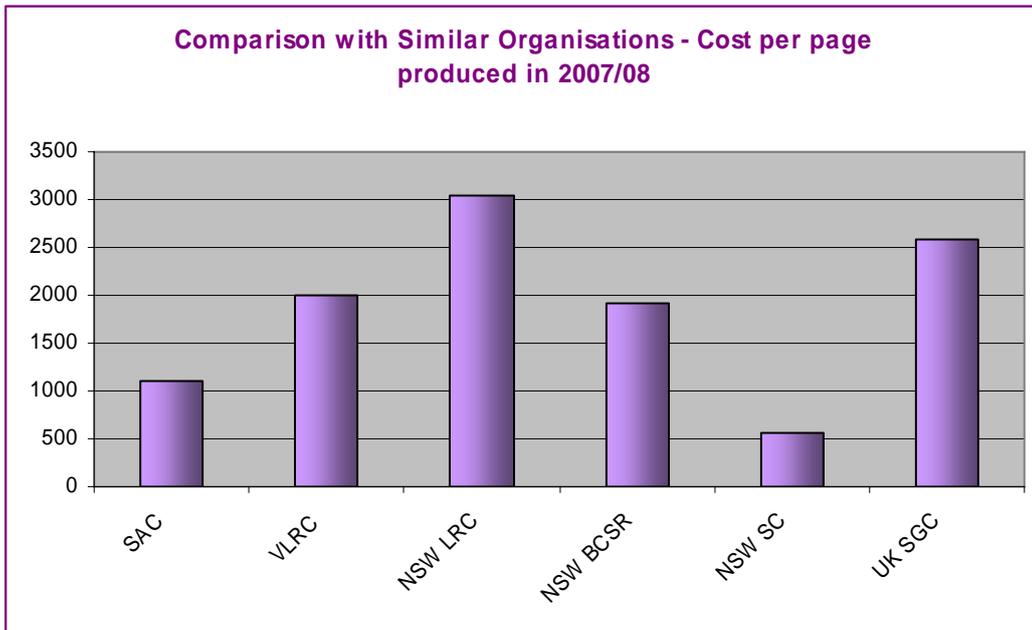


This analysis reveals a greater level of comparability between the organisations. SAC has produced less total pages than the VLRC and NSW Bureau of Crime Statistics and Research and more than the similarly funded UK Sentencing Guidelines Council, NSW LRC and the much smaller NSW Sentencing Council.

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This analysis is further enhanced with the following data which presents the 'cost per page' for each organisation: that is, the total budget allocated to research and statistical reports divided by the number of pages produced in 2007/08<sup>3</sup>:

**Figure 14: Cost per page in 2007/08**



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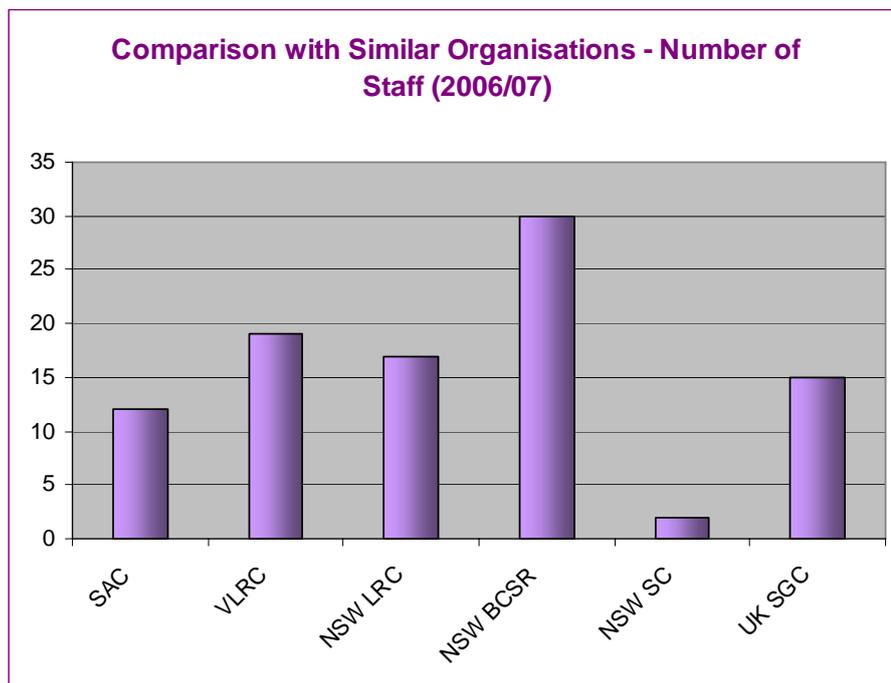
<sup>3</sup> In order to compare like with like, in this case the budget for SAC does not include the public education component.

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Based on these data, SAC is more cost effective in terms of the amount of resources required to produce each page of statistics and research than other similar organisations, with the exception of the NSW Sentencing Council which is the most cost effective (but also considerably smaller than all other organisations).

A further comparison of the number of staff in each organisation reveals as follows:

**Figure 13: Number of staff in 2007/08 (EFT)**



The ratios of staff to pages produced in each organisation are as follows:

- SAC - 1: 97
- VLRC – 1: 68
- NSW LRC – 1: 40
- NSW BCSR – 1: 54
- NSW SC – 1: 266
- UK SC – 1: 51

With the exception of the NSW Sentencing Council, SAC has the highest level of production per EFT.

In summary SAC is funded at the mid range in comparison with a number of like organisations and has a comparable rate of production in terms of 'pages' of research and statistics. SAC has a lower cost of production and higher rate of production than all other 'like' organisations, except the NSW Sentencing Council. It is the conclusion of this evaluation that SAC is cost effective and represents value for money to the Victorian Government.

**Conclusion**

SAC is cost effective and represents value for money to the Victorian Government.

### 4.3 Summary of evaluation findings

In summary, the answer to each evaluation question is as follows:

**Table 12: Evaluation Questions and Conclusions**

Evaluation Question	Evaluation Conclusion
1. To what extent has SAC provided advice to the court of appeal? At what cost?	SAC has not been able to provide advice to the Court of Appeal in accordance with the Sentencing (Amendment) Act 2003 because the Court of Appeal has chosen not to exercise its powers to make guideline judgements to date.
2. To what extent has SAC produced statistical publications? At what cost?	SAC has produced 51 statistical publications in a little over three years. Annual costs are estimated to have been \$240,000 in 2006/07.
3. To what extent has SAC undertaken public education programs? At what cost?	SAC has undertaken 16 public education sessions involving over 1100 individuals and has distributed 780 teacher guides for use in schools. Annual costs are estimated to have been \$ 80,000 in 2006/07.
4. To what extent has SAC undertaken research and produced research reports and conferences? At what cost?	SAC has undertaken research in 12 areas and produced 24 research publications as well as conducting one international conference resulting in one book. Annual costs are estimated to have been \$ 960,000 in 2006/07.

Evaluation Question	Evaluation Conclusion
5. To what extent has SAC prepared research reports and discussion papers in response to specific references? At what cost?	SAC has prepared 16 research publications in response to specific references from the Attorney General amounting to around 83% of SAC's total research output. Annual costs are estimated to have been \$ 480,000 in 2006/07.
6. To what extent has SAC consulted with stakeholders? At what cost?	SAC has conducted: 22 focus groups and forums with members of the community; 18 focus groups and meetings with victims of crime and victims organisations; 16 focus groups, workshops and meetings with court, legal and police representatives; 13 specialist roundtables; 12 meetings and workshops with legal/medical representatives; 3 focus groups with prisoners and offenders. It has also received 185 written submissions.  Annual costs are estimated to have been \$ 320,000 in 2006/07.
7. To what extent has the court of appeal made use of its access to specific advice and adopted and promulgated a common set of sentencing principles?	SAC has not been asked to provide advice to the Court of Appeal in relation to guideline judgements.
8. To what extent have courts made use of their access to SAC statistical and other publications in the consideration of specific sentences?	Judicial officers report making extensive use of SAC's statistical and other publications. Data from the Court of Appeal indicates increasing use of SAC material in the appeal process.
9. To what extent have community members made use of their access to SAC statistical and other publications?	Members of the community are accessing SAC material in written and downloadable form.
10. To what extent have participants in public education programs developed an improved understanding of the complexities of sentencing?	Participants in public education programs are thought to have improved their understanding of sentencing matters as a result of their participation. There is strong support for an expanded public education role for SAC in the future.
11. To what extent have commentators made use of their access to SAC statistical and other publications in their commentary?	Media commentators have made extensive use of their access to SAC statistical and other publications. The role of SAC in informing the media is valued by media representatives and other stakeholders.
12. To what extent have sentencing policy advocates made use of their access to SAC statistical and other publications in their advocacy?	Sentencing policy advocates access SAC statistical and other publications and use SAC research and data in their own advocacy activities. They value the objectivity and impartiality of SAC's publications

Evaluation Question	Evaluation Conclusion
13. To what extent has government made use of their access to SAC statistical and other publications in their sentencing policy and legislation?	Government staff access SAC statistical and other publications and use SAC research and data extensively in their work. Four SAC reports have been fully implemented by government, one has been fully accepted, one has been partially implemented and two are under consideration. None have been rejected.
14. To what extent has government used the opportunity to refer complex sentencing reform proposals to SAC for detailed consideration?	Government has referred six complex areas to the SAC for detailed consideration. Since its formation, no complex sentencing reforms have been made by the government without SAC involvement
15. To what extent does the Attorney General take notice of the reports prepared by the Sentencing Advisory Council and adopt their recommendations?	The Attorney General has accepted five out of eight reports in full and a sixth report has been partially accepted.
16. To what extent do SAC's publications provide accurate information and include considered views about particular issues based on evidence, sound analysis and thorough consultation?	SAC's publications and research approaches are highly rated. SAC's consultation processes are highly rated but with some suggested areas for improvement.
17. To what extent does SAC have credibility with the government, court of appeal, courts, commentators, advocates and the public?	SAC's has a high level of credibility with government, court of appeal, courts, commentators and sentencing policy advocates. Credibility with the public has not been able to be assessed but is felt to be an area for improvement for SAC.
18. To what extent does SAC represent a best practice approach to sentencing law reform?	SAC's represents a best practice approach to sentencing law reform in relation to its consultation processes; quality of reports; accessibility; public education programs; lack of bias; diverse membership; high quality staff and chair; independence from government and judiciary; capacity to generate its own research and the provision of a voice for the community in the sentencing process .
19. To what extent does SAC represent a cost effective approach to sentencing law reform?	SAC is cost effective and represents value for money to the Victorian Government.

It is therefore the overall conclusion of this evaluation that SAC is a highly effective and successful organisation that represents value for money for the Victorian Government.

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## 5. Conclusions and Recommendations

The final chapter addresses the goals of the evaluation and identifies a number of issues that require further consideration in relation to SAC. The final section details the recommendations that arise from this evaluation.

### 5.1 Goals of the Evaluation

The previous chapter detailed the evaluation findings in relation to the evaluation questions. In this section, we return to the overall goals of the evaluation and determine what has been found in relation to these.

The goals of the evaluation were to examine:

- The ways in which the SAC has addressed its statutory functions
- The extent to which the SAC has fulfilled each of its statutory functions
- The value that the SAC has provided in terms of factors such as:
  - Its efficiency and effectiveness generally
  - The degree of participation afforded to relevant stakeholders
  - The accessibility of its processes and publications (having regard to the relevant target audiences)
  - The impartiality and rationality of its recommendations.
- Any improvements to the ways that the SAC could address its statutory functions in the future.

#### 5.1.1 Ways that SAC has addressed its statutory functions

The statutory functions of SAC are as follows:

- To state in writing to the Court of Appeal its views in relation to the giving, or review, of a guideline judgement
- To provide statistical information on sentencing, including information on current sentencing practices, to members of the judiciary and other interested persons

- To conduct research, and disseminate information to members of the judiciary and other interested persons, on sentencing matters
- To gauge public opinion on sentencing matters
- To consult, on sentencing matters, with government departments and other interested persons and bodies as well as the general public
- To advise the Attorney General on sentencing matters.

The following table draws in data outlined in Chapter Four as well as information provided by SAC and other interviewees:

**Table 13: Ways in which SAC has addressed its statutory functions**

Statutory Function	Ways in which SAC has addressed this
To state in writing to the Court of Appeal its views in relation to the giving, or review, of a guideline judgement	Not commenced.
To provide statistical information on sentencing, including information on current sentencing practices, to members of the judiciary and other interested persons	<p>The Sentencing Advisory Council presents statistical information on sentencing practices in four main ways:</p> <ul style="list-style-type: none"> <li>• Sentencing snapshots;</li> <li>• Statistical profiles;</li> <li>• Online sentencing monitoring; and</li> <li>• Through its research and educational publications</li> </ul>
To conduct research, and disseminate information to members of the judiciary and other interested persons, on sentencing matters	<p>SAC has conducted research through a process of literature searching, consultation with key stakeholders and rigorous overview by Council members. Each major research project has commenced with the development of an issues, options or discussion paper which has then formed the basis of consultations. Draft reports are reviewed by SAC council members on a regular basis.</p> <p>SAC has developed the “You be the Judge” program (including adapting the materials for application in schools).</p>

Statutory Function	Ways in which SAC has addressed this
To gauge public opinion on sentencing matters	<p>SAC's research into Myths and Misconceptions: Public Opinion vs. Public Judgement about Sentencing has informed a suite of methodologies to ensure public opinion on sentencing is measured in a nuanced way.</p> <p>SAC has adopted an approach based on focus groups where efforts are made to educate participants in relation to the key issues in the debate prior to ascertaining their opinions.</p> <p>Focus groups have been conducted with members of the public, prisoners and former offenders as well as with victims of crime and organisations representing various interest groups.</p> <p>SAC is currently investigating the possibility of funding a large, state-wide random population survey of public opinion on sentencing.</p>
To consult, on sentencing matters, with government departments and other interested persons and bodies as well as the general public	<p>SAC has developed an extensive and thorough consultation strategy that involves both seeking expert advice and gauging public opinion on sentencing matters. As a regular feature of its legal policy work, the Council conducts consultations with key stakeholders, including:</p> <ul style="list-style-type: none"> <li>• Community members – individuals and groups, including victims and offenders</li> <li>• Victorian Government</li> <li>• Judiciary</li> <li>• Legal profession and peak professional bodies</li> <li>• Experts</li> </ul>
To advise the Attorney General on sentencing matters	SAC responds to requests for advice from the AG as part of its overall work program.

## 5.1.2 Extent to which the SAC has fulfilled its statutory functions

Whilst much of the output data are included in Chapter Four, they are also included below to demonstrate the extent to which SAC has fulfilled its statutory functions:

**Table 14: Extent to which SAC has fulfilled its statutory functions**

Statutory Function	Extent to which SAC has addressed this
To state in writing to the Court of Appeal its views in relation to the giving, or review, of a guideline judgement	Not commenced.
To provide statistical information on sentencing, including information on current sentencing practices, to members of the judiciary and other interested persons	SAC has produced 51 statistical snapshots and 3 statistical profiles in a little over three years.  SAC provides on line access to sentencing data
To conduct research, and disseminate information to members of the judiciary and other interested persons, on sentencing matters	SAC has undertaken research in 12 areas and produced 24 research publications as well as conducting one international conference resulting in one book.  SAC has developed "You be the Judge" and provided 16 public education sessions involving over 1100 individuals and has distributed 780 teacher guides for use in schools.
To gauge public opinion on sentencing matters	SAC has undertaken 22 focus groups and forums with members of the community as part of the following research projects: <ul style="list-style-type: none"> <li>• Suspended Sentences</li> <li>• High risk offenders</li> <li>• Sentence Indication</li> </ul>
To consult, on sentencing matters, with government departments and other interested persons and bodies as well as the general public	SAC has conducted: <ul style="list-style-type: none"> <li>• 22 focus groups and forums with members of the community</li> </ul>

Statutory Function	Extent to which SAC has addressed this
	<ul style="list-style-type: none"> <li>• 18 focus groups and meetings with victims of crime and victims organisations</li> <li>• 16 focus groups, workshops and meetings with court, legal and police representatives</li> <li>• 13 specialist roundtables</li> <li>• 12 meetings and workshops with legal/medical representatives</li> <li>• 3 focus groups with prisoners and offenders</li> </ul> <p>It has also received 185 written submissions</p>
To advise the Attorney General on sentencing matters	SAC has prepared 17 research publications in response to specific references from the Attorney General amounting to around 83% of SAC's total research output.

### 5.1.3 Value that the SAC has provided

#### 5.1.3.1 Efficiency and Effectiveness

As detailed in Chapter four, SAC is a cost effective organisation with demonstrably higher output than other 'like' organisations. As noted earlier, however, Opeskin and Weisbrot caution evaluators not to place too much weight on "economy, efficiency and effectiveness" over "accessibility, openness, fairness, impartiality, legitimacy, participation, honesty and rationality" (Opeskin and Weisbrot 2005: 208). Each of these factors is also readily demonstrated by SAC.

#### 5.1.3.2 The degree of participation afforded to relevant stakeholders

As detailed in Table 14, stakeholders have had extensive input into SAC's deliberations. The fact that SAC has a high level of credibility with all stakeholder groups interviewed for this evaluation would indicate that a high degree of participation has been achieved.

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### **5.1.3.3 The accessibility of its processes and publications**

SAC's publications are available in hard copy, CD and downloadable formats. The level of downloads is high but could be an area for improvement (bearing in mind that the general public may not be interested in much of the research)

### **5.1.3.4 The impartiality and rationality of its recommendations**

As data detailed in Chapter Four indicate, SAC is highly regarded by all stakeholders for its impartiality and the quality of its research.

## **5.1.4 Improvements for SAC to address its statutory functions in the future.**

Areas identified for improvement in this evaluation are as follows:

- Increase the amount of public education programs and activities
- Market SAC and SAC publications to the general public and interested groups
- Improve consultation processes by moving away from a primary focus on 'the usual suspects'
- Increase the level of consultation with defence representatives and offenders
- Continue to develop and improve the sentencing statistics available to the courts
- Offer advice to the Court of Appeal in guideline judgements.

## **5.2 Impact on intermediate and long term outcomes**

The project logic identified for this evaluation identified the following intermediate and long term outcomes for the SAC:

Intermediate Outcomes:

- Sentencing processes are understandable to the public
- Sentences are more consistent
- There is improved support for sentencing decisions

- 
- Sentencing reforms are accepted by the community
  - Sentencing reforms are well grounded and reflect best practice

Long term outcomes:

- The Victorian community has trust and confidence in its courts
- Sentencing law reform in Victoria contributes to international best practice while reflecting the State's unique context

These outcomes have not been separately evaluated because the impact of SAC on their achievement can only be only partial, at best. There are a range of other factors outside the control of SAC that impact on their achievement.

Nevertheless, there is evidence from this evaluation that there has been progress in a number of these areas that is directly attributable to SAC.

In particular, judicial officers and defence and prosecution representatives felt that SAC has had a significant impact on the consistency of sentences, particularly through the provision of sentencing statistics. They, and others such as the victims of crime representatives and government interviewees, felt that there was improved support for sentencing decisions and for sentencing reforms as a result of the efforts of the SAC. Judicial officers and government interviewees felt that SAC's research and consultation efforts had resulted in sentencing reforms which were well grounded and reflecting best practice. Journalists and victims of crime representatives felt that they had a better understanding of sentencing processes and issues as a result of SAC's work which, in turn, should influence their communications with members of the public on sentencing issues.

Most would agree that it is too early to know the impact of SAC on the long term outcomes. However, the achievements of SAC in relation to the short and medium term outcomes would seem to indicate that the impact will be (or is already) significant.

## 5.3 Recommendations

This final section of the report draws conclusions and makes recommendations in relation to the future of SAC.

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### 5.3.1 Ongoing Role

SAC is a highly valued and valuable organisation. All interviewees were positive about SAC's achievements to date and almost all agreed that there is an ongoing need for SAC in Victoria. It is interesting to note as well, that this ongoing role was anticipated at the very beginning. As mentioned earlier, the 2003/04 budget papers noted that SAC was being established 'on a permanent and formal basis' (2003/04 Budget Papers).

It is therefore very clear that the first recommendation is:

#### Recommendation One:

**That the Sentencing Advisory Council be established on a permanent and ongoing basis.**

### 5.3.2 Sustainability

Several interviewees, including a number of existing Council members, reflected that the current chair, Professor Arie Freiberg, is both a major contributor to the success of SAC and a major risk, especially if he were unable to maintain his role on the Council for whatever reason. There is a need for the Council to be more readily identified as an entity in its own right that is capable of surviving beyond the tenure of Professor Freiberg. For this reason, the second recommendation is:

#### Recommendation Two:

**That efforts be made to establish a strong public profile for the Council as an entity in its own right .**

### 5.3.3 Relationship to other Ministers

It is notable that no other Ministers have referred matters to the SAC other than the Attorney General. As indicated earlier, several (minor) sentencing reforms have been pursued by other Ministers since the formation of SAC while none has been so pursued by the Attorney General.

A third recommendation is:

#### Recommendation Three

**That the Sentencing Advisory Council be clearly made available to all Victorian Ministers in the consideration of sentencing reforms**

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### 5.3.4 Resourcing

It is clear that while SAC has managed to produce an impressive array of research and statistical reports and publications in a short space of time, the workload they have endured (at both staff and Council levels) may not be sustainable. It is also apparent that the SAC will not be able to take on an expanded public education role without additional funding.

As a result the final recommendation is:

**Recommendation Four:**

**That SAC be provided with additional resources in its annual budget in order to maintain and expand its research and statistical capacity and increase its level of community engagement and public education.**

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## APPENDIX A – Interviewees

The following people participated in interviews or focus groups conducted as part of this evaluation:

### **Council Members**

1. Professor Arie Freiberg, Dean of Law, Monash University
2. Barbara Rozenes, Court Network
3. Andrea Lott, CEO, VACRO
4. Bernie Geary OAM, Child Safety Commissioner
5. Simon Overland APM, Victoria Police
6. Professor Jenny Morgan, Law School, University of Melbourne
7. David Grace QC
8. Gavin Silbert SC, Senior Crown Prosecutor, OPP
9. David Ware, Project Leader, Gambling Licences Review
10. Carmel Arthur, DEECD, Victim of Crime
11. Therese McCarthy, Family Court, DV and CASA

### **Judicial Officers:**

1. The Honourable Justice Chris Maxwell, President, Court of Appeal, Supreme Court of Victoria
2. Ian Gray, Chief Magistrate, Melbourne Magistrates' Court
3. Justice Paul Coughlan, Supreme Court of Victoria
4. His Honour Chief Judge Michael Rozenes, Chief Judge, County Court of Victoria

### **Government:**

1. Penny Armytage, Secretary, DOJ
2. Jan Shuard, Corrections Victoria

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3. Dr Roslyn Kelleher, Executive Director, Police, Emergency Services & Corrections, DOJ
  4. John Griffin, Executive Director, Courts, DOJ
  5. Elizabeth Eldridge, Executive Director, Legal and Equity, DOJ
  6. Neil Robertson, Director, Criminal Law Policy, DOJ
  7. Annie Tinney, Acting Assistant Director, Criminal Law Policy, DOJ
  8. Greg Byrne, Director, Criminal Law Justice Statement
  9. Jan Noble, Director, Juvenile Justice & Youth Services, DHS
  10. Clare Morton, Acting Director, Victim Support Agency & Diversity Issues Unit, DOJ.
  11. Suzanne Whiting, Victim Support Agency & Diversity Issues Unit, DOJ
  12. David Provan, General Manager, Adult Parole Board
  13. Michael Hepworth, Full time member, Adult Parole Board
  14. Benjamin Mante, Indigenous Issues Unit, Department of Justice
  15. Stan Winford, Senior Legal Advisor, Attorney-General's Office
  16. Noel Maloney, Courts Statistics Officer, DOJ

**Legal Profession:**

1. Abbey Hogan and Peter Byrne, Office of Public Prosecutions
2. Jeremy Rapke QC, Director of Public Prosecutions
3. Stella Stuthridge, Chair, Criminal Law Section, Law Institute of Victoria
4. Ann Jorgensen, Solicitor, Criminal Law Section, Law Institute of Victoria
5. Leanne Newson, Education Officer, Law Institute of Victoria
6. Tony Parsons, Managing Director, Victoria Legal Aid
7. Domenic Calabro, Manager, Criminal Law Division, Victoria Legal Aid
8. David Thomson, Schools Consultant, Victoria Law Foundation
9. Federation of Community Legal Centres (five solicitors)

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**Other Professions:**

1. Tom Dalton, Acting CEO, Victorian Institute of Forensic Mental Health
2. Karen Kissane, Law and Justice Editor, The Age
3. Geoff Wilkinson, Senior Reporter, Herald Sun

**Other Councils:**

1. Katherine McFarlane, Executive Officer, New South Wales Sentencing Council
2. Kevin McCormac, Head of Sentencing Guidelines Secretariat, Sentencing Guidelines Council, UK

**Community Organisations:**

1. CASA Forum (8 CASA managers)
2. Carolyn Worth, Manager, South Eastern Centre Against Sexual Assault
3. Noel McNamara, Victorian Crime Victims Support Association

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## APPENDIX B – Qualitative Data Collection Tools

NB Different interview tools were used depending on the role of the interviewee.

### TOOL A - Interviews with SAC members

1. Date
2. Name
3. Position/Organisation
4. When did you become involved with the Sentencing Advisory Council?
5. What is your role on the Sentencing Advisory Council?
6. What is your role in the development of SAC's publications?
7. Are you aware of particular instances where SAC's statistical and other publications have been used by others to justify a particular position?
  - a. What were the circumstances?
  - b. Was the use justified in your view?

- 
8. Do you believe that SAC represents a best practice approach to sentencing law reform?
    - a. In what way?
    - b. What aspects of good practice are you referring to?
  9. Are there aspects of SAC's operations that could be improved?
    - a. In what way?
  10. We are aware that while SAC has the role of providing advice to the Court of Appeal, this has not taken place to date. Why has this been the case in your view?
    - a. Is this situation likely to change in the future in your opinion?
  11. Do you believe that the SAC has an ongoing role in Victoria?
    - a. Are there aspects of the role you would change if it is to continue?
    - b. In what way?
  12. We'd be grateful if you could provide some ratings on a scale of one to five where 1 represents 'poor' and 5 represents 'excellent'.
    - a. How would you rate the overall quality of SAC's statistical and other publications?
    - b. How would you rate the effectiveness of the consultation processes used by SAC?

- 
- c. How would you rate the effectiveness of SAC's public education programs?
  
  - d. How would you rate the quality of the research undertaken by SAC?
  
  - e. How would you rate the objectivity or impartiality of SAC's statistical and other reports?
  
  - f. How would you rate the usefulness of SAC's statistical and other reports?

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## TOOL B – Interviews with Judicial Officers

1. Date
2. Name
3. Position/Court
4. Do you access SAC's statistical publications?
  - b. How have you accessed them?
  - c. Why?
5. Do you access SAC's Research Reports?
  - d. How have you accessed them?
  - e. Why?
6. Have you used SAC's statistical or other publications in any way in your work or consideration of particular sentences or cases?
  - f. In what way?
7. We are aware that while SAC has the role of providing advice to the Court of Appeal, this has not taken place to date. Why has this been the case in your view?
  - g. Is this situation likely to change in the future in your opinion?
8. Do you believe that SAC represents a best practice approach to sentencing law reform?

- 
- a. In what way?
  - b. What aspects of good practice are you referring to?
9. Are there aspects of SAC's operations that could be improved?
- c. In what way?
10. Do you believe that the SAC has an ongoing role in Victoria?
- a. Are there aspects of the role you would change if it is to continue?
  - a. In what way?
11. We'd be grateful if you could provide some ratings on a scale of one to five where 1 represents 'poor' and 5 represents 'excellent'.
- a. How would you rate the overall quality of SAC's statistical and other publications?
  - b. How would you rate the quality of the research undertaken by SAC?
  - c. How would you rate the objectivity or impartiality of SAC's statistical and other reports?
  - d. How would you rate the usefulness of SAC's statistical and other reports?

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## TOOL C – Interviews with AG’s staff

1. Date
2. Name
3. Position
4. Government has referred a number of matters to the SAC for detailed consideration. What is your view on the quality of the advice you have received from the SAC?
5. What criteria do you apply in deciding which matters should be referred to the SAC for consideration versus being managed directly by the Department of Justice legal policy staff?
6. How satisfied are you with the quality of the reports you receive from the SAC?
7. Are there particular examples of reports you felt were especially useful?
8. How satisfied are you with the timeliness of the reports you receive from the SAC?
9. Do you consider SAC’s other reports (not prepared in relation to specific references from your office)?
  - a. In what way?
  - b. Has there been any of particular significance for your office?

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10. Do you believe that SAC represents a best practice approach to sentencing law reform?

a. In what way?

b. What particular aspects of good practice are you referring to?

11. Are there aspects of SAC's operations that could be improved in your view?

a. In what way?

12. Do you believe that the SAC has an ongoing role in Victoria?

a. In what way?

b. Are there aspects of the role you would change if it is to continue?

13. We'd be grateful if you could provide some ratings on a scale of one to five where 1 represents 'poor' and 5 represents 'excellent'.

a. How would you rate the overall quality of SAC's statistical and other publications?

b. How would you rate the effectiveness of the consultation processes used by SAC?

c. How would you rate the effectiveness of SAC's public education programs?

d. How would you rate the quality of the research undertaken by SAC?

- 
- e. How would you rate the objectivity or impartiality of SAC's statistical and other reports?
  
  - f. How would you rate the usefulness of SAC's statistical and other reports?

### **TOOL D – Interviews with Commentators and Policy Advocates**

- 1. Date
  
- 2. Name
  
- 3. Position/Organisation
  
- 4. Do you access SAC's statistical publications?
  - a. How have you accessed them?
  
  - b. Why?
  
  - c. How useful are they to you?
  
- 5. Do you access SAC's Research Reports?
  - a. How have you accessed them?
  
  - b. Why?
  
  - c. How useful are they to you?

- 
6. Have you used SAC's statistical or other publications in any way in your work?
    - a. In what way?
  7. Do you believe that SAC represents a best practice approach to sentencing law reform?
    - a. In what way?
    - b. What aspects of good practice are you referring to?
  8. Are there aspects of SAC's operations that could be improved?
    - a. In what way?
  9. Do you believe that the SAC has an ongoing role in Victoria?
    - c. Are there aspects of the role you would change if it is to continue?
    - d. In what way?
  10. We'd be grateful if you could provide some ratings on a scale of one to five where 1 represents 'poor' and 5 represents 'excellent'.
    - a. How would you rate the overall quality of SAC's statistical and other publications?

- 
- b. How would you rate the quality of the research undertaken by SAC?
  - c. How would you rate the effectiveness of the consultation processes used by SAC?
  - d. How would you rate the effectiveness of SAC's public education programs?
  - e. How would you rate the objectivity or impartiality of SAC's statistical and other reports?
  - f. How would you rate the usefulness of SAC's statistical and other reports?

## **TOOL E – Interviews with other Sentencing Councils**

- 1. Date
- 2. Name
- 3. Position/Organisation
- 4. What is the role of your organisation in relation to Sentencing Law Reform?
- 5. In what way does your organisation differ from the Victorian Sentencing Advisory Council?

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6. What has been your involvement or interaction with the Victorian Sentencing Advisory Council?
  7. Do you believe that the Victorian Sentencing Advisory Council represents a best practice approach to sentencing law reform?
    - a. In what way?
    - b. What aspects of good practice are you referring to?
  8. Are there aspects of SAC's operations that could be improved in your view?
    - a. In what way?
  9. Does your organisation access reports and statistical publications developed by SAC?
    - a. What for?
    - b. Are there any particular reports or publications that stand out for you?
    - c. How would you rate the quality of the reports and publications you have accessed?
  10. On a scale of 1 – 5 (where 1 is poor and 5 is excellent), how would you rate the quality of the research undertaken by SAC?
  11. On a scale of 1 – 5 (where 1 is poor and 5 is excellent), how would you rate the objectivity or impartiality of SAC's statistical and other reports?
  12. On a scale of 1 – 5 (where 1 is poor and 5 is excellent), how would you rate the usefulness of SAC's statistical and other reports?

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13. What is your view on the role and purpose of a Sentencing Advisory Council?

14. What is your view on the length of time a Sentencing Advisory Council should be in place?

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## APPENDIX C – SAC Statistical Publications

The following is a list of Statistical publications produced by SAC from commencement to end of June 2008.

DATE	ISSUE NO	TOPIC
April 2005	1	What are Suspended Sentences?
April 2005	2	Use of Suspended Sentences in Victoria
April 2005	3	Breach of Suspended Sentences
Sept 2005	4	Sentencing trends for murder in Victoria (1998/99 to 2003/04)
Sept 2005	5	Sentencing trends for manslaughter in Victoria (1998/99 to 2003/04)
Sept 2005	6	Sentencing trends for culpable driving causing death in Victoria (1998/99 to 2003/04)
Dec 2005	7	Sentencing trends for rape in Victoria (1999/2000 to 2003/04)
June 2006	8	Sentencing trends for robbery in the higher courts of Victoria (2000/01 to 2004/05)
June 2006	9	Sentencing trends for armed robbery in the higher courts of Victoria (2000/01 to 2004/05)
August 2006	10	Sentencing trends for burglary in the higher courts of Victoria (2000/01 to 2004/05)
August 2006	11	Sentencing trends for aggravated burglary in the higher courts of Victoria (2000/01 to 2004/05)
Sept 2006	12	Sentencing trends for causing serious injury intentionally in the higher courts of Victoria (2000/01 to 2004/05)

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DATE	ISSUE NO	TOPIC
Sept 2006	13	Sentencing trends for causing serious injury recklessly in the higher courts of Victoria (2000/01 to 2004/05)
Sept 2006	14	Sentencing trends for causing injury intentionally or recklessly in the higher courts of Victoria (2000/01 to 2004/05)
Sept 2006	15	Sentencing trends for affray in the higher courts of Victoria (2000/01 to 2004/05)
Jan 2007	16	Sentencing trends for handling stolen goods in the higher courts of Victoria 2001-2 to 2005-06
Jan 2007	17	Sentencing trends for theft in the higher courts of Victoria, 2001-02 to 2005-06
Jan 2007	18	Sentencing trends for obtaining a financial advantage by deception in the higher courts of Victoria, 2001-02 to 2005-06
Jan 2007	19	Sentencing trends for obtaining property by deception in the higher courts of Victoria, 2001-02 to 2005-06
Jan 2007	20	Sentencing trends for arson in the higher courts of Victoria, 2001-02 to 2005-06
Jan 2007	21	Sentencing trends for attempted murder in the higher courts of Victoria, 2001-02 to 2005-06
Feb 2007	22	The Victorian criminal justice system 2004/05
June 2007	23	Sentencing trends for indecent assault in the higher courts of Victoria 2001-02 to 2005-06
June 2007	24	Sentencing trends for indecent assault with a child aged under 16 in the higher courts of Victoria, 2001-02 to 2005-06
June 2007	25	Sentencing trends for maintaining a sexual relationship with a child under 16 in the higher courts of Victoria, 2001-02 to 2005-06
June 2007	26	Sentencing trends for rape in the higher courts of Victoria, 2001-02 to 2005-06
August 2007	27	Sentencing trends for murder in the higher courts of Victoria, 2001-02 to 2005-06
August 2007	28	Sentencing trends for manslaughter in the higher courts of Victoria, 2001-02 to 2005-06

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DATE	ISSUE NO	TOPIC
August 2007	29	Sentencing trends for culpable driving causing death in the higher courts of Victoria, 2001-02 to 2005-06
August 2007	30	Sentencing trends for making a threat to kill in the higher courts of Victoria, 2001-02 to 2005-06
Oct 2007	31	Sentencing trends for sexual penetration of a child aged between 10-16 in the higher courts of Victoria, 2001-02 to 2005-06
Oct 2007	32	Sentencing trends for sexual penetration of a child aged 10-16 under the care, supervision or authority of the offender in the higher courts of Victoria, 2001-02 to 2005-06
Oct 2007	33	Sentencing trends for sexual penetration of a child aged under 10 in the higher courts of Victoria, 2001-02 to 2005-06
Dec 2007	34	Sentencing trends for robbery in the higher courts of Victoria, 2002-03 to 2006-07
Dec 2007	35	Sentencing trends for armed robbery in the higher courts of Victoria, 2002-03 to 2006-07
Dec 2007	36	Sentencing trends for attempted armed robbery in the higher courts of Victoria, 2002-03 to 2006-07
Dec 2007	37	Sentencing trends for burglary in the higher courts of Victoria, 2002-03 to 2006-07
Dec 2007	38	Sentencing trends for aggravated burglary in the higher courts of Victoria, 2002-03 to 2006-07
Feb 2008	39	Sentencing trends for causing serious injury intentionally in the higher courts of Victoria, 2002-03 to 2006-07
Feb 2008	40	Sentencing trends for causing serious injury recklessly in the higher courts of Victoria, 2002-03 to 2006-07
Feb 2008	41	Sentencing trends for causing injury intentionally or recklessly in the higher courts of Victoria, 2002-03 to 2006-07
Feb 2008	42	Sentencing trends for affray in the higher courts of Victoria, 2002-03 to 2006-07
Feb 2008	43	Sentencing trends for incest in the higher courts of Victoria, 2002-03 to 2006-07

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DATE	ISSUE NO	TOPIC
March 2008	44	Sentencing trends for trafficking in a non-commercial quantity of drugs in the higher courts of Victoria, 2002-03 to 2006-07
March 2008	45	Sentencing trends for trafficking in a commercial quantity of drugs in the higher courts of Victoria, 2002-03 to 2006-07
March 2008	46	Sentencing trends for trafficking in a large commercial quantity of drugs in the higher courts of Victoria, 2002-03 to 2006-07
March 2008	47	Sentencing trends for cultivating narcotic plants in the higher courts of Victoria, 2002-03 to 2006-07
March 2008	48	Sentencing trends for cultivating a commercial quantity of narcotic plants in the higher courts of Victoria, 2002-03 to 2006-07
June 2008	49	Indecent Assault: Sentencing trends in the Magistrates' Court of Victoria 2004-05 to 2006-07
June 2008	50	Indecent Act With a Child Under 16: Sentencing trends in the Magistrates' Court of Victoria 2004-05 to 2006-07
June 2008	51	Knowingly Possess Child Pornography: Sentencing trends in the Magistrates' Court of Victoria 2004-05 to 2006-07

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## APPENDIX D – SAC Research Publications

The following is a list of Research publications produced by SAC from commencement to end of June 2008.

Date	Title	Source	Pages
March 2005	Suspended Sentences in Victoria: A Preliminary Information Paper	Attorney General – Provide advice on the current use of suspended sentences of imprisonment and on whether reported community concerns about their operation indicate a need for reform. If reforms are required, consider how the order could be improved	16
April 2005	Suspended Sentences: Discussion Paper		187
October 2005	Suspended Sentences: Interim Report		88
May 2006	Suspended Sentences: Final Report Part 1		124
November 2007	Suspended Sentences in Victoria Statistical Profile		24
April 2008	Suspended Sentences: Final Report Part 2		348
Sept 2005	Maximum Sentences for Repeat Drink Driving	This project arose from concerns expressed by Victorian magistrates and police about the statutory maximum penalty of three months' imprisonment currently available for repeat drink drivers. These groups, and others, have called for increases in the statutory maximum penalties for repeat drink driving offences.	48

Date	Title	Source	Pages
July 2006	Myths and Misconceptions: Public Opinion vs. Public Judgment about Sentencing	As part of its mandate to gauge public opinion, the Council initiated a year-long project to ascertain and analyse the current state of knowledge about public opinion on sentencing on both a national and international level.	62
August 2006	High Risk Offenders: Continued Detention and Supervision Options Community Issues Paper	Attorney General – Provide advice in the merit 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.	56
January 2007	Recidivism of Sex Offenders: Research Paper		52
January 2007	High Risk Offenders: Post Sentence Supervision and Detention Discussion and Options Paper		221
May 2007	High Risk Offenders: Post Sentence Supervision and Detention Final Report		278
December 2006	Review of Maximum Penalties for Preparatory Offences Report	Attorney General – Provide advice on the appropriate level of maximum penalty for the five existing Victorian preparatory offences, namely:  being armed with criminal intent;  loitering with intent to commit an indictable offence;  being disguised with unlawful intent;  possessing house-breaking implements;  going equipped to steal.	57

Date	Title	Source	Pages
February 2007	Sentence Indication and Specified Sentence Discounts: Discussion Paper	Attorney General – Provide advice on whether a sentence indication scheme should be adopted in Victoria and if so, the form of such a scheme, including the role of specified sentence discounts	108
Sept 2007	Sentence Indication and Specified Sentence Discounts: Final Report		151
June 2007	Victoria's Prison Population 2001-2006	This paper examines trends in factors associated with Victoria's rising prison population between 2001 and 2006. Its focus is on factors within the criminal justice system, drawing data from the police, courts and prison sectors.	16
July 2007	Maximum Penalty for Negligently Causing Serious Injury: Information Paper	Attorney General – 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.	12
October 2007	Maximum Penalty for Negligently Causing Serious Injury Report		62
Nov 2007	Homicide in Victoria: Offenders, Victims and Sentencing	In their Defences to Homicide: Final Report, the Victorian Law Reform Commission (VLRC) recommended the abolition of provocation as a partial defence to homicide and that SAC establish a statistical database to monitor sentencing trends in homicide cases.	94
Nov 2007	Community Sentences in Victoria: A Statistical Profile		16

Date	Title	Source	Pages
February 2008	Provocation in Sentencing	Follow up to VLRC Defences to Homicide, Final Report which recommended that 'in sentencing an offender for murder in circumstances where the accused might previously have been convicted of manslaughter on the grounds of provocation, judges should consider the full range of sentencing options' (Rec 50) and 'when an appropriate case arises, the Court of Appeal should consider indicating the principles which should apply in sentencing an offender who has been subjected to abuse by the deceased and how these should be taken into account' (rec 51)	124
Dec 2007	Driving While Disqualified or Suspended Information Paper	Council initiated Research – Arising out of Suspended Sentences Final Report Part 2	6
May 2008	Driving While Disqualified or Suspended Discussion Paper		56
June 2008	Breaching Intervention Orders	Attorney-General - Provide advice on the appropriate statutory maximum penalties for the offences of breaching family violence intervention orders, stalking intervention orders and family violence safety notices as well as sentencing practices for the offence of breaching an intervention order.  (Follow up to the VLRCs Review of Family Violence Laws, (2006)	54

## APPENDIX E – SAC Citations in the Court of Appeal

Case	Relevant SAC Document
<i>R v Campbell</i> [2005] VSCA 225 (per Eames JA) (22 September 2005)	Snapshot 6: Sentencing trends for culpable driving causing death in Victoria (1998/99 to 2003/04)
<i>R v Ioane</i> [2006] VSCA 84 (per Warren CJ, Charles and Chernov JJA) (20 April 2006)	Snapshot 6: Sentencing trends for culpable driving causing death in Victoria (1998/99 to 2003/04))
<i>TSL v Secretary to the Department of Justice</i> [2006] VSCA 199 (per Callaway AP) (26 September 2006)	High Risk Offenders: Continued Detention and Supervision Options Community Issues Paper (Aug 2006)
<i>DPP v Ross</i> [2006] VSCA 223 (per Warren CJ, Maxwell P & Buchanan JA) (10 October 2006)	Snapshot 12 Sentencing trends for causing serious injury intentionally in the higher courts of Victoria (2000/01 to 2004/05)
<i>DPP v Fevaleaki</i> [2006] VSCA 211 (per Redlich JA) (13 October 2006)	Snapshot 12: Sentencing trends for causing serious injury intentionally in the higher courts of Victoria (2000/01 to 2004/05)
<i>R v Kolicic</i> [2007] VSCA 87 (30 April 2007)	Snapshot No 19: Sentencing Trends for Obtaining Property by Deception in the Higher Courts of Victoria 2001-02 to 2005-06  Snapshot No 18: Sentencing Trends for Obtaining A Financial Advantage by Deception in the Higher Courts of Victoria 2001-02 to 2005-06
<i>R v Harvey</i> [2007] VSCA 127 (19 June 2007)	Snapshot No 12: "Sentencing Trends for Causing Serious Injury Intentionally in the Higher Courts of Victoria"
<i>R v Selcuk</i> [2007] VSCA 143 (29 June 2007)	Snapshot 12: Sentencing Trends for Causing Serious Injury Intentionally in the Higher Courts of Victoria
<i>R v Barca</i> [2007] VSCA 167 (21 August	Snapshot 30: Sentencing trends for making a

Case	Relevant SAC Document
2007)	threat to kill in the higher courts of Victoria 2001–2002 to 2005–2006
<i>R v Detenamo</i> [2007] VSCA 160 (23 August 2007)	Snapshot 5: Sentencing trends for manslaughter in Victoria (1998/99 to 2003/04)
<i>R v Lambourn</i> [2007] VSCA 187 (7 September 2007)	Snapshot 11: Sentencing trends for aggravated burglary in the higher courts of Victoria (2000/01 to 2004/05)
<i>R v Beruschi</i> [2007] VSCA 232 (11 October 2007)	Snapshot 9: Sentencing trends for armed robbery in the higher courts of Victoria, June 2006,
<i>R v Norris</i> [2007] VSCA 241 (1 November 2007)	Snapshot 28: Sentencing trends for manslaughter in the higher courts of Victoria, 2001-02 to 2005-06
<i>R v B F</i> [2007] VSCA 217 (2 November 2007)	Snapshot 26: Sentencing Trends for Rape in Victoria.  Snapshot 30: Sentencing Trends for making a threat to kill in the higher courts of Victoria 2001-02 to 2005-06.  Snapshot 14: Sentencing Trends for Causing Serious Injury Intentionally in the Higher Courts of Victoria
<i>R v Richardson</i> [2008] VSCA 7 (1 February 2008)	Snapshot 31: Sentencing trends for sexual penetration of a child aged between 10 and 16 in the higher courts of Victoria 2001-02 to 2005-06
<i>R v McRae</i> [2008] VSCA 74 (9 May 2008)	Snapshot No 12 – Sentencing trends for causing serious injury intentionally in the higher courts of Victoria
<i>DPP v Toumngoun</i> [2008] VSCA 91 (29 May 2008)	Snapshot No. 40 Sentencing Trends for causing serious injury recklessly in the higher courts of Victoria, 2002-03 to 2006-07

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Case	Relevant SAC Document
<i>R v R G G</i> [2008] VSCA 94 (6 June 2008)	Snapshot No 32: Sentencing trends for sexual penetration of a child aged between 10 and 16 under the care, supervision or authority of the offender in the higher courts of Victoria, 2001-02 to 2005-06
<i>R v C L P</i> [2008] VSCA 113 (19 June 2008)	Snapshot No. 43: Sentencing trends for incest in the higher courts of Victoria, 2002-03 to 2006-07

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## APPENDIX F – SAC mentions in the media

- 8 August 2004 – Victoria moves on sex offender sentencing concerns – ABC News
- 21 August 2004 – Council to rule on sex sentences – The Age
- 21 August 2004 – Do rapists get off too lightly? That depends – The Age
- 22 April 2005 – Interview with Prof Arie Freiberg – ABC Stateline
- 27 August 2004 – Policeman’s widow becomes voice for victims – The Age
- 11 April 2005 - Jail break: one in four criminals set free - Herald Sun
- 24 June 2005 – Drink driving review welcomed – ABC News
- 12 September 2005 – Judges handing down tougher sentences: council – ABC News
- 16 September 2005 – Government may reduce sentences for early guilty pleas – ABC News
- 20 March 2006 - MP urges Sentencing Advisory Council changes – ABC News
- 16 May 2006 – Government considers sex offender law changes – ABC News
- 24 May 2006 - Get tough on crims - Herald Sun
- 24 May 2006 – Vic to end suspended sentences for serious crimes – ABC News
- 25 May 2006 - Jail or no jail – laws force choice – Herald Sun
- 22 August 2006 – New laws to restrict suspended sentences – ABC News
- 19 September 2006 - Where is the justice? - Herald Sun
- 28 September 2006 - Pedophiles go free - Herald Sun
- 30 November 2006 – Look at these children and ask about justice - Herald Sun

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- 14 December 2006 - Sex law review- Herald Sun
  - 29 January 2007 - Sex fiend stays in jail - Herald Sun
  - 29 January 2007 - Sex crime roulette - Herald Sun
  - 29 January 2007 – Vic opposition backs proposal to detain offenders longer – ABC News
  - 1 February 2007 - Convicted but not a day inside - Herald Sun
  - 2 March 2007 - A killer plays his final hand – Herald Sun
  - 23 April 2007 – Law lag win for crims - Herald Sun
  - 1 June 2007 – Rapist neighbour killed sisters – National 9 News
  - 1 June 2007 – Irwin parents slam inquest - Herald Sun
  - 1 June 2007 – Families attack driver sentences - Herald Sun
  - 26 June 2007 – Judge calls for increase for negligent injury offences – ABC News
  - 2 July 2007 – Locked Away: Sex Monsters will stay in gaol – Herald Sun
  - 2 July 2007 – Indefinite detention for Vic Sex attackers – ABC News
  - 2 July 2007 – Rights campaigner concerned with post-sentences for sex offenders – ABC News
  - 4 July 2007 - Outrage at jail scheme - Herald Sun
  - 6 July 2007 – Hulls in clash on charter of rights – The Australian
  - 7 July 2007 – Village of the Damned - Herald Sun
  - 19 July 2007 – Government mulls changes to negligent injury laws – ABC News
  - 10 August 2007 – Lawyer moves on Dupas reward - Herald Sun
  - 17 August 2007 – Child killers face new laws – ABC news
  - 18 August 2007 – Mixed response as Brumby pledges child homicide law – The Age
  - 19 September 2007 – Discount for guilty pleas to be set out – The Age
  - 19 September 2007 – Government shows support for sentencing reforms – ABC News

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- 19 September 2007 – Calls for court reforms to cut case backlogs – ABC News
  - 20 September 2007 – Discounts for guilty pleas must not override justice done – the Age
  - 6 October 2007 – What ignites a yearning to burn – Sydney Morning Herald
  - 26 October 2007 - Jail terms doubled for serious injury - Herald Sun
  - 26 October 2007 - Dangerous drivers face tougher rap – The Age
  - 26 October 2007 – Negligent drivers’ penalty to double in Victoria – ABC News
  - 29 October 2007 – Driver negligence off the road – The Age
  - 17 December 2007 – Disqualified drivers back behind the wheel - Herald Sun
  - 17 December 2007 – Jail detour: Banned drivers dodge the law – Herald Sun
  - 17 December 2007 – Driving Defiance - Herald Sun
  - 26 December 2007 - Young men top disqualified driving offenders – Herald Sun
  - 26 December 2007 – Spotlight on disqualified drivers: Young men top offenders – Herald Sun
  - 4 January 2008 – Wife killers get less jail despite family violence campaign – Herald Sun
  - 20 January 2008 – Child rapists set free – The Age
  - 22 January 2008 - Supreme Court to handle Victoria's worst sex trials – Brisbane Times (Fairfax Digital)
  - 22 January 2008 – Supreme Court steps in on sex cases - Herald Sun
  - 7 February 2008 – New approach to provocation in sentencing urged – The Age
  - 7 February 2008 – Bad news for wife killers – Herald Sun
  - 20 February 2008 – End soft sentences, says prosecutor - Herald Sun

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- 17 April 2008 – Suspended Sentences stay to ease crowded prisons (Herald Sun)
  - 17 April 2008 - Backflip on jail terms - Herald Sun
  - 17 April 2008 – Government urged not to abolish suspended sentences yet – ABC News
  - 18 April 2008 – Home prison urged – Herald Sun
  - 21 May 2008 – Child sex murderer goes free, but he cant be named - Herald Sun
  - May 2008 - Arie Freiberg speaks to Neil Mitchell about why Hinch's Name and Shame – 3AW
  - 22 May 2008 – The burning question: sex offenders - Herald Sun
  - 6 June 2008 - Disqualified driver clamp - Herald Sun
  - 6 June 2008 – Evidence on pedophiles does not support community concerns – The Age
  - 25 June 2008 – Financial abuse against spouses wont be tolerated – ABC news
  - 1 July 2008 – Sex case data released – The Age
  - 2 July 2008 – Courts to get live sentencing statistics on line – Herald Sun
  - 19 July 2008 – Licence to explain – Herald Sun
  - 21 July 2008 – A road block – Herald Sun