

# CHAPTER 11

## LAW AND ORDER

### THE LAW IN AUSTRALIA

#### **Nature and composition**

The laws of a country represent the common body of rules, whether proceeding from legislation, executive action, court judgments or custom, that a state or community recognises as binding on its citizens or members, and which are enforceable by judicial means. In Australia, the law consists basically of:

- Acts passed by the Federal Parliament acting within the scope of its powers under the Australian Constitution, together with regulations, rules and orders made under such Acts;
- Acts and Ordinances passed in respect of the Australian Capital Territory and the Northern Territory of Australia, together with regulations, rules and orders made under such Acts and Ordinances;
- Acts passed by State Parliaments and the Legislative Assembly of the Northern Territory, together with regulations, rules and orders made under such Acts;
- so much of the common or statute law of England that still applies to Australia and remains unrepealed; and
- the common law, consisting of judicial decisions.

These various laws relate to a number of subject-matters, including constitutional law, criminal law, civil law, family law and industrial law.

#### **Federal and State responsibilities**

Under the Australian Constitution, the Commonwealth of Australia is empowered to make laws in relation to certain matters specified in the Constitution, e.g. in relation to trade and commerce, taxation, defence and external affairs. In relation to some of these matters, the powers of the Commonwealth are concurrent with those of the Australian States and Territories in that they may be exercised by either the Commonwealth, the States or the Territories. In relation to some other specified topics the Commonwealth's power is absolute, and in all areas of Federal jurisdiction, Commonwealth laws are binding on the Australian States and Territories.

The Australian States and Territories have independent jurisdiction in all matters not otherwise specifically invested in the Commonwealth of Australia and it is the statute law and the common law of the States and Territories that primarily govern the day-to-day lives of most Australians. With certain exceptions, such as traffic laws, State and Territorial law applies normally only to persons who are residents of the State or Territory concerned and to things located or events occurring within such State or Territory.

The Common law is uniform throughout Australia although statute law often varies between the States and Territories. However, some of the problems arising from these differences have become recognised over recent years and attempts are now being made, wherever possible, towards the enactment of uniform laws in areas of State and Territory jurisdiction.

#### **Administration**

Administration of the law in Australia is undertaken by the responsible government concerned, principally through Federal, State and Territorial Police Forces, the National Crime Authority, and State and Territorial corrective or penal services. There is no independent Federal corrective service, and the relevant State or Territorial agencies provide corrective services for Federal offenders.

The various law enforcement agencies involved in the administration of law operate in such a way that the activities of one agency may affect the activities of another, e.g. a criminal offence reported to the police may lead to the arrest, charge and court appearance

of the offender, and subsequent provision of corrective (e.g. imprisonment, probation) or welfare services. The agencies involved, and the relationship between them, may vary according to the laws, agencies and types of matters or offenders involved.

### **Law reform**

Reform of the law is undertaken principally through State and Commonwealth Parliaments and Attorneys-General in some instances acting on recommendations provided by State and the Australian Law Reform Commissions, and by State Supreme and Federal Courts.

Law Reform Commissions have been established as statutory authorities in all States (except South Australia) to undertake review of State laws, and report findings and recommendations for reform of those laws, to State Parliaments and Attorneys-General. (In South Australia, a Law Reform Committee was established by proclamation to perform similar functions in that State.) In addition, in Victoria there is a Chief Justice's Law Reform Committee and a Victorian Legal and Constitutional Committee established under the *Parliamentary Committees (Joint Investigatory Committees) Act 1982*. These agencies have functions to recommend reform of the law. Acceptance of recommendations depends upon governmental and parliamentary reaction to the proposals.

### **The Australian Law Reform Commission**

The Australian Law Reform Commission (ALRC), which commenced operations in 1975 under the *Law Reform Commission Act 1973*, was established to report on the review, simplification and modernisation of those laws concerning matters consigned by the Australian Constitution to the jurisdiction of the Commonwealth Parliament, and to consider proposals for the uniformity of laws of the States and Territories. The Commission is required to make reports to the Attorney-General arising out of such review or consideration, and to make such recommendations as it thinks fit.

The ALRC has assumed the functions formerly undertaken by the A.C.T. Law Reform Commission, and has the responsibility for review of Territorial law operating in the Australian Capital Territory. To assist in this a branch office has been set up in Canberra.

In undertaking its function the normal procedure of the Commission is as follows. Upon receipt of a reference, the Commission advertises and calls for public submissions in relation to the reference, and prepares consultative papers examining the issues for distribution among groups thought to have a special interest in the subject matter. Public sittings are conducted, and in the light of submissions received, a final report containing draft legislation is prepared for submission to the Attorney-General. The Commission, which consisted of five full-time, and seven part-time members at 30 June 1984, makes extensive use of honorary consultants.

To 30 June 1984, the Commission has completed reports on the following references: complaints against police and criminal investigation; alcohol, drugs and driving; consumers in debt; defamation; sentencing of federal offenders; human tissue transplants; lands acquisition and compensation; insurance intermediaries; child welfare; insurance contracts; privacy and foreign state immunity. Legislation following the recommendations contained in these reports has been enacted in some cases. In other cases, the proposals made by the Commission are under consideration by Parliament or the appropriate Commonwealth Department. Current references include debt recovery laws, access to court (standing to sue and class actions), Aboriginal customary laws, evidence, service and execution of process, Admiralty jurisdiction, contempt of court, general insolvency, matrimonial property, domestic violence, and community law reform in the A.C.T.

## **COURTS: STRUCTURE AND FUNCTIONS**

### **Federal Courts**

The judicial power of the Commonwealth of Australia is vested in the High Court of Australia, in the Federal courts created by the Federal Parliament and in the State courts invested by Parliament with Federal jurisdiction. The nature and extent of the judicial power of the Commonwealth is prescribed by Chapter III of the Australian Constitution. For details of the Commonwealth of Australia Constitution Act *see* chapter 1.

### **High Court of Australia**

The Australian Constitution vests the judicial power of the Commonwealth in the High Court, in such other Federal courts as the Parliament creates, and in such other courts as it invests with Federal jurisdiction. The High Court consists of a Chief Justice and six other

Justices. Sittings of the Court are now held mainly at its seat in Canberra. The High Court has both original and appellate jurisdiction.

The Constitution gives original jurisdiction to the High Court in all matters:

- (i) arising under a treaty;
- (ii) affecting consuls or other representatives of other countries;
- (iii) in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party;
- (iv) between States, or between residents of different States, or between a State and a resident of another State; and
- (v) in which a writ of mandamus or prohibition, or an injunction, is sought against an officer of the Commonwealth.

The High Court may remit to the Federal Court of Australia matters within (iii) on previous page.

The Constitution allows the Parliament to give the High Court additional original jurisdiction within limits. The Parliament has given the Court such jurisdiction in all matters arising under the Constitution or involving its interpretation and in trials of indictable offences against the laws of the Commonwealth. The Court is also a Court of Disputed Returns.

State Courts are excluded from exercising jurisdiction in relation to some matters over which the High Court has jurisdiction. These matters are:

- (i) matters arising directly under any treaty;
- (ii) suits between States, or between persons suing or being sued on behalf of different States, or between a State and a person suing or being sued on behalf of another State;
- (iii) suits by the Commonwealth, or any person suing on behalf of the Commonwealth, against a State, or any person being sued on behalf of a State;
- (iv) suits by a State, or any person suing on behalf of a State, against the Commonwealth or any person being sued on behalf of the Commonwealth; and
- (v) matters in which a writ of mandamus or prohibition is sought against an officer of the Commonwealth or a Federal court.

The High Court may, however, remit to a Federal Court of Australia, or to a State or Territory court, a matter commenced in the High Court by virtue of its executive jurisdiction shown under (i) to (iv) above. Matters referred to in (v) above, may, subject to certain exceptions, be remitted from the High Court to the Federal Court of Australia, but not to a State or Territory court.

Any matter before a State or Territory or Federal court which arises under the Constitution or involves its interpretation may be removed into the High Court.

The Constitution also gives the High Court appellate jurisdiction. Subject to such exceptions and regulations as are prescribed by the Parliament, the High Court can hear appeals from any decision of:

- (i) any Justice or Justices exercising the original jurisdiction of the High Court;
- (ii) any other Federal court, or court exercising Federal jurisdiction; and
- (iii) the Supreme Court of any State, or of any other State Court from which an appeal lay to the Privy Council at the time the Commonwealth was established.

The High Court has to give special leave before an appeal can be brought to it from the Supreme Court of a State, any other Court of a State exercising Federal jurisdiction or the Federal Court of Australia.

### Appeals to the Privy Council

The jurisdiction which the Privy Council formerly had to hear appeals from decisions of the High Court has, for all practical purposes, disappeared (see *Privy Council (Limitation of Appeals) Act 1968* and *Privy Council (Appeals from the High Court) Act 1975*).

### Federal Court of Australia

The Federal Court of Australia was created by the *Federal Court of Australia Act 1976* and began to exercise its jurisdiction on 1 February 1977.

The Court consists of the Industrial Division and the General Division. Matters under the *Conciliation and Arbitration Act 1904* are dealt with in the Industrial Division. All other matters are dealt with in the General Division. The Court sits as required in each State and in the Australian Capital Territory and the Northern Territory.

The Court has such original jurisdiction as is invested in it by laws made by the Parliament. Except in cases where a hearing had actually started before 1 February 1977, the jurisdiction formerly exercised by the Federal Court of Bankruptcy and the Australian Industrial Court has been transferred to it. Important jurisdiction in the Court includes matters under the *Administrative Decisions (Judicial Review) Act 1977* and certain matters under the *Trade Practices Act 1974*.

The Federal Court of Australia has been conferred with original jurisdiction, concurrent with that of the High Court with respect to matters in which a writ of mandamus or prohibition is sought against an officer of the Commonwealth.

The Federal Court of Australia has appellate jurisdiction over decisions of single judges of the Court, decisions of the Supreme Courts of the Territories and certain decisions of State Supreme Courts exercising Federal jurisdiction (for example, under the *Income Tax Assessment Act 1936* and the *Patents Act 1952*).

#### **Australian Industrial Court and the Federal Court of Bankruptcy**

Matters in which a hearing had begun in the Australian Industrial Court or the Federal Court of Bankruptcy before 1 February 1977 continue to be heard in these Courts. Otherwise, the jurisdiction formerly exercised by these Courts is now vested in the Federal Court of Australia.

#### **Family Law**

The *Family Law Act 1975* commenced operation on 5 January 1976. It introduced a new law dealing with the dissolution and nullity of marriage, custody and welfare of the children, maintenance and the settlement of property between the parties to a marriage. The Act also created the Family Court of Australia as a specialist court dealing only with matrimonial and associated proceedings.

The main change made by the Act is that fault is no longer taken into account as a ground for divorce. The Act provides that there is only one ground for divorce—that of irretrievable breakdown of a marriage which is established if the husband and wife have separated and have lived apart from each other for 12 months and there is no reasonable likelihood of reconciliation.

Proceedings under the Family Law Act are dealt with by the Family Court of Australia and by certain other courts in the States and Territories. Except in certain areas of Western Australia, Magistrates' Courts and Courts of Petty Sessions have jurisdiction in all proceedings under the Act except for:

- proceedings for dissolution or nullity of marriage; and
- defended proceedings for custody or concerning property worth more than \$1,000, unless the parties agree to the matter being heard by a Magistrates' Court or the Court of Petty Sessions.

A State Family Court has been established in Western Australia to deal with family law matters in that State.

Under the Act, great emphasis is placed on the counselling services available through the Family Courts to persons involved in proceedings and to any persons who have encountered marriage problems. It is not necessary to start proceedings to make use of these services.

A Court exercising jurisdiction under the Family Law Act is required to have regard to the following principles:

- the need to preserve and protect the institution of marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life;
- the need to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible for the care and education of dependent children;
- the need to protect the rights of children and to promote their welfare; and
- the means available for assisting parties to a marriage to consider reconciliation or the improvement of their relationship to each other and to the children of the marriage.

In relation to the guardianship and custody of children, the Family Law Act provides that both parties to a marriage have, subject to a court order to the contrary, the joint guardianship and custody of any children of the marriage. However, one parent can ask the Court for sole custody of a child even if no divorce has been sought.

In disputes over custody, a child may be separately represented. The paramount consideration for the court in the determination of all such disputes is the welfare of the child. However, where a child has reached 14 years of age the Court may not make an order

contrary to his or her wishes unless there are special circumstances. In relation to the welfare of children a divorce decree usually will not become effective unless the Court is satisfied that proper arrangements have been made by the parties for the welfare of their children.

Under the Family Law Act, the right of one party to a marriage to maintenance from the other is based on the needs of the party seeking it and the ability of the other party to pay. An application for maintenance may be made by either husband or wife, and irrespective of whether the parties intend to divorce.

There are specific matters for the Court to consider when it is dealing with maintenance applications. These include:

- the age and state of health of the parties;
- the income, property and financial resources of each of the parties and their financial obligations;
- whether either party is entitled to a pension or superannuation;
- the length of the marriage and what is an appropriate standard of living for each party;
- whether either party has to care for children;
- the extent to which the marriage has affected the earning capacity of the applicant; and
- the possibility of the applicant taking on a training course or further educational course to improve his or her employment prospects.

The Act also provides for the registration and court approval of maintenance agreements made by the parties.

Both parties are liable to maintain their children according to their respective means and the Court is guided by similar considerations in deciding what order to make.

The Court has power to settle disputes about the family assets, including the power to order a transfer of legal interests in property. When dealing with these disputes, the Court considers the interest each party has in the property, the contributions made by each party during the marriage, and the matters the Court is required to consider in dealing with maintenance applications. The Act directs the Court to look both at the financial contributions made by the parties and at the contribution made by either party in the capacity of homemaker or parent.

### **Family Court of Australia**

The Judges of the Family Court are chosen because of their suitability to deal with matters of family law by reason of their training, experience and personality. They do not wear wigs and gowns. Staff attached to the Court include trained counsellors and legally qualified Registrars and Deputy Registrars.

Proceedings under the Act in the Family Court are heard in private. No publicity about any proceedings under the Act is permitted, unless otherwise directed by the Court. The publication of law court lists and law reports, or other publications of a technical character directed to the legal or medical professions, is exempted from this prohibition.

The Family Court aims to be a "helping" court. A Principal Director of Court Counselling and a staff of court counsellors are attached to the Court to help parties to a marriage settle their problems. This help is available to parties who are not even contemplating divorce or other proceedings, but who may need counselling assistance. These services complement those already provided by voluntary marriage counselling agencies. People may approach the Court counselling service directly—in person, in writing, by telephone or through a legal practitioner.

The Court has pamphlets printed in Arabic, Turkish, Italian, Greek, Serbo-Croat, Mandarin Chinese, Malaysian and Spanish to explain the operation of the Australian family law.

## **State and Territory Courts**

Australian State and Territory courts have original jurisdiction in all matters brought under State or Territory statute laws, and in matters arising under Federal laws, where such matters have not been specifically reserved to courts of Federal jurisdiction. Most criminal matters, whether arising under Federal, State or Territory law, are dealt with by State and Territory courts.

Each State and Territory court system is organised and operates independently. However, within each system, which comprises both courts of general jurisdiction and specialist courts and tribunals, the courts are organised hierarchically according to the nature of the matters with which they may deal.

### **Appeals**

County and District Courts and State and Territory Supreme Courts have jurisdiction to hear appeals against the decisions of lower courts and some specialist tribunals.

The procedures concerning the right of appeal are laid down by statute in each State and Territory, and appeals may be lodged against matters such as the correctness of the verdict or the severity of the sentence imposed. However, appeals against Supreme Court decisions are heard in most States by a Full Bench of the Supreme Court which usually comprises three judges of the Supreme Court. Appeals from State Supreme Court decisions may be taken to the Federal Court of Australia or the High Court of Australia or the Privy Council depending on the nature of the matter involved. Appeals from decisions of Territory Supreme Courts are taken to the Federal Court of Australia or to the High Court if special leave is given by the High Court.

### **Special Courts and Tribunals**

Each Australian State and Territory administers particular areas of the law through specialist courts or tribunals, such as Small Claims Courts, Licensing Courts, etc. These courts or tribunals deal primarily with civil matters or matters of an administrative nature.

### **Courts of Marine Inquiry**

Matters which come within the jurisdiction of Courts of Marine Inquiry are contained in the *Navigation Act 1912*. The principal areas of jurisdiction are to make inquiries into casualties, all missing ships, or entailing loss of life on or from ships and to charges of incompetency or misconduct.

When the Department of Transport is advised of an incident which may warrant the convening of a Court of Marine Inquiry, the Minister will appoint an officer to conduct a Preliminary Investigation. The officer will conduct interviews with the parties involved and based on the results of these interviews advise the Minister as to whether or not the circumstances warrant a request by the Minister for a Court of Marine Inquiry to be convened. The Governor-General by proclamation establishes the Court of Marine Inquiry. Findings of the Court are forwarded to the Minister as well as any observations the Court thinks fit to make.

### **Statistics**

Information relating to the operation of courts in particular Australian States may be obtained from the respective State Year Books.

## **Administrative Bodies**

### **Administrative Appeals Tribunal**

The Administrative Appeals Tribunal was established by the *Administrative Appeals Tribunal Act 1975* and came into operation on 1 July 1976. Its President is a Judge of the Federal Court of Australia. It is an independent tribunal whose function is to review decisions made by Commonwealth Ministers, authorities and officials under certain laws of the Commonwealth. The Tribunal is able to substitute its own decision in those areas in which it has jurisdiction. The Tribunal has jurisdiction under more than 200 enactments including decisions under the *Social Services Act 1947*, *Compensation (Commonwealth Government Employees) Act 1971*, *Migration Act 1958*, *Customs Act 1901*, *Export Market Development Act 1974*, the Air Navigation Regulations, the *Freedom of Information Act 1982* and the *Repatriation Act 1920*. Further additions to the Tribunal's jurisdiction are made from time to time.

The Principal Registry is in Canberra and there are Tribunal Registries in each capital city.

The Administrative Review Council was also established by the *Administrative Appeals Tribunal Act 1975*. The principal functions of the Administrative Review Council are to make recommendations to the Attorney-General on rights of review of administrative decisions and on the procedures of administrative tribunals.

### **Administrative Decisions (Judicial Review) Act 1977**

The *Administrative Decisions (Judicial Review) Act 1977*, which came into operation on 1 October 1980, provides for judicial review in the Federal Court of Australia of administrative action taken under Commonwealth legislation. The Court is empowered where an order

of review is sought by an aggrieved person to review the lawfulness of a decision, conduct leading up to the making of a decision or circumstances where there has been failure to make a decision. The grounds on which review may be sought and the powers of the Court are set out in the Act. In many cases, a person who is entitled to seek judicial review in respect of an administrative decision may seek a statement of reasons for the decision from the decision-maker.

### **Commonwealth Ombudsman**

The office of the Commonwealth Ombudsman was established by the *Ombudsman Act 1976* and commenced operation in June 1977. Additional responsibilities have been given to the office through the *Complaints (Australian Federal Police) Act 1981*, the *Freedom of Information Amendment Act 1983* and the *Ombudsman Amendment Act 1983*. The Ombudsman is empowered to investigate complaints about the administrative actions of Commonwealth Government departments and prescribed authorities, and complaints about the conduct of members of the Australian Federal Police, and its practices and procedures. Under the *Ombudsman Amendment Act 1983* the Ombudsman is empowered to investigate complaints from members or former members of the Australian Defence Forces relating to service in the Defence Forces or as a consequence of a person serving or having served in the Defence Forces.

The Ombudsman is also empowered to investigate complaints about the actions of agencies in dealing with requests made under the *Freedom of Information Act 1982* and may represent a complainant before the Administrative Appeals Tribunal to seek review of a refusal to give access.

Where the Ombudsman is of the opinion, after completing an investigation into a complaint, that remedial action is required he reports to the department or authority concerned and may include any recommendations he thinks fit to make. If the department or authority fails to comply with a recommendation contained in his report, the Commonwealth Ombudsman may report to the Prime Minister and to the Federal Parliament. The Central Office of the Commonwealth Ombudsman is located in Canberra and there are regional offices in Sydney, Melbourne, Brisbane, Perth and Adelaide. In Tasmania, the Commonwealth Ombudsman is represented by the Tasmanian Ombudsman and in the Northern Territory, he is represented by the Northern Territory Ombudsman.

### **The Human Rights Commission**

The Human Rights Commission was set up by the Commonwealth Government in December 1981 to *promote* and *protect* human rights in Australia. The human rights with which it is concerned are those set out in six United Nations instruments:

- The International Covenant on Civil and Political Rights;
- The Declaration of the Rights of the Child;
- The Declaration on the Rights of Mentally Retarded Persons;
- The Declaration on the Rights of Disabled Persons;
- The International Convention on the Elimination of All Forms of Racial Discrimination; and
- The Convention on the Elimination of All Forms of Discrimination Against Women.

The Commission works under three Acts—the *Human Rights Commission Act 1981*, the *Racial Discrimination Act 1975*, and the *Sex Discrimination Act 1984*.

Under the Human Rights Commission Act the functions of the Commission are fourfold:

- (i) to review legislation for its consistency with human rights;
- (ii) to inquire into and, where practicable, effect a settlement of issues, including complaints, that have come to its notice;
- (iii) to promote understanding, acceptance and public discussion of human rights; and
- (iv) to undertake and co-ordinate research and educational programs affecting human rights.

Where the Commission considers a change in Commonwealth law or practice is required, it is to report this to the Attorney-General, and its reports must be made public by tabling in the Parliament.

Under the Racial Discrimination Act, the Commission is charged with functions in relation to racial discrimination similar to those numbered (ii) to (iv) above in relation to human rights generally.

Under the Sex Discrimination Act, the Commission is charged with functions in relation to sex discrimination similar to those numbered (i) to (iv) above.

Investigation and resolution of complaints made under the Racial Discrimination Act is carried out by the Commissioner for Community Relations on behalf of the Commission.

Complaints made under the Sex Discrimination Act are investigated by the Sex Discrimination Commissioner who endeavours, by conciliation, to reach a settlement of the matter. Complaints which cannot be settled by conciliation can be referred to the Human Rights Commission.

The Racial Discrimination Act applies regardless of whether the discrimination falls within Commonwealth, State or Northern Territory jurisdiction. The human rights function is related to Commonwealth laws and practices under those laws, although the Human Rights Commission Act provides for co-operation with State agencies in the promotion of human rights. The Sex Discrimination Act applies throughout Australia, however, it may not apply to every act of discrimination because of some limitations on Commonwealth powers. In States that have anti-discrimination legislation, people making complaints have a choice of bringing their complaints under either the State Act or the Commonwealth Act; but a complaint cannot be made under both Acts.

### **Freedom of Information Act 1982**

The *Freedom of Information Act 1982* which came into operation on 1 December 1982 has two objectives:

- to make available to the public information about the rules, practices and operations of Commonwealth Government departments and authorities; and
- to create a general right of access to documents in the possession of Ministers and agencies.

In order to achieve these objectives the Act defines the rights of members of the public to obtain access to documents, and sets out a range of obligations and restrictions on departments and the public for exercising these rights.

The right of access does not extend to all documents. Exempt are:

- certain documents to which the *Archives Act 1982* applies;
- documents affecting national security, defence, international relations and relations with States;
- Cabinet and Executive Council documents;
- internal working documents (subject to certain limitations on what may be exempt);
- documents affecting enforcement of the law and protection of public safety;
- other documents exempt by reason of secrecy provisions of other enactments, financial or property interests of the Commonwealth, personal privacy, legal professional privilege, etc.;
- documents made available for purchase or open access upon payment of a fee; and
- documents created before 1 December 1982.

However, there are two exemptions to this last restriction on access:

- a person has a right of access to documents created before 1 December 1982, necessary to the understanding of a document already legally in that person's possession; and
- individuals have the right of access to documents which predate the commencement of the Act by up to five years, providing that the documents relate to the individual.

The public is not required to provide reasons for requesting access to documents. However, all requests under the Act should be in writing and provide such information concerning the document as is reasonably necessary to enable a responsible officer to identify the document. Where a person wishes to make a request or has made a request that does not comply with the provisions of the Act relating to requests for access it is the duty of the agency to take reasonable steps to assist the person to make the request in a manner that complies with the Act.

Provisions exist whereby a person may apply to have an amendment made to information relating to that person's own personal affairs

### **Royal Commissions—Commonwealth**

Australian Governments have from time to time established Royal Commissions to inquire into, and report on, matters of public concern.

A Royal Commission is established by the Governor-General, on the advice of the Government, issuing a commission to a person or persons to inquire into and report on



specified matters. At the end of its inquiry, a Royal Commission presents its report to the Governor-General for consideration by the Government.

The power to issue Letters Patent to inquire is a prerogative of the Crown. The *Royal Commissions Act 1902* confers powers on a Royal Commission to compel the attendance of persons, the giving of evidence, and the production of papers. It also creates a number of offences (e.g. failure to attend a Royal Commission when summoned, or to produce papers) and gives some protection to Commissioners and witnesses against legal liability. The constitutional foundation of the Royal Commissions Act is section 51 (xxxix) of the Constitution, which provides that the Commonwealth Parliament may make laws with respect to 'matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or office of the Commonwealth.

#### LETTERS PATENT ISSUED FROM 1.7.80 TO 30.6.85

<i>Name of Royal Commission</i>	<i>Commissioner(s)</i>	<i>Date of issue of Letters Patent</i>
Royal Commission on the Activities of the Federated Ship Painters and Dockers Union (joint Commonwealth/Victoria Royal Commission)	Mr F. X. Costigan, Q.C.	10 September 1980
(a) Royal Commission of Inquiry into Drug Trafficking (joint Commonwealth/New South Wales/Victoria/Queensland Royal Commission)	The Hon. Mr Justice D. G. Stewart	(a) 25 June 1981
(b) Royal Commission of Inquiry into the Activities of the Nugan Hand Group (joint Commonwealth/New South Wales Royal Commission)		(b) 28 March 1983
(c) Royal Commission of Inquiry into Alleged Telephone Interceptions		(c) 29 March 1985
Royal Commission into the Activities of the Australian Building Construction Employees' and Builders Labourers' Federation (joint Commonwealth/Victoria Royal Commission)	Mr J. S. Winneke, Q.C.	20 August 1981
Royal Commission into Australian Meat Industry (joint Commonwealth/Victoria Royal Commission)	The Hon. Mr Justice A. E. Woodward, O.B.E.	12 September 1981
Royal Commission on the Use and Effects of Chemical Agents on Australian Personnel in Vietnam	The Hon. Mr Justice P. G. Evatt, D.S.C.	13 May 1983
Royal Commission on Australia's Security and Intelligence Agencies	The Hon. Mr Justice R. M. Hope, C.M.G.	17 May 1983
Commission of Inquiry into Compensation Arising from Social Security Conspiracy Prosecutions	The Hon. Dame Roma Mitchell, D.B.E.	9 February 1984
Royal Commission into British Nuclear Tests in Australia Between 1952 and 1963	The Hon. J. R. McClelland Mrs J. Fitch Dr W. J. A. Jonas	27 June 1985

#### FINAL ROYAL COMMISSION REPORTS PRESENTED FROM 1.7.80 TO 30.6.85

<i>Name of Royal Commission</i>	<i>Date of presentation</i>	<i>Tabled in the Parliament</i>
Commission of Inquiry into the Efficiency and Administration of Hospitals	29 December 1980	25 February 1981
Royal Commission into the Activities of the Australian Building Construction Employees' and Builders Labourers' Federation	27 May 1982	20 October 1982
Royal Commission into Australian Meat Industry	17 September 1982	21 September 1982
Royal Commission of Inquiry into Drug Trafficking (Clark Reference)	28 February 1983	31 May 1983
Royal Commission on the Activities of the Federated Ship Painters and Dockers' Union	26 October 1984	22 February 1985
Royal Commission on Australia's Security and Intelligence Agencies	20 December 1984	22 May 1985

#### Consumer Affairs

The Commonwealth involvement in consumer affairs derives substantially from the *Trade Practices Act 1974*. The Attorney-General has responsibility for Part V (Consumer Protection) of the Act which deals with unfair practices, provides private law rights against sellers, manufacturers and importers, and provides for product safety and information standards.

The function of the Consumer Affairs Division of the Attorney-General's Department is to advise the Minister on matters such as the operation of Part V of the Act, the banning of unsafe goods under the Act, the development of product safety and information standards under the Act, the development of voluntary product recall codes, uniform legislation proposals, the development of consumer education programs, the operation of a national consumer complaints statistics system, and on other developments in the economy affecting consumers. The National Consumers Affairs Advisory Council provides independent advice to the Minister on consumer affairs issues. The members of this Council have backgrounds in consumer affairs, industries, trade unions and government.

The Trade Practices Act, including its consumer protection provisions, is administered by a statutory authority, the Trade Practices Commission. It receives complaints from consumers but is primarily concerned with issues of national significance. The activities of the Trade Practices Commission are distinct from those of State and Territory consumer affairs agencies which administer their own legislation and provide the principal consumer complaint handling mechanisms.

Co-ordination of consumer affairs activities is undertaken by the Standing Committee of Consumer Affairs Ministers and through meetings of Officers of Consumer Affairs. There is also a Commonwealth/State Consumer Products Advisory Committee to provide a co-ordinated approach to product safety and information matters.

In addition to this, the Australian Federation of Consumer Organisations (AFCO) receives an annual grant under the Commonwealth's Grant-in-Aid Scheme. AFCO comprises a membership of 60 consumer and community groups and was set up with Commonwealth sponsorships to represent the consumer view to all levels of government and to industry.

### Legal Aid

The purpose of providing legal aid is to ensure that no person involved in a legal dispute or action should be without legal assistance by reason of not being able to pay for it, and is based on the notion of justice and equity before the law.

Legal aid in Australia is delivered through a variety of schemes operated at Federal, State and local levels. The principal schemes are those of the Australian Legal Aid Office, the legal aid commissions (which operate in five States and the Australian Capital Territory) and the Aboriginal legal services. In addition there are numerous community based legal aid agencies and certain law society schemes.

Historically, legal aid schemes in Australia were initiated by State governments with Public Solicitor or Public Defender schemes in Queensland, Victoria and New South Wales. The Law Society in South Australia began a legal assistance scheme in 1933, and law society schemes followed in other States. In 1973 the Australian Legal Aid Office was established to provide legal assistance in the Federal area.

It is now the policy of the Commonwealth Government that legal aid other than that given by Aboriginal legal services and voluntary and community agencies be provided in each State and Territory through a single independent statutory commission, established by State or Territory legislation. Under this policy, legal aid is provided by both salaried and private lawyers and funded by the Commonwealth in Federal matters. The States continue to fund legal assistance provided in relation to State matters. Pursuant to agreements entered into between the Commonwealth and the States, independent statutory commissions providing legal advice and assistance in both Commonwealth and State matters have been established in Queensland, South Australia, Victoria, Western Australia and the Australian Capital Territory. A statutory commission has also been established in New South Wales, but its functions do not extend to Commonwealth matters. Legal aid commissions have not yet been established in Tasmania and the Northern Territory, and in these places, as well as New South Wales, the Australian Legal Aid Office continues to provide legal advice and assistance in Commonwealth matters.

Aboriginal legal services operate in all States and Territories and are funded by the Department of Aboriginal Affairs. Community law centres which also operate in most States are funded by Commonwealth, State and in some instances local government.

The Commonwealth Attorney-General administers a growing area of legal assistance in special federal areas outside the scheme of independent statutory commissions. This assistance is provided under various Commonwealth Acts (such as the *Conciliation and Arbitration Act 1904*, *Administrative Appeals Tribunal Act 1975* and the *Trade Practices Act 1974*)

and administrative schemes (e.g. aid for Public Interest and Test Cases and for cases involving the recovery of children removed overseas).

The Commonwealth Legal Aid Council, established pursuant to the *Commonwealth Legal Aid Act 1977* has the broad function of advising the Commonwealth Attorney-General on matters relating to the provision of Legal Aid in Australia. The Council Secretariat is located in the Australian Legal Aid Office Division of the Commonwealth Attorney-General's Department.

Selected details of the income and expenditure of major Australian Legal Aid schemes and further information on the operation of these schemes are available from Annual Reports of the Commonwealth Legal Aid Council and the Commonwealth Attorney-General's Department or by writing to the Secretary, Commonwealth Legal Aid Council, Attorney-General's Department, Barton, A.C.T. 2600.

## The Police

The primary duties of the police are the prevention and detection of crime, the protection of life and property, and the enforcement of law to maintain peace and good order. In addition, they may perform a variety of other duties in the service of the State, including the regulation of street traffic, acting as clerks of petty sessions, crown land bailiffs, foresters, mining wardens and inspectors under the Fisheries and various other Acts. With the exception of the Australian Federal Police, police forces in Australia are under the control of the State and Northern Territory Governments, but their members perform certain functions for the Commonwealth Government, such as registration of aliens, and in conjunction with the Australian Federal Police and other Commonwealth officers, they police various Commonwealth Acts and Regulations.

The Australian Federal Police was formed in October 1979 and has its headquarters in Canberra, with regional offices in each capital city and in a number of provincial towns and cities.

### Australian Federal Police (AFP)

The AFP is responsible for many types of law enforcement under Commonwealth law. This includes investigations of organised crime, illegal importation of drugs, corporate crime, frauds committed on the Commonwealth (for example, social security fraud), investigation of other criminal offences committed against the Commonwealth, terrorism and breaches of currency regulations, as well as safeguarding the interests of the Commonwealth.

In the Australian Capital Territory, the AFP provides a full range of general policing services including traffic control, special operations, search and rescue services and conventional crime investigations.

In 1984 the AFP assumed responsibility for the direction and co-ordination of Australia's coastal surveillance, response and enforcement. The Coastal Protection Unit has its Headquarters in Canberra, with regional offices in Broome, Darwin and Cairns.

The AFP also posts officers for duty overseas. Officers are located in liaison posts in Hong Kong, Manila, Singapore, Bangkok, Kuala Lumpur, Jakarta, London, Washington, Los Angeles, Wellington, Islamabad and at Interpol in Paris. These liaison officers play a vital role in the gathering and exchange of information. The Australian National Central Bureau of the International Police Organisation (ICPO—Interpol) in Australia is staffed by AFP officers as a service to all Australian law enforcement agencies. The AFP also has a contingent based in Cyprus as a component of the United Nations Peace-keeping Force, and officers serve as members of the Police Forces of the Australian Territories of Christmas Island and Norfolk Island.

### Police strengths

The active strengths of non-civilian police personnel in police forces in Australia are shown in the following table:

POLICE FORCES								
Year	AFP	N.S.W.	VIC.	QLD	S.A.	W.A.	TAS.	N.T.
At 30 June—								
1982 . . . . .	2,702	9,388	8,329	4,543	3,249	2,693	1,041	566
1983 . . . . .	2,811	9,797	8,499	4,869	3,297	2,824	1,006	634
1984 . . . . .	2,911	10,432	8,507	4,686	3,286	2,888	1,009	640

## Crime Statistics

### Crime Victims Survey 1983

During the period February 1983 to January 1984 the ABS conducted a household survey throughout Australia to obtain information about selected incidents of crime. Details of the purpose, methodology and main results of the survey appear in an article at the end of this chapter.

### Selected offences

Since 1964, the ABS has published a series of 'Selected Offences reported or becoming known to Police'. This series is provided by police, and is based as far as possible on definitions and procedural arrangements agreed to by police authorities for all States and Territories.

Graphs following show the number of offences reported or becoming known to police, including the Australian Federal Police, in Australia in each of the seven major categories included in the series.

### Drug offences

Australia ratified the Single Convention on Narcotic Drugs 1961 in December 1967, and the Protocol Amending the Single Convention on Narcotic Drugs on 22 December 1972. Australia is also a signatory to the Convention on Psychotropic Substances 1971.

As its name implies, the Single Convention on Narcotic Drugs covers only the so-called narcotic drugs including cannabis and its derivatives. The Convention on Psychotropic Substances recognises that there are other drugs of dependence, and imposes controls on substances such as hallucinogens, amphetamines, barbituates, tranquilisers, and a number of other sedatives and central nervous system stimulants.

Overall responsibility for law enforcement in Australia is shared between Federal, State and the Northern Territory Police Forces. Each police force is an independent organisation with jurisdiction over laws of its State or Territory. Each has a drug squad or squads staffed by selected officers with special training and ability to understand the complexities of drug abuse and drug trafficking. Drug laws incorporate the controls and penalties for offences required by international drug conventions. There is co-operation between Federal, State and Territory Governments, the various police forces and other agencies to combat the serious and growing threat posed by drug trafficking. The Australian Customs Service has responsibility for the enforcement of laws controlling the illicit importing and exporting of drugs.

The following table provides information about selected drug seizures by Federal agencies during the period 1977 through 1984.

SELECTED DRUG SEIZURES BY FEDERAL AGENCIES  
1977 to 1984

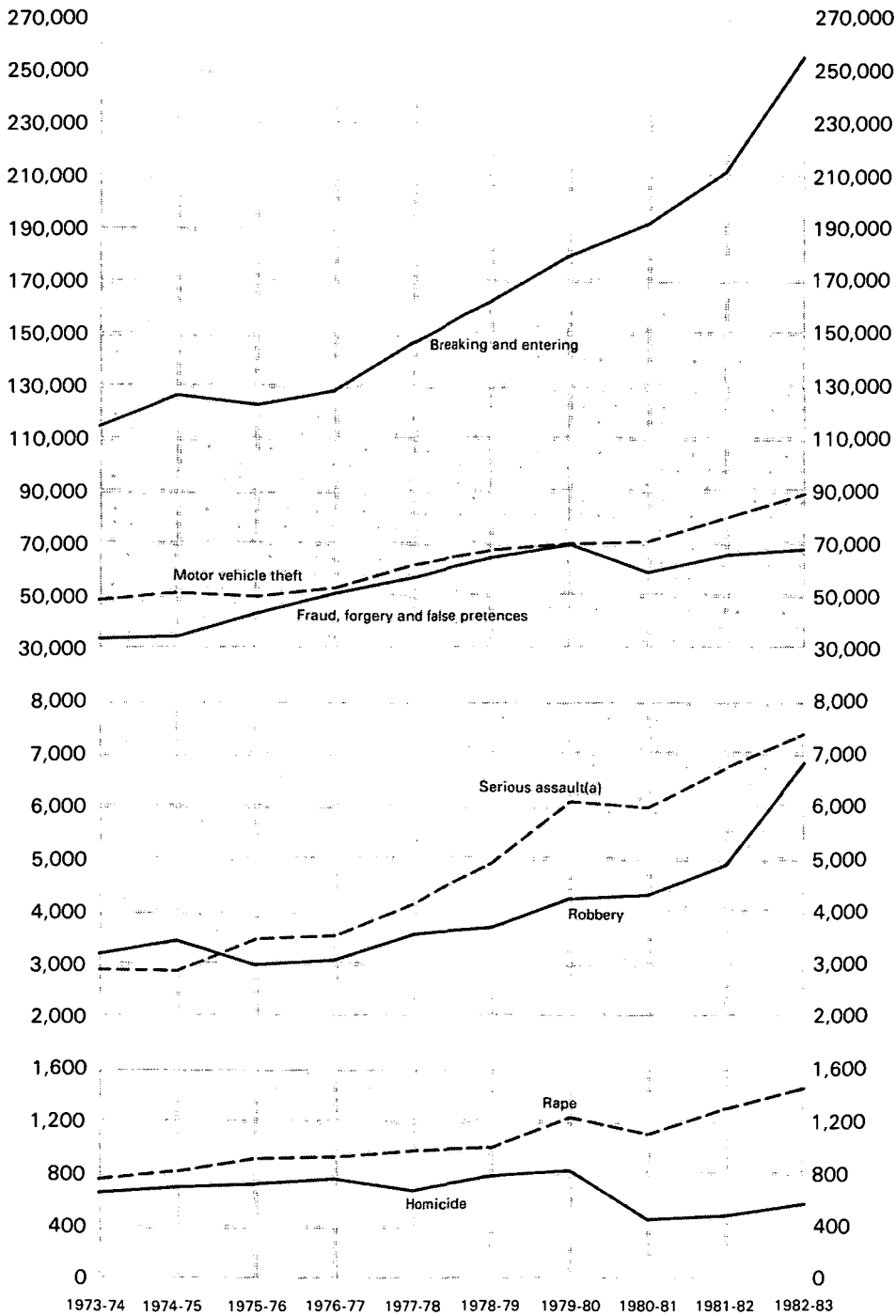
Types of drug (grams)	1977	1978	1979	1980	1981	1982	1983	1984(a)
Opium . . . . .	4,139.17	875.54	41.83	42.80	168.20	81.87	1,129.50	40.00
Heroin . . . . .	11,711.00	17,867.42	29,292.08	7,900.22	9,543.32	32,014.40	97,071.65	101,550.00
Cocaine . . . . .	133.55	—	177.90	6,964.20	310.80	8,924.87	8,797.49	13,100.00
Cannabis—all types(b) . . . . .	741,212.63	7,745,781.06	608,280.74	689,288.75	1,731,675.30	2,530,066.37	1,725,455.28	6,912,860.00

(a) Subject to adjustment on receipt of analyst report.

(b) Excludes seizures of plants.

In April 1985 the Commonwealth, State and Territory Governments agreed that a National Campaign Against Drug Abuse should be launched as a co-operative effort, and that all Governments would devote additional resources to the task. It was accepted that the Campaign would focus particularly on the problems associated with illicit drugs. At the same time it was recognised that there are wide spread health and social problems arising from the abuse of licit drugs, and that the campaign would need to cover these as well. A document entitled 'A National Campaign Against Drug Abuse' is being prepared. The Ministerial Council On Drug Strategy was established to oversight the implementation of initiatives decided as part of the campaign.

**SELECTED OFFENCES REPORTED OR BECOMING KNOWN TO POLICE,  
AUSTRALIA, 1973-74 TO 1982-83**



(a) From 1980-81 defined as assaults causing grievous or actual bodily harm.

**PLATE 32**

## Correctional Treatment of Offenders

The term 'corrections' (and its derivatives) as used here refers to the treatment of offenders within the justice system.

While there is a variety in the types of correctional activities employed in each State and Territory, such activities can be broadly categorised into two groups:

- non-continuing forms of treatment, where, if the offender meets the requirements set by court, then correctional agencies would not normally become actively involved. Examples of these forms of treatment are fines, bonds, recognisances without supervision.
- continuing forms of treatment, where the offender is subject to some form of control by a correctional agency, usually for a specified period. This control may take the form of:
  - (i) full time custody, as in the case of persons detained in prisons, or other institutions, or
  - (ii) non-custodial treatment involving conditions to be observed by the offender, e.g. probation and parole. In recent years there has been a trend towards the greater use by courts of non-custodial treatment of offenders. This has seen the development of a range of programs such as periodic/weekend detention, attendance centre programs, and community service, under which the offender is at liberty in the community, but is required to report for weekend detention, training, counselling, or to perform unpaid work in the community.

Separate provisions exist in each State and Territory for the treatment of juvenile offenders, and courts and correctional agencies have a wide choice in the types of correctional treatments available to them. Both custodial and non-custodial correctional activities are employed, but greater flexibility allows treatment to be more closely aligned to individual requirements.

Each State and the Northern Territory operate prisons and other correctional services. Convicted adult prisoners from the A.C.T. serve their sentences in N.S.W. prisons, but local provision is made for the short-term custody of remand prisoners, and for probation and parole services. The Federal Government does not operate any prisons or other correctional services, and Federal offenders (i.e. persons convicted of offences under Federal laws) fall within the jurisdiction of State agencies for correctional purposes.

### National Prison Census

The Australian Institute of Criminology in conjunction with State prison administrators conducted the third National Prison Census at 30 June 1984.

NUMBER OF PRISONERS BY JURISDICTION, AGE(a) AND SEX, 30 JUNE 1984

Age-group	N.S.W.	Vic.	Qld	W.A.	S.A.	Tas	N.T.	A.C.T.	Total
Under 16 Years . . . . .	1	..	..	..	..	..	..	..	1
16 Years . . . . .	..	..	4	1	..	3	1	1	10
17 Years . . . . .	5	13	31	12	..	14	14	1	90
18 Years . . . . .	106	56	74	68	26	18	22	1	371
19 Years . . . . .	159	71	99	106	31	14	17	2	499
20-24 Years . . . . .	987	483	492	428	186	66	62	4	2,708
25-29 Years . . . . .	845	443	411	383	104	48	56	3	2,293
30-34 Years . . . . .	503	324	258	237	82	34	28	4	1,470
35-39 Years . . . . .	333	193	201	149	64	12	25	1	978
40-44 Years . . . . .	177	131	136	75	24	13	14	..	570
45-49 Years . . . . .	110	62	73	43	22	9	4	..	323
50-54 Years . . . . .	61	24	45	23	9	4	3	..	169
55-59 Years . . . . .	39	27	32	10	9	1	3	..	121
60-64 Years . . . . .	12	12	14	3	2	2	..	..	45
65 Years and Over . . . . .	8	6	7	4	4	1	..	..	30
Unknown . . . . .	8	..	4	1	1	2	..	..	16
Total Persons . . . . .	3,354	1,845	1,881	1,543	564	241	249	17	9,694
Total Males . . . . .	3,188	1,784	1,841	1,464	549	235	237	16	9,314
Total Females . . . . .	166	61	40	79	15	6	12	1	380

(a) The tabulation shows the age-structure of the prison populations as at 30 June 1984. The age at which persons normally become liable to imprisonment in an adult prison varies from State to State, being seventeen years in Victoria, Queensland, Tasmania and Northern Territory, and eighteen years in other jurisdictions, although younger persons who have been convicted of a particularly serious offence may also be sent to adult prisons. Persons in juvenile institutions were specifically excluded from this census.

(Source: Australian Institute of Criminology *Australian Prisoners 1984* by John Walker and David Biles).

## Criminological Research

### The Australian Institute of Criminology

The Australian Institute of Criminology, located in Canberra, was established as a statutory authority under the *Criminology Research Act 1971*. The Institute is administered by a Director and a Board of Management comprising three members appointed by the Federal Attorney-General, and three members representing the States, who are appointed by the Criminology Research Council.

Among the functions of the Institute as defined in the Criminology Research Act are:

- to conduct criminological research (i.e. research in connection with the causes, prevention and correction of criminal behaviour and related matters), and communicate the results of such research to the Commonwealth and States;
- to advise on the needs for, and programs of, criminological research, and give advice and assistance in relation to any research funded through the Criminology Research Council;
- to conduct seminars and courses of training and instruction for persons engaged in criminological research or work related to the prevention or correction of criminal behaviour;
- to provide advice in relation to the compilation of statistics in relation to crime; and
- publish material resulting from, or relating to its activities.

Since its inception the Institute has undertaken directly, or through the Criminology Research Council actively assisted and advised on, an extensive range of criminological research projects, and has conducted, or been represented at, numerous national and international conferences dealing with crime related matters. In addition, the Institute maintains a comprehensive library of criminological material which is available to researchers and criminal justice practitioners.

Major publications of the Institute during 1984-85 included *Australian Prisoners 1984* by John Walker and David Biles, *Occupational Health and Safety Enforcement in Australia* by John Braithwaite and Peter Grabosky, *Crime and Punishment in the Colonies* by S. Mukherjee, J. Walker and E. Jacobsen, *Administration of Criminal Justice in the A.C.T.* edited by Richard Harding, *Prosecutorial Discretion* edited by Ivan Potas, and *Prisons in Paradise* edited by Jack Sandry and Marjorie Johnson.

### The Criminology Research Council

The Criminology Research Council, comprised of representatives from the Commonwealth and each State, is an independent body corporate also established under the *Criminology Research Act 1971*. The Council is responsible for the control and administration of the Criminology Research Fund, which is funded fifty percent by the Federal Government, and fifty percent by State Governments on a pro-rata population basis. Subject to the Council's assessment of a project, persons seeking to conduct criminological or related research may be provided with a grant from the fund.

Since its establishment the Council has provided grants for over 100 separate research projects covering nearly all aspects of crime and criminal justice in Australia. Council-funded research is generally located in specific regions and may involve primary data gathering. By contrast, the research undertaken by the Institute itself is generally national and comparative in nature and makes use of existing data sources.

## Bankruptcy and Copyright

### Bankruptcy

For the description of the provisions of the *Bankruptcy Act 1966*, see Year Book No. 55, pages 586-7. The Act was amended in 1970 to remove any obstacle the Act might present to the operation of compositions or schemes of arrangements entered into under State or Territory legislation providing assistance to farmers in respect of their debts. Details for each Australian State have been published in the Annual Report by the Minister for Consumer and Business Affairs on the operation of the Act.

### Copyright

Copyright is regulated by the Commonwealth *Copyright Act 1968* which came into force on 1 May 1969. The Act does not contain any provisions requiring or enabling the completion of formalities (such as publication, registration or the payment of fees) in order to obtain

copyright protection in Australia. Protection is granted automatically from the moment of making a work or other subject matter.

The Act has been amended from time to time. The *Copyright Amendment Act 1980*, in particular, contains substantial changes in a number of areas including fair dealings, copying by libraries and archives, and copying for educational purposes and for handicapped readers.

Copyright is administered by the Attorney-General's Department.

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## 1983 CRIME VICTIMS SURVEY

### Introduction

Between March and May 1975 the Australian Bureau of Statistics conducted a survey on crime victimisation as part of the General Social Survey of households and persons. Results from the survey were published in *General Social Survey, Crime Victims, May 1975* (ABS Catalogue No. 4105.0—now out of print). Summary results were published in the 1980 Year Book.

During the period February 1983 to January 1984, the ABS conducted the 1983 Crime Victims Survey throughout Australia to obtain information about incidents of selected crime offences of which households and individuals had been the victim in the twelve months preceding the date of the interview. The term "incident" refers to one occurrence of a particular offence. The Survey covered 18,000 households and 37,000 persons.

Details were obtained about the last incidents of victimisations recorded for break and enter and household property theft (which were regarded as household offences), and for motor vehicle theft, robbery, other theft, sexual assault and assault (which were regarded as personal offences).

### Main purposes

The main purposes of the survey were to:

- provide a measure of selected types of crime against private individuals and households;
- obtain information about victims;
- identify high risk potential victims;
- assess the extent of reporting of crime to the police; and
- provide information on reasons for reporting or not reporting crimes to the police.

### Methodology

Trained interviewers conducted personal interviews with all members of the selected households aged 15 years and over in respect of the selected personal offences. Information about sexual assault was obtained only from female members of the household aged 18 years and over. Additionally, one adult member of each household was asked to provide information about offences against household property, including break and enter.

### Data collected

Data was collected covering a wide range of topics relevant to aspects of victimisations. These included the circumstances of each type of crime to determine the seriousness, injury and loss, the location and time of particular incidents, the known characteristics of the offender, whether the matter was reported to the police and the reasons why it was or was not reported.

### Importance of the survey

The Crime Victims Survey is valuable as an alternative source of measures of crime to that available from official administrative statistics on crime—particularly that crime which is not reported to the police and which can only be investigated by a household survey. The reasons why particular offences are not reported to the police can highlight areas in police or judicial procedures which may require improvement. Additionally, the survey methodology provides personal data on victims and the circumstances of their victimisation which are not usually available from administrative statistics.

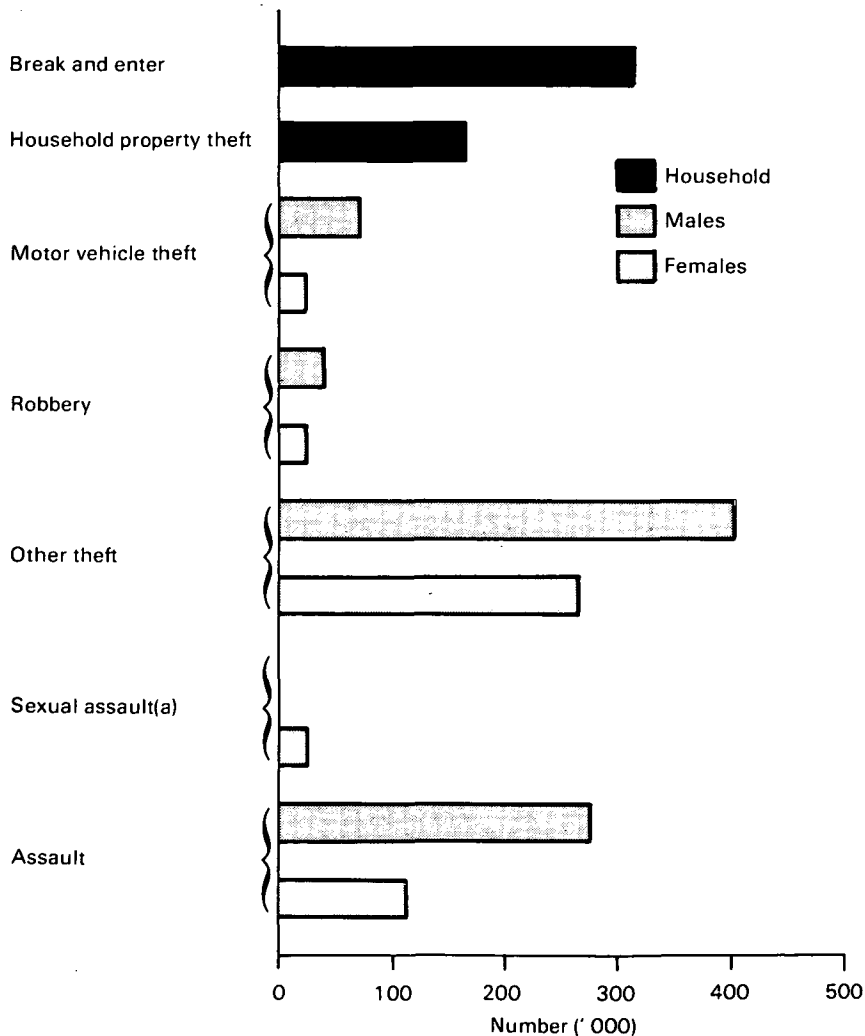
The major users of the data are the Australian Law Reform Commission, the Australian Institute of Criminology, the relevant State Government Departments and Authorities, Commonwealth Legal Aid Commission, the Australian Federal Police, State Police Departments and various academic and research organisations. Victim support schemes and State welfare agencies also require information on victims and the consequences of victimisation.

### Main results

The Survey estimates that in the twelve months prior to interview, 89 per thousand households in Australia experienced a household crime and 98 per thousand persons suffered

a personal crime. The number of persons who were victims of each type of personal offence and the number of households who were victims of either household offences are shown in Plate XX. Each household or person is counted once only for each offence regardless of the number of incidents recorded for each offence. In the total victims count, each victim is counted once only regardless of how many offences he/she or the household recorded.

**NUMBER OF VICTIMS OF SELECTED OFFENCES FOR HOUSEHOLD VICTIMS AND BY SEX OF VICTIM FOR PERSONAL OFFENCES**



(a) Questions on sexual assault were asked only of females aged 18 years and over.

**PLATE 33**

**Personal victims**

The lowest victimisation rate (57 victims per thousand of the population aged fifteen years and over) was recorded for incidents occurring in Tasmania. The highest rate (135 victims per thousand of the population) was recorded for Northern Territory incidents.

Victims in the 15-19 and 20-24 age ranges showed the highest victimisation rates of all age groups. In general, victimisation rates declined steadily as age group increased.

Nearly twice as many males as females reported having been a victim of an offence (63 per cent of all personal victims were male). Never married, separated and divorced males and separated females were the most victimised groups while married and widowed females recorded the lowest victimisation rate.

People born in New Zealand recorded being victimised at almost twice the rate of everyone included in the survey. People born in Italy recorded being a victim least frequently.

The unemployed reported being victimised twice as often as the average person. People 'not in the labour force' were only 60% as likely to be victimised as the average person.

Victims of crimes involving violence or threatened violence were much more likely to have been victimised on more than one occasion than were victims of crimes not involving violence. 41 per cent of victims of assault, 38 per cent of victims of robbery and 40 per cent of victims of sexual assault reported that they had been a victim of that offence two or more times in the preceding twelve months.

For offences involving violence or threatened violence, the offenders were more likely to be male than female: almost nine out of ten victims were threatened or attacked by one or more male offenders and, of the remainder, one in three were attacked by both male and female offenders.

Males not in the labour force were the least likely of all employment status groups to report crimes while employed males were the most likely. Of all employment status groups, unemployed females were the most likely to state that "police couldn't or wouldn't do anything about it" as a main reason for not reporting the last incident.

***Theft victims***

Victims of theft, including the household offences of break and enter and household property theft, recorded that no property was recovered in 88 per cent of incidents in which property was stolen. Where cash was stolen, 70 per cent involved amounts of less than \$100. Only 4 per cent of recorded incidents of stolen cash involved amounts greater than \$500.

***All crime victims***

Whether the police were notified of the offence depended on its nature—94 per cent of motor vehicle thefts, 69 per cent of break and enters and 25 per cent of sexual assaults (this category is more extensive than rape or attempted rape) were reported to the police. For details on all offences see the first table.

One out of two victims (49%) reported at least one incident to the police and 56 per cent did not report one or more incidents. (These figures do not total to 100% because some victims with more than one recorded incident informed the police of at least one, but not of another). Of those victims not reporting one or more incidents, half the incidents were not reported mainly because the offence was considered "too trivial or unimportant". The most frequently recorded main reason for telling the police was "to try or hoped to get property back". The percentage distribution of the main reason for notifying and not notifying the police are given in the second table.

For victims of violence or threatened violence, the main reason recorded was "to try to stop it happening again".

## NUMBER OF INCIDENTS AND WHETHER REPORTED TO POLICE

	Number of incidents	Reported to police		Not stated
		Yes	No	
	('000)	%	%	%
Break and enter . . . . .	315.4	68.6	30.6	0.8
Household property theft . . . . .	166.5	36.9	63.1	..
Motor vehicle theft . . . . .	95.2	94.1	5.9	..
Robbery . . . . .	65.3	42.6	57.4	..
Other theft . . . . .	673.3	38.4	61.6	..
Sexual assault(a) . . . . .	26.7	24.7	71.6	3.8
Assault . . . . .	390.9	33.6	66.4	..

(a) asked only of females aged 18 years and over.

## MAIN REASON GIVEN FOR NOTIFYING AND NOT NOTIFYING THE POLICE OF EACH LAST INCIDENT

	Per cent
<b>why police told</b>	
To try/hoped to get property back . . . . .	15.4
Because crime committed/moral obligation . . . . .	11.2
Because it was one of a number of incidents/to try to stop it happening again . . . . .	5.3
Because of insurance/compensation . . . . .	3.6
Wanted offender caught/punished . . . . .	2.9
Fear of harm to self or another person . . . . .	1.7
Other . . . . .	2.2
<b>Subtotal (a): incidents reported by any household member . . . . .</b>	<b>41.0</b>
Incidents reported to police but not by any household member . . . . .	9.0
<b>Subtotal (a): police aware of incident . . . . .</b>	<b>49.4</b>
<b>why police not told</b>	
Too trivial/unimportant . . . . .	28.6
Police couldn't or wouldn't do anything about it . . . . .	11.6
Private matter/would take care of it themselves . . . . .	6.6
Told someone else instead . . . . .	3.0
Afraid of reprisal . . . . .	1.1
Offender thought/known to be a child . . . . .	0.8
Too confused/upset/injured . . . . .	0.7
Did not want offender punished . . . . .	0.6
Because someone else did . . . . .	(b)0.1
Other . . . . .	7.0
<b>Subtotal (a): police not aware of incident . . . . .</b>	<b>56.3</b>
<b>Total (a) . . . . .</b>	<b>100.0</b>

(a) Totals may be less than the sum of the components since persons could have been victims of more than one offence, have taken different actions and/or have recorded different reasons for their actions. (b) This figure is subject to high standard error and is therefore unreliable

## Detailed results

Further information is contained in two ABS publications; Victims of Crime, Australia, 1983, Summary (Cat. No. 4506.0) and Crime Victims Survey, Australia, 1983, Preliminary (Cat. No. 4505.0).