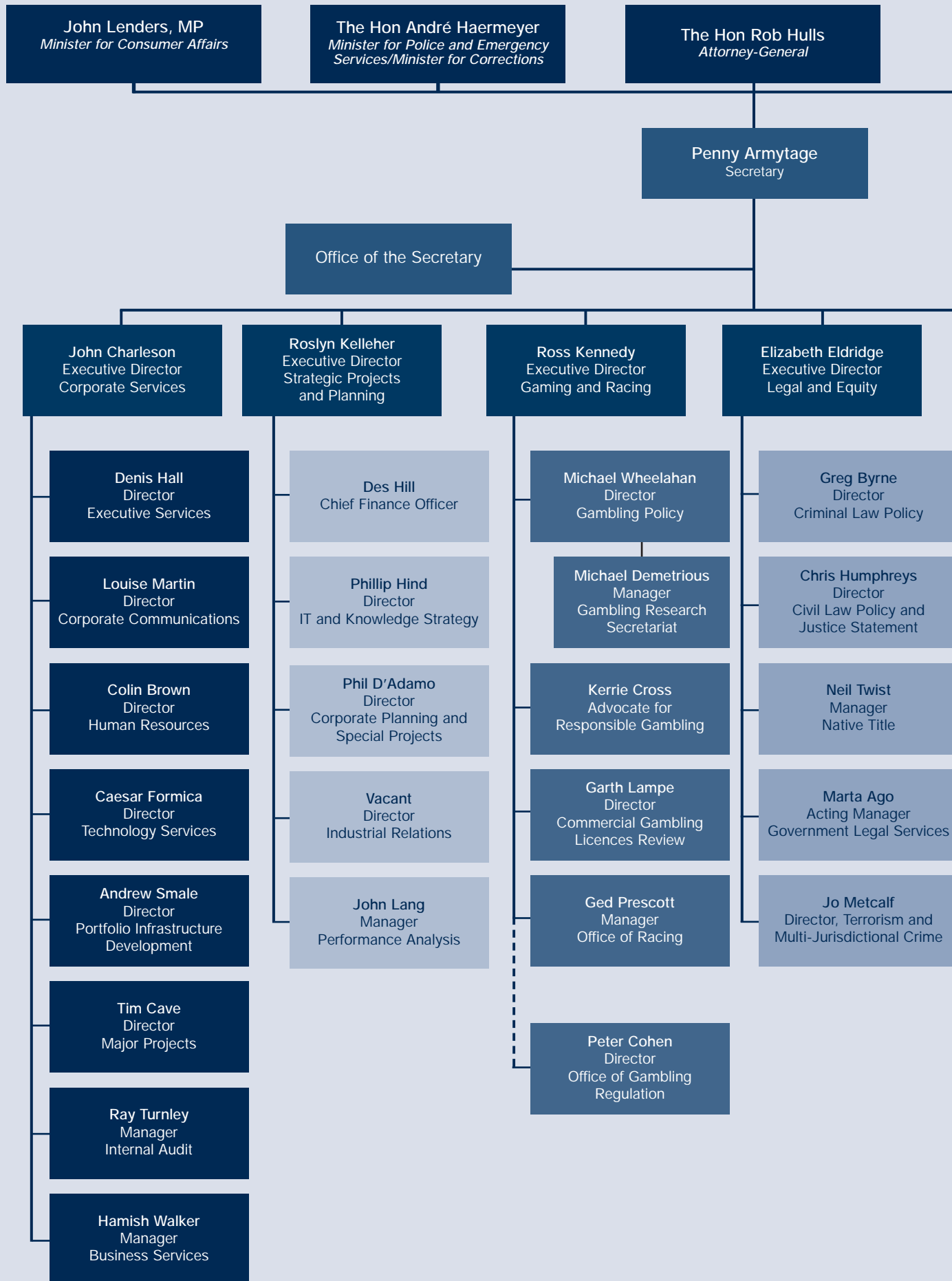


Supplementary Information

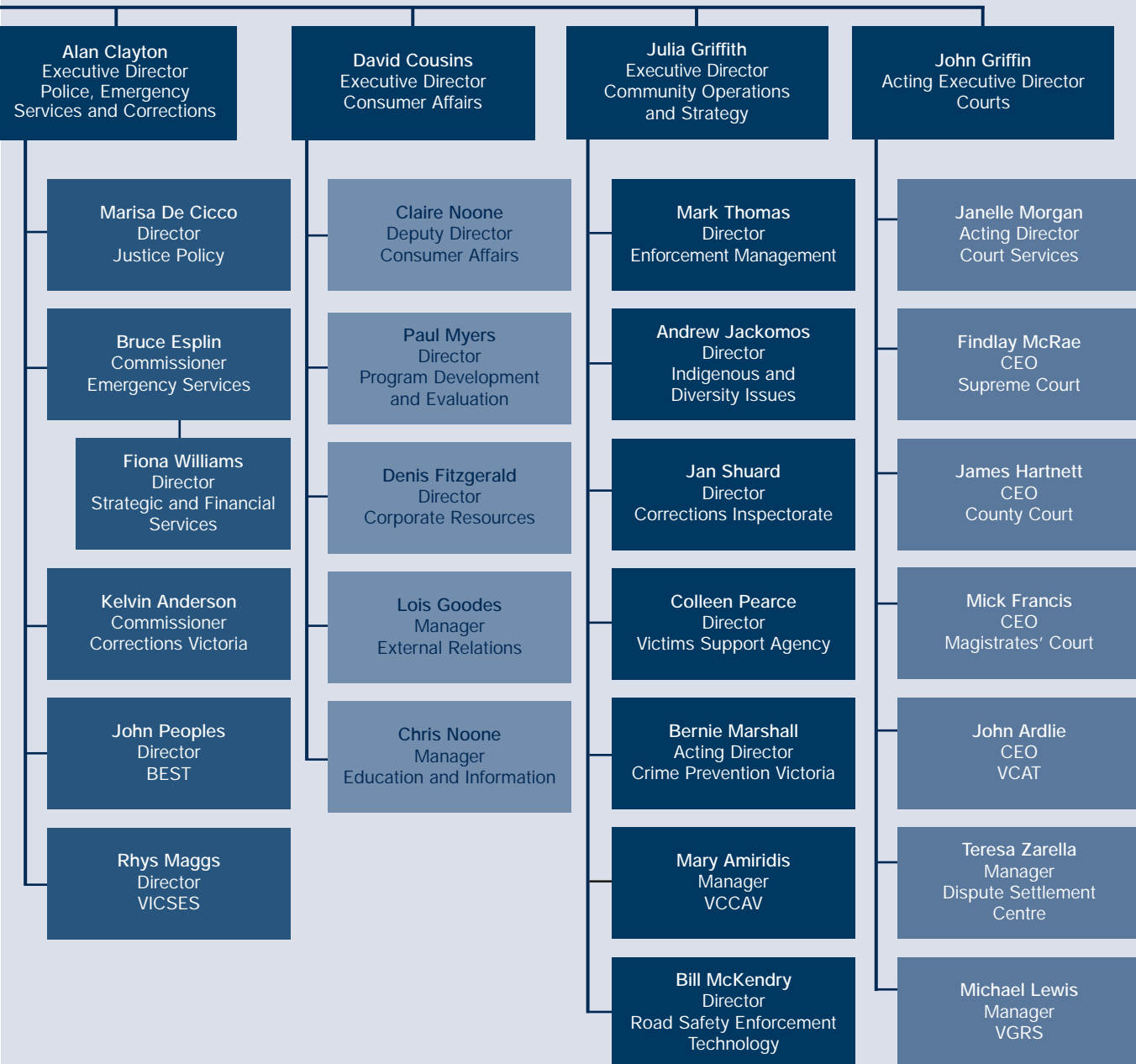
Appendix A: Organisational chart

As at 30 June 2004



The Hon John Pandazopoulos
*Minister for Gaming
Minister for Racing*

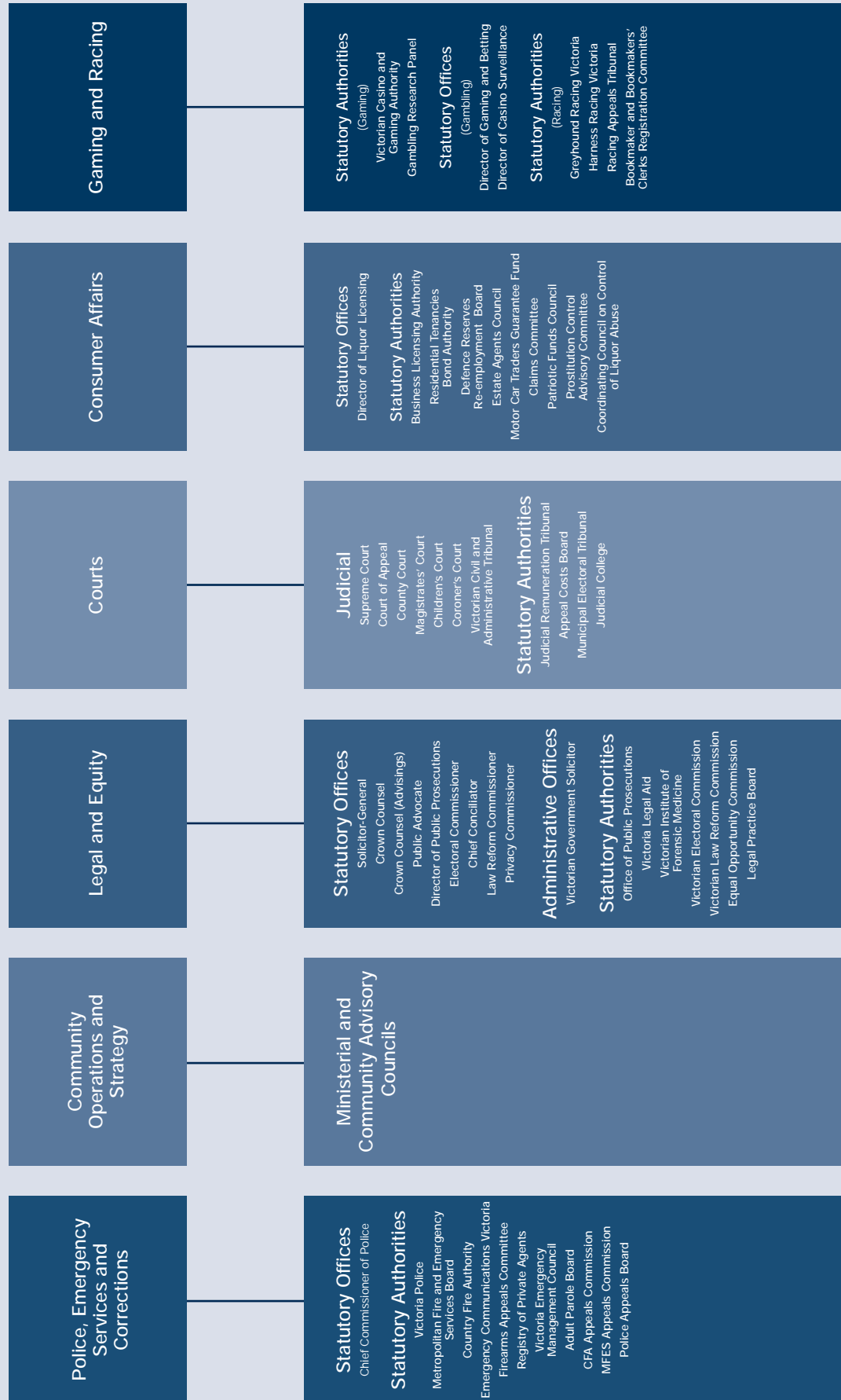
The Hon Jenny Mikakos
Justice Parliamentary Secretary



Appendix A: Organisational chart continued

As at 30 June 2004

Department of Justice – Justice Statutory Authorities and Agencies



Appendix B: Legislative responsibilities

B1: Acts administered by the Justice Portfolio as at 30 June 2004

Attorney-General

Accident Compensation Act 1985

Division 1 of Part III (The remaining provisions are administered by the Minister for WorkCover and the Treasurer)

Acts Enumeration and Revision Act 1958

Administration and Probate Act 1958

Administrative Law Act 1978

Adoption Act 1984

(The Act is jointly and separately administered with the Minister for Community Services)

Age of Majority Act 1977

Alcoholics and Drug-dependent Persons Act 1968

Sections 11, 14 and 15 (The remaining provisions are administered by the Minister for Health)

Appeal Costs Act 1998

Attorney-General and Solicitor-General Act 1972

Bail Act 1977

Charities Act 1978

Children and Young Persons Act 1989

(The Act is jointly and separately administered with the Minister for Community Services)

Choice of Law (Limitation Periods) Act 1993

Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

Commercial Arbitration Act 1984

Commonwealth Places (Administration of Laws) Act 1970

Commonwealth Powers (Family Law-Children) Act 1986

Companies (Application of Laws) Act 1981

Confiscation Act 1997

Constitution Act 1975

Part III; section 88 so far as it relates to the appointment of Senior Counsel, Crown Counsel and Crown Counsel (Advicings) (The remaining provisions are administered by the Premier)

Constitution Act Amendment Act 1958, The

Constitution (Supreme Court) Act 1989

Constitutional Powers (Coastal Waters) Act 1980

Constitutional Powers (Request) Act 1980

Cooperative Schemes (Administrative Actions) Act 2001

Coroner's Act 1985

Corporations (Administrative Actions) Act 2001

Corporations (Ancillary Powers) Act 2001

Corporations (Commonwealth Powers) Act 2001

Corporations (Victoria) Act 1990

Council of Law Reporting in Victoria Act 1967

County Court Act 1958

Courts (Case Transfer) Act 1991

Court Security Act 1980

Crimes Act 1958

Crimes at Sea Act 1999

Crimes (Criminal Trials) Act 1999

Crimes (Family Violence) Act 1987

Crimes (Mental Impairment and Unfitness to be Tried) Act 1997

Except sections 48–55, 57A 58, 60–63(1), 64–73 which are jointly administered with the Minister for Health and the Minister for Community Services

Crown Proceedings Act 1958

Cul-de-sac Applications Act 1965

Except in so far as it relates to the management of the Office of the Registrar-General and the Land Titles Office (This part of the Act is administered by the Minister for Planning)

Domestic Building Contracts Act 1995

Part 5 (The remaining provisions are administered by the Minister for Consumer Affairs)

Domicile Act 1978

Electoral Act 2002, except Part 5, Division 1 (This provision is administered by the Premier)

Electoral Boundaries Commission Act 1982

Electronic Transactions (Victoria) Act 2000

Equal Opportunity Act 1995

Evidence Act 1958

Evidence (Commissions) Act 1982

Federal Courts (State Jurisdiction) Act 1999

Fences Act 1968

Except section 19 (This provision is administered by the Minister for Planning)

Foreign Judgments Act 1962

Freedom of Information Act 1982

Futures Industry (Application of Laws) Act 1986

Guardianship and Administration Act 1986

Housing Act 1983

Part VI (The remaining provisions are administered by the Minister for Housing)

Imperial Acts Application Act 1980

Imprisonment of Fraudulent Debtors Act 1958

Information Privacy Act 2000

Instruments Act 1958

Except in so far as it relates to the management of the Office of the Registrar-General and the Land Titles Office (This part of the Act is administered by the Minister for Planning)

Interpretation of Legislation Act 1984

Judgment Debt Recovery Act 1984

Judicial College of Victoria Act 2001

Judicial Proceedings Reports Act 1958

Judicial Remuneration Tribunal Act 1995

Judicial Salaries Act 2004

Juries Act 2000

Jurisdiction of Courts (Cross-Vesting) Act 1987

Land Acquisition and Compensation Act 1986

Land Act 1958

In so far as it relates to the exercise of powers relating to leases and licences under subdivisions 1 and 2 of Division 9 of Part 1 in respect of: land described as Crown allotment 22D of Section 30, Parish of Melbourne North being the site of the Victorian County Court

Sections 22C to 22E (The remaining provisions are administered by the Minister for Planning, the Minister for Corrections, the Minister for Health, the Minister for Transport and the Minister for Finance)

Land Titles Validation Act 1994

Legal Aid Act 1978

Legal Practice Act 1996

Leo Cussen Institute Act 1972

Limitation of Actions Act 1958

Local Government Act 1989

Sections 44–46, 48–49

Section 243 in so far as it relates to municipal electoral tribunals Schedule 4 excluding clause 1(b)

(The Act is otherwise administered by the Minister for Local Government and the Minister for Transport)

Magistrates' Court Act 1989

Appendix B: Legislative responsibilities continued

Maintenance Act 1965

Marriage Act 1958

Penalty Interest Rates Act 1983

Perpetuities and Accumulations Act 1968

Property Law Act 1958

Except in so far as it relates to the management of the Office of the Registrar-General and the Land Titles Office (This part of the Act is administered by the Minister for Planning)

Public Notaries Act 2001

Public Prosecutions Act 1994

Religious Successory and Charitable Trusts Act 1958

Residential Tenancies Act 1997

Sections 446–448, 452, 472, 473, 479 and 485

(The Act is otherwise administered by the Minister for Consumer Affairs, the Minister for Housing and the Minister for Planning)

Securities Industry Act 1975

Securities Industry (Application of Laws) Act 1981

Senate Elections Act 1958

Sentencing Act 1991

Part 3 (Subdivision 4 of Division 2 and Division 6) of the Act are jointly administered by the Attorney-General and the Minister for Community Services)

(Division 3 of Part 3 of the Act is jointly administered by the Attorney-General and the Minister for Corrections)

Settled Land Act 1958

Small Claims Act 1973

St Andrew's Foundation Act 1997

Status of Children Act 1974

Summary Offences Act 1966

Supreme Court Act 1986

Surveillance Devices Act 1999

Telecommunications (Interception) (State Provisions) Act 1988

Terrorism (Commonwealth Powers) Act 2003

Terrorism (Community Protection) Act 2003, except for Part 4

(This part administered by the Minister for Police and Emergency Services), and Part 6 (which is administered by the Premier)

Transfer of Land Act 1958

Except in so far as it relates to the management of the Office of the Registrar-General and the Land Titles Office (This part of the Act is administered by the Minister for Planning)

Unauthorised Documents Act 1958

Vagrancy Act 1966

Valuation of Land Act 1960

Divisions 1 and 2 of Part III, Divisions 4 and 5 of Part III where they relate to the determination of appeals by the Victorian Civil Administrative and Tribunal and Part IV in so far as it relates to the administration of the above provisions (The remaining provisions are administered by the Minister for Planning)

Victims of Crime Assistance Act 1996

Victoria Law Foundation Act 1978

Victoria Park Land Act 1992

Victorian Civil and Administrative Tribunal Act 1998

Victorian Law Reform Commission Act 2000

Vital State Projects Act 1976

Sections 5–16 (The remaining provisions are administered by the Premier)

Warehousemen's Liens Act 1958

Western Metropolitan Market Act 1938

Whistleblowers Protection Act 2001

Wills Act 1997

Wrongs Act 1958

Minister for Consumer Affairs

Associations Incorporation Act 1981

Business Licensing Authority Act 1998

Business Names Act 1962

Carriers and Innkeepers Act 1958

Chattel Securities Act 1987

Except Part 3 (This part is administered by the Minister for Transport)

Collusive Practices Act 1965

Companies (Administration) Act 1981

Consumer Credit (Victoria) Act 1995

Cooperatives Act 1996

Credit Act 1984

Credit (Administration) Act 1984

Credit Reporting Act 1978

Defence Reserves Re-employment Act 1995

Discharged Servicemen's Preference Act 1943

Disposal of Uncollected Goods Act 1961

Domestic Building Contracts Act 1995

Excluding Part 5 (These provisions are administered by the Attorney-General)

Estate Agents Act 1980

Fair Trading Act 1999

Frustrated Contracts Act 1959

Fuel Prices Regulation Act 1981

Fundraising Appeals Act 1998

Funerals (Pre-paid Money) Act 1993

Goods Act 1958

Hire Purchase Act 1959

House Contracts Guarantee Act 1987

Introduction Agents Act 1997

Landlord and Tenant Act 1958

Liquor Control Reform Act 1998

Marketable Securities Act 1970

Motor Car Traders Act 1986

Partnership Act 1958

Patriotic Funds Act 1958

Petroleum Products (Terminal Gate Pricing) Act 2000

Petroleum Retail Selling Sites Act 1981

Prostitution Control Act 1994

Residential Tenancies Act 1997

Sections 24, 25, 27, 32, 33, 45–48, 74–77, 82, 90, 91, 102, 103, 104(1), 104(4), 104(5), 105(2), 105(3), 124, 128, 130–134, 141–212, 214, 215, 230, 232–234, 241, 277, 291–333, 335–341, 343–366, 373–376, 385, 388, 390, 395–398, 400–439, 486–504, 506–511

Section 66(1) jointly with the Minister for Housing

(The Act is otherwise administered by the Attorney-General, the Minister for Housing and the Minister for Planning)

Retirement Villages Act 1986

Sale of Goods (Vienna Convention) Act 1987

Sale of Land Act 1962

Sea-Carriage Documents Act 1998

Second-hand Dealers and Pawnbrokers Act 1989

Subdivision Act 1988

Part 5; section 38; and section 43 (in so far as it relates to Part 5 and section 38)

(The Act is otherwise administered by the Minister for Planning)

Trade Measurement Act 1995

Trade Measurement (Administration) Act 1995

Travel Agents Act 1986

Trustee Act 1958

Trustee Companies Act 1984 (This act is jointly administered with the Treasurer)
Utility Meters (Metrological Controls) Act 2002

Minister for Corrections

Corrections Act 1986
International Transfer of Prisoners (Victoria) Act 1998
Land Act 1958

In so far as it relates to the exercise of powers relating to leases and licences under Subdivision 1 of Division 9 of Part 1 in respect of:

- land identified in Certified Plan 114680-A dated 8 February 1995;
- land shown as Allotment 8B, section 13 on Certified Plan 116685 and Allotment 4A, section 17 on Certified Plan 116944 lodged in the Central Plan Office in the Department of Sustainability and Environment; and
- land shown as hatched on the plan numbered LEGL/95–80 lodged in the Central Plan Office of the Department of Sustainability and Environment

(The Act is otherwise administered by the Minister for Planning, the Attorney-General, the Minister for Finance and the Minister for Health)

Parole Orders (Transfer) Act 1983
Prisoners (Interstate Transfer) Act 1983
Sentencing Act 1991

Division 3 of Part 3 of the Act is jointly administered by the Attorney-General and the Minister for Corrections (The Act is otherwise administered by the Attorney-General and the Minister for Community Services)

Minister for Gaming

Casino Control Act 1991
Except sections 128H to 128L which are administered by the Minister for Planning
Section 128K(2) which is administered by the Minister for Finance

Casino (Management Agreement) Act 1993
Club Keno Act 1993

Gambling Regulation Act 2003
Gaming and Betting Act 1994

Part 5, Division 2 of Part 6 and Part 15 are jointly exercised with the Minister for Racing
(The Act is otherwise administered by the Minister for Gaming)

Gaming Machine Control Act 1991

Except section 138 which is administered by the Minister for Victorian Communities

Gaming No. 2 Act 1997

Sections 5(1)(i), 6, 112(d) and 123 are jointly administered with the Minister for Racing

Interactive Gaming (Player Protection) Act 1999

Lotteries, Gaming and Betting Act 1966 (Jointly administered with the Minister for Racing)

Public Lotteries Act 2000

TT-Line Gaming Act 1993

Section 11 is jointly and separately administered with the Treasurer

The Act is otherwise administered by the Minister for Gaming

Minister for Police and Emergency Services

Australian Crime Commission (State Provisions) 2003

Control of Weapons Act 1990

Country Fire Authority Act 1958

Emergency Management Act 1986

Firearms Act 1996

Metropolitan Fire Brigades Act 1958

Police Assistance Compensation Act 1968

Police Regulation Act 1958

Excluding Part III (These provision are administered by the Minister for WorkCover)

Private Agents Act 1966

Seamen's Act 1958

Terrorism (Community Protection) Act 2003 (Part 4 only)

(Remainder of Act administered by the Attorney-General with the exception of Part 6 which is administered by the Premier)

Unlawful Assemblies and Processions Act 1958

Victoria State Emergency Service Act 1987

Witness Protection Act 1991

Minister for Racing

Gambling Regulation Act 2003 (Chapter 4, Part 2 Division 2, Part 5 and section 2.2.9 administered jointly by the Minister for Gaming)

Gaming and Betting Act 1994

Part 5, Division 2 of Part 6 and Part 15, are jointly administered with the Minister for Gaming

(The Act is otherwise administered by the Minister for Gaming)

Gaming No. 2 Act 1997

Sections 5(1)(i), 6, 112(d) and 123 (Jointly administered with the Minister for Gaming)

(The Act is otherwise administered by the Minister for Gaming)

Lotteries Gaming and Betting Act 1966 (Jointly administered with the Minister for Gaming)

Racing Act 1958

The Victorian Racing Club Act 1871

Appendix B: Legislative responsibilities continued

B2: Legislation enacted in 2003–2004 (passed between 1 July 2003 and 30 June 2004)

Attorney-General

Appeal Costs and Penalty Interest Rates Acts (Amendment) Act 2004
Confiscation (Amendment) Act 2004
Constitution (Supreme Court) Act 2004
Courts Legislation (Funds in Court) Act 2004
Courts Legislation (Judicial Appointments) Act 2004
Crimes (Amendment) Act 2004
Crimes (Assumed Identities) Act 2004
Crimes (Controlled Operations) Act 2004
Crimes (Money Laundering) Act 2003
Crimes (Stalking) Act 2003
Death Notification Legislation (Amendment) Act 2004
Electoral (Amendment) Act 2003
Instruments (Enduring Powers of Attorney) Act 2003
Judicial Salaries Act 2004
Justice Legislation (Sexual Offences and Bail) Act 2004
Professional Standards Act 2003
Public Prosecutions (Amendment) Act 2004
Supreme Court (Vexatious Litigants) Act 2003
Surveillance Devices (Amendment) Act 2004
Wrongs And Other Acts (Law of Negligence) Act 2003
Wrongs (Remarriage Discount) Act 2004

Minister for Police and Emergency Services

Australian Crime Commission (State Provisions) Act 2003
Private Security Act 2004
Firearms (Amendment) Act 2003
Road Safety (Drug Driving) Act 2003

Minister for Corrections

Corrections (Further Amendment) Act 2004

Minister for Consumer Affairs

Domestic Building Contracts (Amendment) Act 2004
Estate Agents and Travel Agents Act (Amendment) Act 2004
Fair Trading (Consumer Contracts) Act 2004
Fair Trading (Further Amendment) Act 2003
Partnership (Venture Capital Funds) Act 2003
Travel Agents (Amendment) Act 2003

Minister for Gaming

Gambling Regulation Act 2003 (Excluding Chapter 10, Part 3 Division 1) (Administered by the Minister for Victorian Communities); section 2.2.9 (Administered by the Minister for Racing); Chapter 4, Part 2 Division 2 and Part 5 (Administered jointly with the Minister for Racing); Chapter 8 Part 3 Division 3 (Administered by the Treasurer); and section 9.3.6 (Administered by the Treasurer)
Casino Control Act 1991 Excluding Section 128H to 128L (Administered by the Minister for Planning) Section 128K(2) (Administered by the Minister for Finance)
Casino (Management Agreement) 1993

Minister for Racing

Gambling Regulation Act 2003 (Chapter 4, Part 2 Division 2 and Part 5 (Administered jointly with the Minister for Gaming) and section 2.2.9

Appendix C: Statement of Compliance with the *Building Act 1993*

The Minister for Finance guidelines, pursuant to section 220 of the *Building Act 1993*, promote better standards for buildings owned by the Crown and Public Authorities and require entities to report on achievements.

The Department of Justice controls and manages 75 properties on behalf of the Crown that are utilised for legal, court, prison, and emergency services. Other corporate entities within the Justice Portfolio, such as the Country Fire Authority, the Metropolitan Fire and Emergency Services Board, and Victoria Police will report separately on building compliance issues.

The following comments are made in relation to the Minister's guidelines.

New buildings conforming to standards

For the 2003–2004 financial year, all works carried out on buildings controlled by the Department of Justice were required to be conducted in accordance with the provisions of the *Building Act 1993*, relevant building regulations, and other statutory requirements. The Department has established appropriate mechanisms to ensure compliance, including the issue of building permits and occupancy certificates, and inspection of works. Agencies of the Department of Justice are exempt from lodging plans with local councils.

The separate tables provide the relevant project details.

10-year liability cap

All departmental building works carried out and which were subject to building permits or certifications have been issued with a certificate of occupancy or final inspection, so invoking the 10-year liability cap. The major departmental building works are shown in the tables. There have been no exemptions from invoking the 10-year liability cap. Where there is an exemption from invoking the 10-year liability cap, it is identified as part of contract documentation for the works. The 10-year liability cap is invoked upon the issue of a certificate of occupancy. This allows a building owner to make a claim against any practitioner associated with the building's construction up to 10 years from the occupancy certificate date.

Buildings to be maintained in a safe and serviceable condition

The mechanisms in place within the Department of Justice to ensure that buildings are maintained in a safe and serviceable condition include:

- rolling program of building inspections and audits;
- identification of works and their priority;

- development of a departmental works program forming part of the overall departmental investment strategy;
- essential services maintenance plans; and
- program to monitor and review effectiveness of these mechanisms.

These mechanisms are encompassed within the Department's risk management strategy for land and buildings, which addresses the identification and management of condition deficiencies, standards compliance and risk mitigation within an overall Departmental planning framework.

All agencies, with the exception of courts, provide for these mechanisms through Departmental service providers' contracted requirements. All works carried out on court facilities are managed by the individual jurisdictions and there is a requirement for the Chief Executive Officer for each court to ensure that appropriate mechanisms are in place and implemented in accordance with the *Building Act 1993*.

Existing buildings conforming to standards

All Departmental buildings comply with Minister for Finance guidelines. The mechanisms established by the Department are intended to maintain compliance and the effectiveness of those mechanisms are being continuously monitored.

Registered building practitioners

The Department of Justice requires building practitioners carrying out building works to be registered, and for registration to be maintained throughout the course of the works.

The Department's infrastructure service agreements require officers providing consultancy services under those agreements to be registered building practitioners in accordance with requirements of the *Building Act 1993*. All works carried out on court facilities are managed by the individual jurisdictions and there is a requirement for the Chief Executive Officer for each court to ensure that works are carried out in accordance with the *Building Act 1993*.

Appendix C: Statement of Compliance with the *Building Act 1993* continued

Major works commenced by the Department throughout the 2003–2004 financial year

Building works	Forecast project cost \$'000	Building permit issued or works certified
Nil		

Major works in progress and commenced by the Department prior to the 2003–2004 financial year

Building works	Forecast project cost \$'000	Building permit issued or works certified
Ararat Medium Security Prison	8,980	Yes
Beechworth Minimum Security Prison	19,876	Yes
10-year Prison Cell Safety Project	50,750	Yes
Mildura Court House	16,700	Yes
Warrnambool Court House	15,500	Yes

Major works completed by the Department throughout the 2003–2004 financial year

Building works	Forecast project cost \$'000	Building permit issued or works certified
Langi Kal Kal Minimum Security Prison (stage 1)	3,413	Yes

Appendix D: Report on implementation of the Victorian Industry Participation Policy

Victorian Industry Participation Policy (VIPP) applied to the following contracts which commenced in 2003–2004:

The Department of Justice commenced six contracts totalling \$38,516,033. The number and value of these contracts can be divided into two contracts with a value of \$17,876,600 (metropolitan) and three contracts with a value of \$20,639,433 (regional Victoria). One contract is a panel and does not have a definitive value.

The commitments by contractors under VIPP included:

- an overall level of local content of 85 per cent of the total value of the contracts;
- 437 full-time jobs; and
- the following benefits (as highlights) to the Victorian economy in terms of skills and technology transfer increases: one contractor's global headquarters has been relocated to Abbotsford in metropolitan Melbourne with opportunities there to train new apprentices and employees across the project.

VIPP applied to the following contracts which were completed in 2003–2004:

The Department of Justice completed three contracts totalling \$5,880,109. The contracts were all regional Victoria contracts.

The outcomes reported by contractors under VIPP included:

- an overall level of local content of 100 per cent of the total value of the contracts;
- four full-time jobs; and
- the following benefits (as highlighted) to the Victorian economy in terms of skills and technology transfer increases: training of new apprentices and employees, specific OH&S and plant operator training, and enhancement of design development input for the manufacture of specialist fittings, fixtures and components used in the upgrade works.

Appendix E: Environmental management

In 2003–2004, the Department of Justice commenced implementation of its Environmental Management System in four of its major offices¹, where over 70 per cent of the Department's office-based staff are located. The environmental

reporting data below is for these locations (with the exception of transportation, which covers all departmental use) and has been prepared in accordance with the financial reporting directions issued by the Minister for Finance.

Energy²

Measure	2003–2004 Total
Units of energy (megajoules) used per full-time employee (FTE) ³	10,740
Units of energy used per unit of office space (megajoules per m ²)	461
Total energy usage (gigajoules)	14,810
Associated greenhouse gas emissions ⁴ (tonnes of CO ₂ equivalent)	3,959
Units of Green Power purchased (kWh)	120,802
Expenditure on Green Power (\$)	5,424

Paper

Measure	2003–2004 Total
Total units of paper (reams)	35,140
Units of paper (reams) per FTE	25

Transportation⁵

Measure	2003–2004 Total
Fuel consumption (gigajoules)	64,072
Fuel consumption (gigajoules) per FTE	13.09
Associated greenhouse gas emissions ⁶ from passenger vehicle use (tonnes of CO ₂ equivalent)	4,701
Associated greenhouse gas emissions from passenger vehicle use (tonnes of CO ₂ equivalent) per FTE	0.96
Passenger vehicle trip kilometres associated with departmental operations	17,440,991
Passenger vehicle trip kilometres ⁷ associated with departmental operations per FTE	3,563
Percentage of employees ⁷ regularly (>75% of work attendance days) using public transport, cycling, or walking to and from work	81

1. 452 Flinders Street, 55 St Andrews Place, 436 Lonsdale Street and 80 Collins Street.

2. Includes tenancy light and power use at all offices and gas use at 55 St Andrews Place and 436 Lonsdale Street. Due to leasing arrangements, base building energy consumption data (with the exception of gas usage at 55 St Andrews Place and 436 Lonsdale Street) cannot be obtained.

3. Full-time equivalent (FTE) as at 30 June 2004. Includes officers and employees and statutory appointees; excludes board members, inoperatives and statutory authorities.

4. Victorian greenhouse gas coefficients taken from Energy and Greenhouse Management Toolkit, Module 3 State Government of Victoria.

5. Inclusions: All executive and operational Department of Justice vehicles and vehicles hired from the State Government Vehicle Pool. Exclusions: Statutory authorities.

6. Energy and greenhouse gas emission conversion factors taken from EPA Victoria's Vehicle Greenhouse Calculator.

7. Department of Justice FTE employees based in Melbourne central business district.

Waste production

Measure	2003–2004 Total
Units (kg) ⁹ generated per FTE	126
Units of waste recycled (kg) ⁹	88,652

Water consumption¹⁰

Measure	2003–2004 Total
Units of water (litres) consumed per FTE	12,609
Total units of water (litres)	7,332,022

8. All waste, including landfill, organic waste, general and confidential paper.

9. Based on estimated number of 240-litre mobile garbage bins (MGB) collected (includes confidential paper). A conversion factor of 35 kg per MGB has been used.

10. Exclusions: 452 Flinders Street (not available). Normalisations: Nauru House tenancy apportioned from total building water consumption by floor area, 55 St Andrews Place normalised to 365 days from 203 days of available data.

Other information

1. Actions taken during the year to reduce energy use in buildings.
 - During the period from 1999 to 2002, the Department undertook remedial actions to reduce energy consumption, including installation of light sensors, efficient lighting and optimal start up. Further building works are not warranted in view of the Department's move to the Southern Cross building in 2006. The Department is now focusing on improving operational energy use, including greater use of flat screen monitors and increased duplex printing.
2. Actions taken during the year to reduce energy use in the Department's vehicle fleet.
 - Exceeded Government policy requirements for Victorian Government department vehicles travelling over 30,000 km per annum to be either four cylinder or six cylinder LPG, by also requiring vehicles travelling over 20,000 km per annum to be four cylinder. Since the introduction of the policy, the Department has changed its operational fleet mix significantly to now comprise 50 per cent four cylinder vehicles and 25 per cent LPG vehicles. The Department of Justice has had the biggest shift to four cylinder vehicles compared to any other Victorian Government department.
3. Actions taken to promote environmental purchasing.
 - Worked collaboratively at a whole-of-government level to develop an environmental purchasing guide and investigate the use of checklists and software to increase environmental purchasing.
 - Increased use of recycled content office paper in several business units.

Appendix F: People management

F1: Workforce data

2003–2004 Annual report statistics

Divisional staffing numbers (FTE)	As at 30 June 2003	As at 30 June 2004
Executive Management *	72.5	10.0
Police, Emergency Services and Corrections @	2068.5	2095.1
Corporate Services ^E	135.6	198.3
Strategic Projects and Planning [§]		85.1
Knowledge Management	103.0	0.0
Consumer Affairs	333.7	331.0
Legal and Equity [‡]	1918.7	351.2
Courts [^]		1308.0
Community Operations and Strategy [#]		355.1
Gaming and Racing [¥]		161.4
Total	4632.0 [¥]	4895.2

* Reduction is due to an organisational restructure with the following business units moving to different portfolio groups: Office of Gaming and Racing; Portfolio Planning; Indigenous and Diversity Issues; Corporate Planning and Special Projects and Performance Analysis.

@ Previously reported as Justice Operations. Increase in numbers is primarily attributable to an intake of Correctional Officers in relation to an increase in temporary accommodation in Prisons. Additional staff were also engaged by BEST to manage multi-departmental/agency public safety contracts and projects. The Office of the Emergency Services Commissioner engaged additional staff in response to Government Emergency Service Initiatives.

^E Increase in numbers due to the transfer of Technology Services from the former Knowledge Management portfolio group, as well as the establishment of the Corporate Communications business unit.

[§] Establishment of new portfolio group, comprising of IT Strategy and Knowledge (amalgamation of Chief Knowledge Officer, Online Services and Organisational Development, formerly reported under the Knowledge Management portfolio group), Chief Finance Officer (formerly reported as Finance, under the Corporate Services portfolio group) as well as the newly established business units – Corporate Planning and Special Projects, Industrial Relations and Performance Analysis.

[‡] Reduction due to the Courts now being reported under the new Courts portfolio group and Enforcement Management and Victims Support Agency now being reported under the newly established Community Operations and Strategy portfolio group.

[^] Across the Courts jurisdictions, additional staff were engaged for: Koori and Drug Court; support staff for judicial appointments; and a number of improvement projects.

[#] Establishment of new portfolio group, comprising of these business units: Enforcement Management, Victims Support Agency; Indigenous and Diversity Issues, Crime Prevention and Victorian Community Council Against Violence (both previously reported under the Justice Operations portfolio group).

[¥] Gaming and Racing numbers include Office of Gambling Regulation (OGR). OGR were excluded in the 30 June 2003 numbers. Note: OGR is also reported in the Victorian Casino and Gaming Authority Annual Report.

Aggregate workforce data (FTE) Employee status	As at 30 June 2003			As at 30 June 2004		
	Male	Female	Total	Male	Female	Total
Ongoing	1960.0	1726.4	3686.4	2084.1	1869.2	3953.3
Fixed term	236.3	312.7	549.0	237.6	324.9	562.5
Casual	66.1	55.5	121.6	63.1	48.5	111.6
Statutory appointments	190.8	84.2	275.0	179.2	88.6	267.8
Total	2453.2	2178.8	4632.0	2564.0	2331.2	4895.2

F2: Major grades by gender as at 30 June 2004 (FTE)

Grade	Full-time			Part-time			Casual/sessional			Totals by gender		Grand total
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	
VPSG Levels												
Public Service 1	37.0	40.0	77.0	0.4	5.8	6.2	4.7	4.3	9.0	42.1	50.1	92.2
Public Service 2	423.0	758.0	1181.0	7.2	92.5	99.7	15.7	11.5	27.2	445.9	862.0	1307.9
Public Service 3	339.0	462.0	801.0	6.5	52.1	58.6	0.5	12.2	12.7	346.0	526.3	872.3
Public Service 4	193.0	182.0	375.0	3.0	25.2	28.2	1.9	3.8	5.7	197.9	211.0	408.9
Public Service 5	219.0	205.0	424.0	5.0	27.0	32.0	0.0	0.0	0.0	224.0	232.0	456.0
Public Service 6	208.0	84.0	292.0	4.2	9.7	13.9	0.0	0.0	0.0	212.2	93.7	305.9
Public Service 7	1.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
Total	1420.0	1731.0	3151.0	26.3	212.3	238.6	22.8	31.8	54.6	1469.1	1975.1	3444.2
Custodial Officers												
Custodial Officer COG2a	455.0	172.0	627.0	3.1	5.1	8.2	40.2	16.1	56.3	498.3	193.2	691.5
Custodial Officer COG2b	241.0	39.0	280.0	1.1	0.6	1.7	0.0	0.0	0.0	242.1	39.6	281.7
Custodial Officer COG3	80.0	8.0	88.0	0.0	0.0	0.0	0.0	0.0	0.0	80.0	8.0	88.0
Custodial Officer COG4	26.0	2.0	28.0	0.0	0.0	0.0	0.0	0.0	0.0	26.0	2.0	28.0
Custodial Officer COG6	9.0	1.0	10.0	0.0	0.0	0.0	0.0	0.0	0.0	9.0	1.0	10.0
Total	811.0	222.0	1033.0	4.2	5.7	9.9	40.2	16.1	56.3	855.4	243.8	1099.2
Staff not part of career grade structure												
Other classifications †	227.0	92.0	319.0	2.6	5.7	8.3	9.8	14.7	24.5	239.5	112.3	351.8
Grand total	2458.0	2045.0	4503.0	33.1	223.7	256.8	72.8	62.6	135.4	2564.0	2331.2	4895.2

† Other classifications includes executive officers, statutory appointees and other ongoing and fixed-term staff who are not part of the career grade structure.

F3: Reconciliation of executive officers

The number of executives in the report of operations is based on the number of executive roles that are occupied at the end of the financial year. Note 18 (remuneration of executives) to the Financial Statements lists the actual number and remuneration paid to executive officers over the course of the reporting period. The note to the Financial Statements does not distinguish between executive levels, nor does it disclose separations, vacant positions, or the Accountable Officer. Separations are those executives who have left the Department during the financial year.

Disclosures in the report of operations contains information on:

- executive classifications;
- gender composition of the classifications; and
- variances between the current and previous reporting period.

The reconciliation of executive numbers between the report of operations and Note 18 (remuneration of executives) to the Financial Statements is to improve the transparency and completeness of the information that is disclosed.

For executive numbers across the Victorian Public Service, the Department has included executive numbers for all portfolio authorities.

Executive officer definition

An executive officer (EO) for a government department is a person employed as an executive under Part 3, Division 5 of the *Public Sector Management and Employment Act 1998*. Additionally, the total group of executives must be classified into two distinct categories based on the following definitions:

- 'Ongoing' executives are executives who are responsible for functions or outputs that are expected to be ongoing at the reporting date; and
- 'Special Projects' executives are executives who are employed for a specific project. These projects are generally for a fixed period of time and relate to a specific government priority.

For portfolio authorities, an executive officer is any person considered a Chief Executive Officer (CEO) or equivalent role and any person who has significant responsibility and receives a TRP of \$110,000 or more. Technical specialists who do not have a management function, and people whose employment is regulated by an award or enterprise agreement are not included.

The definition of an executive officer does not include Governor-in-Council appointments as statutory office holders.

Appendix F: People management continued

Statutory authorities reporting to portfolio Ministers

A portfolio authority is defined as a public authority under the *Public Sector Management and Employment Act 1998*.

The following tables disclose the executive officers of the Department and its portfolio authorities for 30 June 2004:

- **Table 1** discloses the number of executive officers (EO) in the categories of 'Ongoing' and 'Special Projects' and the total numbers of EOs for the Department;
- **Table 2** provides a breakdown of EOs according to the gender of male and female for the categories of 'Ongoing' and 'Special Projects';

• **Table 3** provides a reconciliation of executive numbers between the report of operations and Note 18 (remuneration of executives) to the Financial Statements; and

• **Table 4** provides the number of executive officer roles for the Justice Portfolio.

Table 1 to 4 also discloses the variations, denoted by 'Var' between the current and previous reporting periods and current vacancies.

Table 1: Number of executive officer roles classified into 'Ongoing' and 'Special Projects'

Classification	All		Ongoing		Special Projects	
	No.	Var	No.	Var	No.	Var
EO-1	2	0	2	0	0	0
EO-2	22	3	21	2	1	1
EO-3	45	2	44	2	1	0
Total	69*	5	67	4	2	1

* Includes five vacancies as at 30 June 2004.

Table 2: Breakdown of executive officers employed at 30 June 2004 into gender for 'Ongoing' and 'Special Projects'

Classification	Ongoing						Special Projects					
	Male		Female		Vacancies		Male		Female		Vacancies	
	No.	Var	No.	Var	No.	Var	No.	Var	No.	Var	No.	
EO-1	1	0	1	0	0	0	0	0	0	0	0	0
EO-2	17	-1	4	3	0	0	1	1	0	0	0	0
EO-3	24	-2	15	2	5	2	0	0	1	0	0	0
Total	42	-3	20	5	5	2	1	1	1	0	0	0

Table 3: Reconciliation of executive officer roles

	2004	2003
Total number of executives listed in the executive officers' remuneration note to the Financial Statements (Note 18)	57	45
<i>Plus</i> Total number of executives with remuneration less than \$100,000 Accountable Officer (Secretary)	19 1	18 1
<i>Less</i> Separations Inactive	-12 -1	-3 0
Total executive officers employed at 30 June*	64	61
<i>Add</i> Vacancies at 30 June (table 2)	5	3
Total executive officer roles at 30 June	69	64

* Includes five executive officers from the Office of Gambling Regulation.

Table 4: Number of executive officer roles for the Justice Portfolio

	Total Roles Occupied		Vacancies		Male		Female	
	No.	Var	No.	Var	No.	Var	No.	Var
Portfolio agencies								
Office of Public Prosecutions	2	0	0	0	2	0	0	0
Office of the Chief Commissioner of Police	12	0	2	1	11	1	1	-1
Total	14	0	2	1	13	1	1	-1
Portfolio authorities								
Victoria Legal Aid	7	2	0	0	5	1	2	1
Director, Victoria State Emergency Service	1	0	0	0	1	0	0	0
Victorian Institute of Forensic Medicine	2	0	0	0	2	0	0	0
Country Fire Authority	26	4	2	1	23	2	3	2
Emergency Communications Victoria	4	-1	1	1	4	0	0	-1
Greyhound Racing Victoria	1	-2	0	0	1	-2	0	0
Harness Racing Victoria	3	-2	0	0	3	-1	0	-1
Legal Practice Board	3	1	0	0	1	1	2	0
Metropolitan Fire and Emergency Services Board	33	3	0	-2	28	2	5	1
Total	80	5	3	0	68	3	12	2

F4: Merit and equity programs

Total number of decisions to exempt vacancies from advertisement

There were 124 exemptions from advertisement during 2003–2004. Three of these exemptions related to the appointment of a person from a disadvantaged group.

Processes that inform employees who may be affected by decisions as they are made in relation to an exemption

The Department Secretary's decision to exempt a vacancy from advertisement is notified to all staff of the Department through the Department's internal Employment Bulletin. The Employment Bulletin has a section specifically provided for exemptions notification and includes the following statement: *The Secretary to the Department of Justice has certified that there has been no breach of merit and equity and has exempted the vacancy from advertisement.* Also published are instructions about the lodgement of grievances against an exemption.

Processes that ensure consistency of decision making

To ensure that decisions to exempt a vacancy from advertisement are consistent, all requests are first considered by the Director, Human Resources before being forwarded to the Secretary, Department of Justice for consideration.

Reviewing personal grievances

In the 2003–2004 reporting year, the total number of grievances was 47.

The table below outlines the quantum of grievances by outcome and gender.

Outcome	Quantum
Ineligible	2
Withdrawn	11
Conciliated/mediated	4
Heard: upheld	5
Heard: rejected	12
Ongoing	13
Total	47
Gender	
Male	26
Female	21

The above figures include two separate grievances, with each of those having four applicants aggrieved by the one issue.

Koori recruitment and career development strategy

With the introduction of Wur-cum barra – the Victorian Government's strategy for creating employment opportunities in the Victorian Public Service (VPS) for Indigenous people – it was important that the Department of Justice continued the work initiated in previous years under the banner of the Koori Recruitment and Career Development Strategy (KRCDS).

Appendix F: People management continued

Programs which continued include the following:

- Koori Tertiary Scholarship scheme;
- Koori staff Mungu newsletter;
- Koori Staff Support Network;
- Annual Justice Portfolio Koori Conference;
- Meeting Ground intranet website focusing on Indigenous initiatives which all Department of Justice staff can access;
- Pathways to Justice – Schools Agreement; and
- Gateways to Justice, calendar and job fairs.

In addition to these initiatives, the Department, in consultation with the Koori Staff Support Network, commenced work on a 'Kit for Managers of Indigenous staff' which will be launched later in the year.

The Department also delivered the first Justice Portfolio Koori Conference as part of the staff network to include current Indigenous employees and volunteers for programs such as the Koori Courts, Bail Justices, Community Justice Panel and Respected Elders/Persons. This forum provided an opportunity for statewide networking and input into current Indigenous justice initiatives.

The outstanding work being carried out under the KRCDS was recognised again this year when the Department accepted three Awards – 'Good Ideas for Managing people'; and in the diversity field, for Gateways and Pathways to Justice and the Meeting Ground intranet (Office of Public Employment).

Update of Email Usage Policy

As part of its ongoing improvements to people management policies, the Department completed a comprehensive review and update of its Email Usage Policy. Of particular relevance is the prominence of a clause which prohibits the use of email for anything which may potentially result in harm or distress to staff, particularly in the form of harassing, discriminatory, bullying or offensive email communications. This policy has been well publicised and has resulted in an increased awareness across the organisation about the appropriate use of electronic equipment and systems.

Code of Conduct – expectations of employee behaviour

The Department distributed a copy of the VPS Code of Conduct to each of its employees in order to reinforce Departmental expectations of how employees are expected to behave within the work environment and while representing the Department.

Distribution of the booklet has directly led to an increase in enquiries around Code of Conduct issues, which in a number of cases, has prevented potentially serious breaches from occurring.

Equity training programs

As a component of the Corporate Training Program, merit and equity awareness courses are offered to all staff. These include:

- Cross Cultural Awareness Training (Indigenous awareness) Program;
- Vietnamese Awareness Program;
- Sexual Harassment Program; and
- Working Effectively with Diversity Program.

In addition, all new staff in the Department are made aware of their rights and responsibilities in relation to discrimination, sexual harassment and bullying via the Department's Induction Program.

Corporate Training Program

The Department offers a range of development programs to staff through its Corporate Training Program. The majority of the programs are based on competencies endorsed by the Australian National Training Authority (ANTA) specifically for people working in government at the national state and local level. Staff are able to gain certificate or diploma level qualifications including frontline management qualifications through completing both the training program and a work-based project. The overall objective of the Corporate Training Program is to impart skills and provide experience in managing self and others more effectively. Approximately half of the competency-based training programs are now also available through self-paced learning including an E-learning mode, making them more accessible to regional staff. In 2003–2004, staff completed over 1,000 training days. This training could count towards a certificate or diploma qualification. The delivery of learning and development options will be reviewed in 2004–2005 to ensure that the Department continues to provide effective and efficient programs in line with business unit needs.

Leadership and management development

For the past three years the Department of Justice has been working to develop leadership and management capability across the Department. The Department's leadership and management competencies were developed after an extensive consultation process. Individual assessment through assessment centres, 360-degree feedback and performance management processes has enabled managers to effectively target their own and their staff's development. Development needs identified as a priority across the Department have been addressed with large numbers of staff attending specifically designed management development programs focusing on business skills and people management. As an integral part of its leadership and management development strategy, the Department has a strong commitment to supporting staff attendance at quality public sector leadership programs such as the Australian and New Zealand School of Government Masters of Public Administration; Executive Fellows Program; and the Williamson and Cranlana programs.

Youth employment scheme

The Department of Justice coordinates the placement of approximately 130 youth trainees across the Justice Portfolio each financial year. In 2003–2004, 11 Koori trainees and five trainees with a disability were placed within Justice, as well as 15 from educationally disadvantaged backgrounds.

F5: Employee relations statement 2003–2004

During 2003–2004, there were no industrial relations incidents that resulted in lost time.

The Department has worked with the Office of Workforce Development (Department of Premier and Cabinet) on various cross-Departmental working groups required to implement the *Victorian Public Service Agreement 2004* and to progress the Agency Specific Occupation Category (ASOC) reviews as determined by the Australian Industrial Relations Commission. The ASOC reviews that involve the Department are: Allied Health employees, Legal Officers, Scientific Officers, Custodial Officers, Clerk of Courts, Sheriff's Officers, State Emergency Services Officers and Community Corrections Officers.

Appendix G: Business management

G1: Financial and other information

Summary financial performance

Five year financial summary

	2004 \$'000	2003 \$'000	2002 \$'000	2001 \$'000	2000 \$'000
Revenue from Government	2,149,886	2,065,575	1,828,629	1,705,985	639,409
Other revenue	64,612	61,308	54,442	53,322	60,519
Total revenue	2,214,498	2,126,883	1,883,071	1,759,307	699,928
Net result from ordinary activities	25,337	50,762	34,346	47,075	36,967
Net cash flow from operating activities	57,331	47,529	46,378	72,351	60,486
Total assets	1,078,144	943,141	844,738	701,839	558,256
Total liabilities	259,665	226,757	234,647	195,843	99,338

The Department of Justice achieved a \$25.4 million operating surplus in the financial year ending 30 June 2004. This result is explained by the:

- \$12.8 million surplus from annual appropriations for outputs, the majority arising from a lower than budgeted capital assets charge expense;
- \$29.8 million surplus from controlled trust funds, principally arising from the Estate Agents Guarantee Fund;
- \$6.5 million deficit from special appropriations, largely

reflecting expenses not matched by revenue funded by the draw down of accumulated prior year operating; and

- \$10.7 million expense arising from the revaluation of land and buildings.

No events have occurred subsequent to 30 June 2004 that would require adjustments to, or disclosure in, the Department's financial statements.

G2: Implementation of National Competition Policy – scheduled legislative reviews

Legislation	Progress achieved
Attorney-General's Portfolio	
Civil Law Policy	The Civil Law Policy unit completed its component of legislative reviews under National Competition Policy in June 2001. However, there have been outstanding issues in relation to the review of the <i>Legal Practice Act</i> , specifically in relation to the retention of the Legal Practitioners Liability Committee. This has been the subject of further work and a report by PricewaterhouseCoopers, the outcome of which will be included in legislation currently being drafted to reform regulation of the legal profession.
Consumer Affairs Portfolio	
<i>Consumer Credit (Victoria) Act 1995</i>	Implementation of the agreed amendments to the Uniform Consumer Credit Code has been divided into two parts. Work on a draft bill has commenced for one part and preparations for drafting instructions have commenced for the other. The amendments will become effective nationally on passage and proclamation in Queensland. The Commonwealth Office of Regulation Review has been kept fully informed.
<i>Estate Agents Act 1980</i>	Amendments incorporated into <i>Estate Agents and Sale of Land Acts (Amendment) Act 2003</i> , generally effective prior to 1 July 2003. Amendments relating to licensing of corporations effective 1 February 2004.
<i>Trade Measurement Act 1995</i>	The COAG Committee on Regulatory Reform advised that NCP requirements had been met through a scoping paper on the national legislation and a public benefit analysis of restrictions on the sale of non-prepacked meat. The analysis recommended that aspects of the definition of meat be reviewed and Victoria will undertake the review commencing in 2004.

Appendix G: Business management continued

Legislation	Progress achieved
<i>Travel Agents Act 1986</i>	In accordance with Ministerial Council response to national review, statutory Crown exemption revoked 19 May 2004 (<i>Estate Agents and Travel Agents Acts (Amendment) Act 2004</i>). Specific amendments to qualification requirements referred to Ministerial Council for approval. Consultation undertaken within government regarding replacement of exemption order.
Police and Emergency Services Portfolio	No items subject to legislative review
Corrections Portfolio	No items subject to legislative review
Gaming Portfolio	No items subject to legislative review
Racing Portfolio	No items subject to legislative review

G3: Application of Competitive Neutrality (CN)

Application of Competitive Neutrality principles

Significant Government	Status of CN business activity applied
Attorney-General's Portfolio	
Victorian Government Solicitor's Office (VGSO)	The VGSO is required to meet its operating expenditure by charging fees for services. These fees are fixed in accordance with Competitive Neutrality: A Statement of Victorian Government Policy.
Victorian Government Reporting Service	In 2003–2004 VGRS released a tender to establish 'VGRS Agreement for Standing Offer for the Supply of Court Recording, Reporting, Transcription and Distribution Services'. The tender process was prepared following the policies and guidelines of VGPB (Victorian Government Purchasing Board). The procurement plan was submitted to the Accredited Purchasing Unit of the Department of Justice for comments and endorsement, to ensure the process was consistent with the VGPB procurement policies and guidelines. VGPB certified that the process complied with Government purchasing policies and approved the outcome of the tender.
Consumer Affairs Portfolio	Nil
Police and Emergency Services Portfolio	Nil
Corrections Portfolio	Nil
Gaming Portfolio	Nil
Racing Portfolio	Nil

Agencies associated with the Department will report on the application of CN principles with respect to their particular agency in their Annual Report.

G4: Chief Executive Officer, senior office holders and Audit Committee as at 30 June 2004

Audit Committee

Independent Members

Mr Frank King	Chairman
Ms Jane Harvey	Non Executive Member

Executive Members – 1 July 2003 to 31 January 2004

Mr Alan Clayton	Deputy Secretary, Justice Operations
Mr David Cousins	Deputy Secretary, Consumer Affairs
Mr John Charleson	Deputy Secretary, Corporate Services
Ms Elizabeth Eldridge	Deputy Secretary, Legal and Equity

Executive Members – Following the Department's restructure from 1 February 2004

Mr John Charleson	Executive Director, Corporate Services
Mr John Griffin	Executive Director, Courts
Dr Roslyn Kelleher	Executive Director, Strategic Projects and Planning
Mr Ross Kennedy	Executive Director, Gaming and Racing

Regular Attendees

Mr Des Hill	General Manager, Finance
Mr Ray Turnley	Manager, Internal Audit/Secretary, Audit Committee Representatives of the Auditor-General's Office

Audit Committee Charter – function, role and duties of the Audit Committee

The role and responsibilities of the Audit Committee and its members are set out in an Audit Committee Charter adopted by the Department in July 2001.

The Audit Committee advises the Accountable Officer to assist in the effective discharge of responsibilities prescribed in the *Financial Management Act 1994* and *Audit Act 1994* and other relevant legislation.

The Committee reports on its findings directly to the Accountable Officer, particularly when issues are identified that could present a material risk or threat to the agency.

Audit Committee duties

The Committee's key duty in discharging its responsibilities is to provide reasonable assurance to the Accountable Officer that the agency's core business goals and objectives are being achieved in an efficient and economical manner, within an appropriate internal control and risk management framework.

The Audit Committee's core duties are to:

- assess and contribute to audit planning processes regarding risks and threats to the agency, taking into account the financial and operational environment in which it operates and its performance management framework;

- assess and enhance the agency's corporate governance, including its systems of internal control and the internal audit function;
- facilitate the practical discharge of the audit function, particularly in respect of planning, monitoring and reporting; and
- oversee and appraise the agency's financial and operational reporting processes through the internal audit function.

Audit Committee responsibilities

The Committee's other key responsibilities, through the internal and external audit functions, are to assist the Accountable Officer discharge responsibilities of 'due care and diligence' in relation to:

- the delivery of agency outputs efficiently, effectively and economically to obtain optimal value for money;
- optimising agency performance in terms of quality, quantity, timeliness, cost and where appropriate, location;
- reporting agency financial and operational information in a relevant, reliable and timely manner; and
- ensuring the integrity and consistency of the agency's corporate culture relative to ethical conduct and probity, especially its tendering, contracting and other procurement processes.

Appendix G: Business management continued

G5: Disclosure of major contract compliance

Disclosure statement

The Department has disclosed all contracts greater than \$10 million in which it entered into in 2003–2004.

The disclosed contracts can be viewed at <www.tenders.vic.gov.au>.

G6: Summary of consultancies

Business Unit	Contract title	Consultant	Original contract date	Total approved amount	Actual completion date	Expenditure 2003–2004	Selection process
Indigenous Issues	Women's and Cultural Diversity Inventory Project	Success Works Pty Ltd	31/10/02	\$103,224	N/A	\$71,612	Selective Tender
Enforcement Management Unit	Legal Services	Blake Dawson Waldron	21/08/01	\$114,000	N/A	\$7,750	Panel Contract
Office of the Secretary	Review of the <i>Information Privacy Act 2000</i>	Peter Kirby	08/12/03	\$115,000	N/A	\$26,400	Selective Tender
BEST	MMR Independent Reviewer	APP Corporation	07/06/04	\$200,000	N/A	\$0	Quote
Corrections Victoria	Evaluation of Bridging the Gap Initiative	Melbourne Enterprise International	01/12/00	\$206,250	30/11/03	\$41,250	Selective Tender
BEST	Probity Advisory Services – MMR Project	Pitcher Partners	21/06/02	\$234,668	N/A	\$86,345	Panel Contract
Strategic Projects and Planning	Survey on Perception of Justice	I-View Pty Ltd	22/03/02	\$327,562	N/A	\$108,852	Public Tender
Office of the Secretary	Justice Portfolio Organisational Review	AT Kearney	06/08/03	\$350,000	10/09/03	\$346,000	Selective Tender
Court Services	Court Diversion Program Evaluation	Turning Point Drug and Alcohol Centre Inc	01/07/02	\$446,000	N/A	\$223,000	Public Tender
Civil Law Policy	Justice Statement – Business Case Development	PricewaterhouseCoopers	24/06/04	\$553,832	N/A	\$0	Public Tender
Victorian County Court Project	Victorian County Court Project – Legal Advisor	Minter Ellison Lawyers	31/10/97	\$686,184	30/06/04	\$5,087	Selective Tender
Road Safety Enforcement Technology	Testing of Road Safety Cameras to Recommend Appropriate Remedy	SGS Australia Pty Ltd	17/11/03	\$700,000	N/A	\$785,232	Selective Tender
BEST	Commercial Advisory Services – EAS Project	Deloitte Touche Tohmatsu	05/02/02	\$701,187	N/A	\$317,427	Panel Contract
BEST	Commercial Advisory Services – MMR Project	Macquarie	01/03/03	\$897,380	N/A	\$621,176	Panel Contract
BEST	Legal Advisory Services – MMR Project	Minter Ellison	01/12/03	\$1,082,733	N/A	\$1,071,433	Panel Contract
BEST	Legal Advisory Services – EAS Project	Blake Dawson Waldron	11/02/03	\$1,263,000	N/A	\$1,006,426	Panel Contract

Consultancies less than \$100,000

Number of engagements approved during 2003–2004	49
Total approved amount	\$2,038,634

Appendix H: Occupational Health and Safety

During 2003–2004, the Department of Justice developed a comprehensive WorkCover and OHS Improvement Strategy. The strategy was designed to promote a working environment which is safe and without risk to health and was targeted to achieve the following aims:

- provide a Departmental environment that is conducive to the achievement of high standards of OHS and designed to lead to a sustained reduction in the incidence and severity of injury;
- improve return to work outcomes through implementation of best-practice injury and claims management practices; and
- maximise employee health and wellbeing, leading to an ongoing, sustained reduction in absenteeism and an increase in employee satisfaction.

Key achievements

- Increased resourcing and skills development in the broad OHS area was a priority, with the formal creation of a specialist Organisational Health Unit and the delivery of targeted training and skills development for a large number of Departmental staff. This was aimed at managers with workplace OHS responsibilities, return to work coordinators and all WorkCover claims' administrative staff.
- The Department conducted a trial Management Assistance Program designed to provide supervisors and line managers with skills in the recognition and management of occupational stress. The findings of the trial are currently being assessed in relation to the Department's future team leadership development programs.

- A targeted risk assessment of the Department's OHS and WorkCover exposure, focussing on specific areas of concern was undertaken and the findings will be used to direct OHS activity in the future.
- The Employee Assistance Program was reviewed and appropriate changes made to the service delivery approach (to that of a self-referral model) to improve value to the Department and its staff.
- A senior level OHS Taskforce was formed to oversee and support a coordinated approach to the Department's occupational health and safety and injury management programs.

Occupational Health and Safety and WorkCover performance indicators

The number of WorkCover claims decreased marginally in 2003–2004, from 153 in the previous year, to 148. However costs increased slightly from an average of \$8,269 in the previous year to \$9,952. Performance over the year demonstrates mixed results compared with the targets established by the Department of Treasury and Finance (DTF) improvement strategy for the Victorian public sector. The DTF improvement strategy established a 20 per cent improvement target over a three-year period (with the year 2000–2001 as the baseline). The Department's performance against targets is set out in the table below.

Measure	Baseline data (2000–2001 full year)	2003–2004 Targets (20% reduction on baseline data)	2003–2004 Actual	Per cent variation from target
Number of reported claims	119	96	148	+ 46
Average claims cost	\$14,021	\$11,217	\$9,952	- 14.8
Claims frequency rate (claim number per \$1 million remuneration)	0.50	0.37	0.40	+ 11
Incident rate (number of claims per 100 employees)			3.1	
Average time lost (days)			24	

Note: Data in this table is sourced from Allianz, the Department's WorkCover agent.

Appendix I: Whistleblowers Protection Act 2001

Disclosures for the period of 1 July 2003 to 30 June 2004

Number and type of disclosures made to the Department	
Improper conduct	1
Number and type of disclosures referred to the Ombudsman for public interest determination – improper conduct	
	1
Number and type of disclosed matters referred to the Department from the Ombudsman	
	0
Number and type of disclosed matters referred to the Ombudsman for investigation	
	0
Number and type of investigations of disclosed matters taken over by the Ombudsman	
	0
Number of requests made to the Ombudsman to investigate matters	
	0
Number and type of disclosed matters the Department has declined to investigate	
	0

Whistleblowing – reporting serious public wrongdoing

Statement of support to whistleblowers

The Department of Justice is committed to the aims and objectives of the *Whistleblowers Protection Act 2001* (the Act). It does not tolerate improper conduct by its employees, officers or members, nor the taking of reprisals against those who come forward to disclose such conduct.

The Department of Justice recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

The Department of Justice will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also afford natural justice to the person who is the subject of the disclosure.

Definitions

A **whistleblower** is someone who makes a disclosure about improper or corrupt conduct, or detrimental action by a public body or public official with the view to the matter being investigated and appropriate action being taken.

Improper conduct means conduct that is corrupt, a substantial mismanagement of public resources, or conduct involving substantial risk to public health or safety or to the environment. The conduct must be serious enough to constitute, if proved, a criminal offence or reasonable grounds for dismissal. A disclosure may be made about improper conduct by a public body or public official.

Some examples of improper conduct

A Department of Justice employee sells Departmental assets without authority and keeps the proceeds.

Prison authorities tolerate security breaches in prisons resulting in harm to prisoners and prison staff.

Corrupt conduct means:

- conduct of any person (whether or not a public official) that adversely affects the honest performance of a public officer's or public body's functions;
- the performance of a public officer's functions dishonestly or with inappropriate partiality;
- conduct of a public officer, former public officer or a public body that amounts to a breach of public trust;
- conduct by a public officer, former public officer or a public body that amounts to the misuse of information or material acquired in the course of the performance of their official functions; or
- a conspiracy or attempt to engage in the above conduct.

Some examples of corrupt conduct

A Department of Justice employee takes a bribe or receives a payment other than his or her wages or salary in exchange for the discharge of a public duty.

A Department of Justice employee favours unmeritorious applications for jobs or permits by friends and relatives.

A Department of Justice employee sells confidential information.

Detrimental action includes:

- action causing injury, loss or damage;
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.

The Act makes it an offence for a person to take detrimental action against a person in reprisal for a protected disclosure.

Some examples of detrimental action

The Department of Justice refuses a deserved promotion of a person who makes a disclosure.

The Department of Justice transfers or isolates in the workplace or changes the duties of a whistleblower due to the making of a disclosure.

A person threatens, abuses or carries out other forms of harassment directly or indirectly against a whistleblower who has made a disclosure against a Department of Justice employee, his or her family or friends.

The Department of Justice discriminates against the whistleblower or his or her family and associates in subsequent applications for jobs, permits or tenders.

Purpose of whistleblowing procedures

These procedures establish a system for reporting disclosures of improper conduct or detrimental action by the Department of Justice or its employees. Disclosures may be made by employees or by members of the public. These procedures are designed to complement normal communication channels between supervisors and employees. Employees are encouraged to continue to raise appropriate matters at any time with their supervisors. As an alternative, employees may make a disclosure of improper conduct or detrimental action under the Act in accordance with these procedures.

Objectives of *Whistleblowers Protection Act 2001*

The *Whistleblowers Protection Act 2001* commenced operation on 1 January 2002. The purpose of the Act is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies. The Act provides protection to whistleblowers who make disclosures in accordance with the Act, and establishes a system for the matters disclosed to be investigated and rectifying action to be taken.

Reporting system and contact persons for the Department of Justice

Disclosures of improper conduct or detrimental action by Department of Justice or its employees may be made to the protected disclosure coordinator or to a protected disclosure officer. Where a person is contemplating making a disclosure and is concerned about approaching the protected disclosure coordinator or a protected disclosure officer in the workplace, he or she can call the relevant officer and request a meeting in a discreet location away from the workplace.

The protected disclosure coordinator

The protected disclosure coordinator oversees the internal reporting system. He or she will receive and assess all disclosures made under the Act, including all correspondence, phone calls and emails from external whistleblowers, and will report directly to the Secretary of the Department, Ms Penny Armytage. More details about the role of the protected disclosure coordinator and protected disclosure officers are on page 152.

The protected disclosure coordinator for the Department of Justice is:

Mr Colin Brown
Director, Human Resources
4th Floor, 452 Flinders Street
Melbourne VIC 3000
Phone: (03) 9627 7301
Email: colin.brown@justice.vic.gov.au

Protected disclosure officers

The Department of Justice has seven protected disclosure officers. There is a protected disclosure officer for each portfolio group as well as three further protected disclosure officers for Courts, Victoria State Emergency Service and Corrections Victoria.

The protected disclosure officers are available to all Department of Justice staff and to members of the public as

an initial point of contact about whistleblower matters. They will give general advice about making a disclosure under the Act and may receive this disclosure verbally or in writing. All disclosures will be forwarded to the protected disclosure coordinator for assessment.

The protected disclosure officers for the Department of Justice are:

Corporate Services
Mr Ray Turnley
Manager, Internal Audit
Phone: (03) 9627 6762
Email: ray.turnley@justice.vic.gov.au

Consumer Affairs Portfolio Group
Mr Stephen Devlin
Manager, Legal Development
Phone: (03) 9627 6105
Email: stephen.devlin@justice.vic.gov.au

Legal and Equity Portfolio Group
Ms Joella Marron
Legal Policy Officer, Civil Law Policy
Phone: (03) 9651 0583
Email: joella.marron@justice.vic.gov.au

Justice Operations Portfolio Group
Mr David Murray-Smith
Manager Special Projects, Office of the Executive Director
Police Emergency Services and Corrections
Phone: (03) 9651 1416
Email: david.murray-smith@justice.vic.gov.au

Courts
Mr John Griffin
Executive Director Courts
Phone: (03) 9651 1101
Email: john.griffin@justice.vic.gov.au

Corrections Victoria
Mr Max Johns
General Manager, Review and Ethical Standards
Phone: (03) 9627 6661
Email: max.johns@justice.vic.gov.au

Victoria State Emergency Service
Mr Bob Spowart
Manager, Human Resources
Victoria State Emergency Service
Phone: (03) 9684 6666
Email: bob.spowart@ses.vic.gov.au

Alternative contact person – The Ombudsman

A disclosure about improper conduct or detrimental action by the Department of Justice or its employees may also be made directly to the Ombudsman.

The Ombudsman Victoria
Mr George Brouwer
Level 22, 459 Collins Street
Melbourne VIC 3000
(DX 210174)
Internet: www.ombudsman.vic.gov.au
Email: ombudvic@ombudsman.vic.gov.au
Phone: (03) 9613 6222
Toll free: 1800 806 314

Appendix I: *Whistleblowers Protection Act 2001*

continued

The following table sets out where disclosures about persons other than employees of the Department of Justice should be made. A contact list for the public bodies listed in the table is available. Alternatively, a person wishing to make a disclosure about another public body may call Information Victoria on 1300 366 356 to be referred to the correct contact person. A guide to making a disclosure under the *Whistleblowers Protection Act 2001* entitled *Making a Disclosure – Blowing the Whistle on Improper Conduct in the Victorian Public Sector* is also available.

Person who is the subject of the disclosure	Person/body to whom the disclosure must be made
Employee of a public body	That public body or the Ombudsman
Member of Parliament (Legislative Assembly)	Speaker of the Legislative Assembly
Member of Parliament (Legislative Council)	President of the Legislative Council
Councillors	The Ombudsman
Chief Commissioner of Police	The Ombudsman or Deputy Ombudsman
Member of the police force	The Ombudsman, Deputy Ombudsman or Chief Commissioner of Police

Roles and responsibilities

Protected disclosure coordinator

The protected disclosure coordinator has a central 'clearing-house' role in the internal reporting system. He or she will:

- receive all disclosures forwarded from the protected disclosure officers;
- receive all phone calls, emails and letters from members of the public or employees seeking to make a disclosure;
- impartially assess each disclosure to determine whether it comes under the *Whistleblowers Protection Act 2001* and is a public interest disclosure;
- refer all public interest disclosures to the Ombudsman;
- ensure that matters which do not meet the definition of a public interest disclosure are dealt with appropriately, after consultation with the person who made the allegation or report;
- be responsible for carrying out, or appointing an investigator to carry out, an investigation referred to the public body by the Ombudsman;
- be responsible for overseeing and coordinating an investigation where an investigator has been appointed;
- appoint a welfare manager to support the whistleblower and to protect him or her from any reprisals;
- advise the whistleblower of the progress of an investigation into the disclosed matter;
- establish and manage a confidential filing system;
- collate and publish statistics on disclosures made;

- take all necessary steps to ensure the identity of the whistleblower and the identity of the person who is the subject of the disclosure are kept confidential; and
- liaise with the Secretary of the Department.

Protected disclosure officers

Protected disclosure officers will:

- be a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action;
- make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace;
- receive any disclosure made verbally or in writing (from internal and external whistleblowers);
- commit to writing any disclosure made verbally;
- impartially assess the allegation, in consultation with the protected disclosure coordinator, and advise the person making the disclosure whether the disclosure comes under Part 2 of the *Whistleblowers Protection Act 2001*;
- take all necessary steps to ensure the identity of the whistleblower and the identity of the person who is the subject of the disclosure are kept confidential; and
- forward all disclosures and supporting evidence to the protected disclosure coordinator.

Employees

Employees are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures.

All employees of the Department of Justice have an important role to play in supporting those who have made a legitimate disclosure. Employees must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, employees should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

Investigator

The investigator will be responsible for carrying out an internal investigation into a disclosure where the Ombudsman has referred a matter to the public body. The Department of Justice may appoint a person from within the Department or engage a consultant for that purpose.

Welfare manager

The welfare manager is responsible for looking after the general welfare of the whistleblower. The welfare manager will:

- examine the immediate welfare and protection needs of a whistleblower who has made a disclosure and seek to foster a supportive work environment;
- inform the whistleblower of the legislative and administrative protections available to him or her;
- listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure; and
- discuss with the whistleblower what would be a realistic expectation for the outcome of an investigation of the disclosure.

The Department of Justice will appoint a contractor to provide welfare services.

Confidentiality

The Department of Justice will take all reasonable steps to protect the identity of the whistleblower. Maintaining confidentiality is crucial in ensuring reprisals are not made against a whistleblower.

The Act requires any person who receives information due to the handling or investigation of a protected disclosure, not to disclose that information except in certain limited circumstances. Disclosure of information in breach of section 22 *Whistleblowers Protection Act 2001* constitutes an offence that is punishable by a maximum fine of 60 penalty units or six months imprisonment, or both.

The circumstances in which a person may disclose information obtained about a protected disclosure include:

- where exercising the functions of the public body under the Act;
- when making a report or recommendation under the Act;
- when publishing statistics in the annual report of a public body; and
- in criminal proceedings for certain offences in the Act.

However, the Act prohibits the inclusion of particulars in any report or recommendation that is likely to lead to the identification of the whistleblower. The Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in an annual report.

The Department of Justice will ensure all files, whether paper or electronic, are kept in a secure room and can only be accessed by the protected disclosure coordinator and the investigator. All printed material will be kept in files that are clearly marked as a Whistleblower Protection Act matter, and warn of the criminal penalties that apply to any unauthorised divulging of information concerning a protected disclosure. All electronic files will be produced and stored on a stand-alone computer and be given password protection. Back-up files will be kept on floppy disc. All materials relevant to an investigation, such as tapes from interviews, will also be stored securely with the whistleblower files.

The Department of Justice will not email documents relevant to a whistleblower matter and will ensure all phone calls and meetings are conducted in private.

Receiving and assessing disclosures

Has the disclosure been made in accordance with Part 2 of the Act?

Where a disclosure has been received by the protected disclosure officer or by the protected disclosure coordinator, he or she will assess whether the disclosure has been made in accordance with Part 2 of the *Whistleblowers Protection Act 2001* and is, therefore, a protected disclosure.

Has the disclosure been made to the appropriate person?

For the disclosure to be responded to by the Department of Justice, it must concern an employee, member or officer of the Department of Justice. If the disclosure concerns an employee, officer or member of another public body, the person who has made the disclosure will be advised of the correct person or body to whom the disclosure should be directed. If the disclosure has been made anonymously, it will be referred to the Ombudsman.

Does the disclosure contain the essential elements of a protected disclosure?

To be a protected disclosure, a disclosure must satisfy the following criteria:

- Did a natural person (that is, an individual person rather than a corporation) make the disclosure?
- Does the disclosure relate to conduct of a public body or public officer acting in their official capacity?
- Is the alleged conduct either improper conduct or detrimental action taken against a person in reprisal for making a protected disclosure?
- Does the person making a disclosure have reasonable grounds for believing the alleged conduct has occurred?

Where a disclosure is assessed to be a protected disclosure, the protected disclosure coordinator will then determine whether the disclosure is a public interest disclosure (see below).

Where a disclosure is assessed not to be a protected disclosure, the matter does not need to be dealt with under the Act. The protected disclosure coordinator will decide how the matter should be responded to. The whistleblower will be consulted before the matter is dealt with under any other departmental policy or referred to any other person or body.

Is the disclosure a public interest disclosure?

Where the protected disclosure officer or coordinator has received a disclosure that has been assessed to be a protected disclosure, the protected disclosure coordinator will determine whether the disclosure amounts to a public interest disclosure. This assessment will be made within 45 days of the receipt of the disclosure.

In reaching a conclusion as to whether a protected disclosure is a public interest disclosure, the protected disclosure coordinator will consider whether the disclosure shows, or tends to show, that the public officer to whom the disclosure relates:

- has engaged, is engaging, or proposes to engage in improper conduct in his or her capacity as a public officer; or
- has taken, is taking, or proposes to take detrimental action in reprisal for the making of the protected disclosure.

Improper conduct means conduct that is corrupt, a substantial mismanagement of public resources, or conduct involving substantial risk to public health or safety or to the environment. The conduct must be serious enough to constitute, if proved, a criminal offence or reasonable grounds for dismissal.

Appendix I: *Whistleblowers Protection Act 2001*

continued

The Act makes it an offence for a person to take detrimental action against a person in reprisal for a protected disclosure. Detrimental action includes:

- action causing injury, loss or damage;
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.

Where the protected disclosure coordinator concludes that the disclosure amounts to a public interest disclosure, he or she will:

1. Notify the person who made the disclosure of that conclusion.
2. Refer the disclosure to the Ombudsman for formal determination as to whether it is indeed a public interest disclosure.

Where the protected disclosure coordinator concludes that the disclosure is not a public interest disclosure, he or she will:

1. Notify the person who made the disclosure of that conclusion.
2. Advise that person that he or she may request the public body to refer the disclosure to the Ombudsman for a formal determination as to whether the disclosure is a public interest disclosure, and that this request must be made within 28 days of the notification.

In either case, the protected disclosure coordinator will make the notification and the referral within 14 days of the conclusion being reached by the public body. Notification to the whistleblower is not necessary where the disclosure has been made anonymously.

Investigations

Where the Ombudsman refers a protected disclosure to the Department of Justice for investigation, the protected disclosure coordinator will appoint an investigator to carry out the investigation.

The objectives of an investigation will be to:

- collate information relating to the allegation as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment;
- consider the information collected and to draw conclusions objectively and impartially;
- maintain procedural fairness in the treatment of witnesses and the person who is the subject of the disclosure; and
- make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.

Terms of reference

Before commencing an investigation, the protected disclosure coordinator will draw up terms of reference and obtain authorisation for those terms from the Secretary of the Department. The terms of reference will set a date by which the investigation report is to be concluded, and will describe the resources available to the investigator to complete the

investigation within the time set. The protected disclosure coordinator may approve, if reasonable, an extension of time requested by the investigator. The terms of reference will require the investigator to make regular reports to the protected disclosure coordinator who, in turn, will keep the Ombudsman informed of general progress.

Investigation plan

The investigator will prepare an investigation plan for approval by the protected disclosure coordinator. The plan will list the issues to be substantiated and describe the avenue of inquiry. It will address the following issues.

- What is being alleged?
- What are the possible findings or offences?
- What are the facts in issue?
- How is the inquiry to be conducted?
- What resources are required?

At the commencement of the investigation, the whistleblower should be:

- notified by the investigator that he or she has been appointed to conduct the investigation;
- asked to clarify any matters; and
- asked to provide any additional material he or she might have.

The investigator will be sensitive to the whistleblower's possible fear of reprisals and will be aware of the statutory protections provided to the whistleblower.

Natural justice

The principles of natural justice will be followed in any investigation of a public interest disclosure. The principles of natural justice concern procedural fairness and ensure a fair decision is reached by an objective decision maker. Maintaining procedural fairness protects the rights of individuals and enhances public confidence in the process.

The Department of Justice will have regard to the following issues in ensuring procedural fairness.

- The person who is the subject of the disclosure is entitled to know the allegations made against him or her and must be given the right to respond. (This does not mean the person must be advised of the allegation as soon as the disclosure is received or the investigation has commenced.)
- If the investigator is contemplating making a report adverse to the interests of any person, that person should be given the opportunity to put forward further material that may influence the outcome of the report and that person's defence should be fairly set out in the report.
- All relevant parties to a matter should be heard and all submissions should be considered.
- A decision should not be made until all reasonable inquiries have been made.
- The investigator or any decision maker should not have a personal or direct interest in the matter being investigated.

- All proceedings must be carried out fairly and without bias. Care should be taken to exclude perceived bias from the process.
- The investigator must be impartial in assessing the credibility of the whistleblower/s and any witnesses. Where appropriate, conclusions as to credibility should be included in the investigation report.

Conduct of the investigation

The investigator will make notes of all discussions and phone calls, and all interviews with witnesses will be taped. All information gathered in an investigation will be stored securely. Interviews will be conducted in private, and the investigator will take all reasonable steps to protect the identity of the whistleblower. Where disclosure of the identity of the whistleblower cannot be avoided due to the nature of the allegations, the investigator will warn the whistleblower and his or her welfare manager of this probability.

It is in the discretion of the investigator to allow any witness to have legal or other representation or support during an interview. If a witness has a special need for legal representation or support, permission should be granted.

Referral of an investigation to the Ombudsman

The protected disclosure coordinator will make a decision regarding the referral of an investigation to the Ombudsman where, on the advice of the investigator:

- the investigation is being obstructed by, for example, the non-cooperation of key witnesses; or
- the investigation has revealed conduct that may constitute a criminal offence.

Reporting requirements

The protected disclosure coordinator will ensure the whistleblower is kept regularly informed concerning the handling of a protected disclosure and an investigation.

The protected disclosure coordinator will report to the Ombudsman about the progress of an investigation.

Where the Ombudsman or the whistleblower requests information about the progress of an investigation, that information will be provided within 28 days of the date of the request.

Action taken after an investigation

Investigator's final report

At the conclusion of the investigation, the investigator will submit a written report of his or her findings to the protected disclosure coordinator. The report will contain:

- the allegation/s;
- an account of all relevant information received and, if the investigator has rejected evidence as being unreliable, the reasons for this opinion being formed;

- the conclusions reached and the basis for them; and
- any recommendations arising from the conclusions.

Where the investigator has found that the conduct disclosed by the whistleblower has occurred, recommendations made by the investigator will include:

- the steps that need to be taken by the Department of Justice to prevent the conduct from continuing or occurring in the future; and
- any action that should be taken by the Department of Justice to remedy any harm or loss arising from the conduct. This action may include bringing disciplinary proceedings against the person responsible for the conduct, and referring the matter to an appropriate authority for further consideration.

The report will be accompanied by:

- the transcript or other record of any oral evidence taken, including tape recordings; and
- all documents, statements or other exhibits received by the officer and accepted as evidence during the course of the investigation.

Where the investigator's report is to include an adverse comment against any person, that person will be given the opportunity to respond and his or her defence will be fairly included in the report.

The report will not disclose particulars likely to lead to the identification of the whistleblower.

Action to be taken

If the protected disclosure coordinator is satisfied that the investigation has found that the disclosed conduct has occurred, he or she will recommend to the Secretary of the Department the action that must be taken to prevent the conduct from continuing or occurring in the future. The protected disclosure coordinator may also recommend that action be taken to remedy any harm or loss arising from the conduct.

The protected disclosure coordinator will provide a written report to the Attorney-General, the Ombudsman and the whistleblower which sets out the findings of the investigation and any remedial steps taken.

Where the investigation concludes that the disclosed conduct did not occur, the protected disclosure coordinator will report these findings to the Ombudsman and to the whistleblower.

Managing the welfare of the whistleblower

Commitment to protecting whistleblowers

The Department of Justice is committed to the protection of genuine whistleblowers against detrimental action taken in reprisal for the making of protected disclosures. The protected disclosure coordinator is responsible for ensuring whistleblowers are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of protected disclosures being made.

Appendix I: *Whistleblowers Protection Act 2001*

continued

The protected disclosure coordinator will appoint a welfare manager to all whistleblowers who have made a protected disclosure. The welfare manager will:

- examine the immediate welfare and protection needs of a whistleblower who has made a disclosure and, where the whistleblower is an employee, seek to foster a supportive work environment;
- inform the whistleblower of the legislative and administrative protections available to him or her;
- listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure;
- keep a contemporaneous record of all aspects of the case management of the whistleblower including all contact and follow-up action; and
- discuss with the whistleblower what would be a realistic expectation for the outcome of an investigation of the disclosure.

All employees will be advised that it is an offence for a person to take detrimental action in reprisal for a protected disclosure. The maximum penalty is a fine of 240 penalty units or two years imprisonment, or both. The taking of detrimental action in breach of this provision can also be grounds for making a disclosure under the Act and can result in an investigation.

Detrimental action includes:

- causing injury, loss or damage;
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business (including the taking of disciplinary action).

Keeping the whistleblower informed

The protected disclosure coordinator will ensure the whistleblower is kept informed of action taken in relation to his or her disclosure, and the timeframes that apply. The whistleblower will be informed of the objectives of an investigation, the findings of an investigation, and the steps taken by the Department of Justice to address any improper conduct that has been found to have occurred. The whistleblower will be given reasons for decisions made by the Department of Justice in relation to a protected disclosure. All communication with the whistleblower will be in plain English.

Occurrence of detrimental action

If a whistleblower reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action taken in reprisal for the making of the disclosure, the welfare manager will:

- record details of the incident;
- inform the whistleblower of his or her rights under the Act; and
- advise the protected disclosure coordinator of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence against the Act as well as grounds for making a further disclosure. Where such detrimental action is reported, the protected disclosure coordinator will assess the report as a new disclosure under the Act. Where the protected disclosure coordinator is satisfied that the disclosure is a public interest disclosure, he or she will refer it to the Ombudsman. If the Ombudsman subsequently determines the matter to be a public interest disclosure, the Ombudsman may investigate the matter or refer it to another body for investigation as outlined in the Act.

Whistleblowers implicated in improper conduct

Where a person who makes a disclosure is implicated in misconduct, the Department of Justice will handle the disclosure and protect the whistleblower from reprisals in accordance with the *Whistleblowers Protection Act 2001*, the Ombudsman's guidelines and these procedures. The Department of Justice acknowledges that the act of whistleblowing should not shield whistleblowers from the reasonable consequences flowing from any involvement in improper conduct. Section 17 of the Act specifically provides that a person's liability for his or her own conduct is not affected by the person's disclosure of that conduct under the Act. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

The Secretary of the Department will make the final decision on the advice of the protected disclosure coordinator as to whether disciplinary or other action will be taken against a whistleblower. Where disciplinary or other action relates to conduct that is the subject of the whistleblower's disclosure, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with.

In all cases where disciplinary or other action is being contemplated, the Secretary of the Department must be satisfied that it has been clearly demonstrated that:

- the intention to proceed with disciplinary action is not causally connected to the making of the disclosure (as opposed to the content of the disclosure or other available information);
- there are good and sufficient grounds that would fully justify action against any non-whistleblower in the same circumstances; and
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The protected disclosure coordinator will thoroughly document the process including recording the reasons why the disciplinary or other action is being taken, and the reasons why the action is not in retribution for the making of the disclosure. The protected disclosure coordinator will clearly advise the whistleblower of the proposed action to be taken, and of any mitigating factors that have been taken into account.

Management of the person against whom a disclosure has been made

The Department of Justice recognises that employees against whom disclosures are made must also be supported during the handling and investigation of disclosures. The Department of Justice will take all reasonable steps to ensure the confidentiality of the person who is the subject of the disclosure during the assessment and investigation process. Where investigations do not substantiate disclosures, the fact that the investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the disclosure will remain confidential.

The protected disclosure coordinator will ensure the person who is the subject of any disclosure investigated by or on behalf of a public body is:

- informed as to the substance of the allegations;
- given the opportunity to answer the allegations before a final decision is made;
- informed as to the substance of any adverse comment that may be included in any report arising from the investigation; and
- has his or her defence set out fairly in any report.

Where the allegations in a disclosure have been investigated, and the person who is the subject of the disclosure is aware of the allegations or the fact of the investigation, the protected disclosure coordinator will formally advise the person who is the subject of the disclosure of the outcome of the investigation.

The Department of Justice will give its full support to a person who is the subject of a disclosure where the allegations contained in a disclosure are clearly wrong or unsubstantiated. If the matter has been publicly disclosed, the Secretary of the Department of Justice will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated.

Criminal offences

The Department of Justice will ensure officers appointed to handle protected disclosures and all other employees are aware of the following offences created by the Act:

1. It is an offence for a person to take detrimental action against a person in reprisal for a protected disclosure being made. The Act provides a maximum penalty of a fine of 240 penalty units or two years imprisonment, or both.
2. It is an offence for a person to divulge information obtained as a result of the handling or investigation of a protected disclosure without legislative authority. The Act provides a maximum penalty of 60 penalty units or six months imprisonment, or both.
3. It is an offence for a person to obstruct the Ombudsman in performing his responsibilities under the Act. The Act provides a maximum penalty of 240 penalty units or two years imprisonment, or both.
4. It is an offence for a person to knowingly provide false information under the Act with the intention that it be acted on as a disclosed matter. The Act provides a maximum penalty of 240 penalty units or two years imprisonment, or both.

Collating and publishing statistics

The protected disclosure coordinator will establish a secure register to record the information required to be published in the annual report, and to generally keep account of the status of whistleblower disclosures. The register will be confidential and will not record any information that may identify the whistleblower.

The register will contain the following information:

- the number and types of disclosures made to the Department of Justice during the year;
- the number of disclosures referred to the Ombudsman for determination as to whether they are public interest disclosures;
- the number and types of disclosed matters referred to the Department of Justice by the Ombudsman for investigation;
- the number and types of disclosures referred by the Department of Justice to the Ombudsman for investigation;
- the number and types of investigations taken over from the Department of Justice by the Ombudsman;
- the number of requests made by a whistleblower to the Ombudsman to take over an investigation by the Department of Justice;
- the number and types of disclosed matters that the Department of Justice has declined to investigate;
- the number and types of disclosed matters that were substantiated upon investigation and the action taken on completion of the investigation; and
- any recommendations made by the Ombudsman that relate to the Department of Justice.

Review

These procedures will be reviewed annually to ensure they meet the objectives of the Act and accord with the Ombudsman's guidelines.

More information and frequently asked questions

More information about whistleblowing and answers to frequently asked questions are on the Department's website at <www.justice.vic.gov.au>.

References

Legislation	<i>Whistleblowers Protection Act 2001</i>
Other key documents	<ul style="list-style-type: none">• Ombudsman's guidelines• Contact list for public bodies• Making a Disclosure – Blowing the Whistle on Improper Conduct in the Victorian Public Sector• Whistleblowers' checklist• Department of Justice Mail Registry Procedures• Pro forma letters
Code of conduct forms	

Appendix J: Freedom of Information

Freedom of Information Act 1982

What is the main aim of the FOI Act?

Victoria's *Freedom of Information Act 1982* (FOI Act) gives members of the public the right to apply for access to information held by Ministers, State Government departments, local councils, public hospitals, most semi-government agencies and statutory authorities.

What documentation does the FOI Act cover?

The FOI Act allows people to apply for access to all documents held by an agency, irrespective of how the documentation is stored. This includes, but is not limited to, paper and electronic documents.

The two main categories of information normally requested under the FOI Act include individuals asking for their personal documents and documents relating to the activities of Government.

The Department of Justice maintains an extensive filing system on an Electronic Document Management System (EDMS). Each Justice Portfolio Minister is responsible for the functions outlined in this report. Files are separated into the categories of personal or request files, procedure and policy files (on legislation or particular aspects of legislation administered by the respective Ministers), operational and administrative responsibilities, and general correspondence files. Assistance in determining the categories of documents relevant to a request can be provided by the FOI Manager.

It should be noted that certain documents are destroyed or transferred to the Public Records Office in accordance with the *Public Records Act 1973*.

Are documents requested under FOI automatically released?

In assessing whether it is suitable to release documents, the FOI Manager will consider whether any material requested is exempt from release under the FOI Act.

The FOI Act outlines general categories of information which is exempt. This includes information relating to the personal affairs of third parties, information provided in confidence, information which if released might endanger the lives or physical safety of individuals, cabinet documents, commercial-in-confidence information, internal working documents the release of which would be contrary to the public interest, and so on.

Who are the decision makers under the FOI Act?

Decisions are made under the FOI Act by the Secretary of the Department, or in line with arrangements made by the Secretary as required under sections 26 and 51 of the FOI Act.

Decision-making powers and other powers affecting members of the public are found in the legislation administered by the Justice Portfolio Ministers. Acts administered by the Justice Portfolio Ministers are listed in the appendices.

How does an individual lodge a FOI request?

1. A request must be made in writing and should be addressed to:

Manager, Information and Privacy
Department of Justice
55 St Andrews Place
Melbourne Victoria 3002

Requests can also be lodged online at <www.foi.vic.gov.au>.

Telephone inquiries can be made on (03) 9651 0520.

2. All FOI requests are subject to a \$20.50 application fee. As a result of the commencement of the *Monetary Units Act 2004*, the cost of submitting a FOI request increased from \$20.00 to \$20.50 effective on 1 July 2004. This fee may be waived in cases where payment would cause an applicant financial hardship. Where an applicant seeks a waiver of this fee, the request should indicate the grounds on which a waiver is being sought (for example, low income, or holder of Commonwealth Health Care Card). Access charges may also apply once documents have been processed and a decision on access made; for example, 20c per A4 page photocopying charge and a \$20 per hour search and retrieval charge. It should be noted that, under certain circumstances, some of these charges can be waived.
3. A FOI request must also be specific enough to allow an agency to identify documents considered relevant to a request. Where the terms of a request are vague, assistance will be provided to applicants to help determine the type of documentation being sought.

Where can the general public find out more about FOI?

To provide more assistance to FOI applicants, the Department of Justice has provided general information about making FOI requests on FOI Online. The FOI Annual Reports, from 1998–1999 onwards, are also available on FOI Online, located at www.foi.vic.gov.au.

Where can the general public access information about specific areas of responsibility of the Department?

The Department of Justice website www.justice.vic.gov.au provides information about all areas of the Department, including Legal and Equity, Court Services, Bureau of Emergency Services Telecommunications, Corrections Victoria, Crime Prevention Victoria, Dispute Settlement Centre, Justice Policy, Enforcement Management, Gaming and Racing, Consumer Affairs Victoria, Police and Emergency Services, Indigenous Issues and Freedom of Information.

The Corrections Victoria Resource Centre, on Level 6 at 452 Flinders Street Melbourne, maintains a comprehensive collection of publications and other materials about adult corrections and related areas.

Information relating to consumer rights and the services offered by Consumer Affairs Victoria is available at the public counter on Level 2 at 452 Flinders Street Melbourne.

Members of the general public can also write directly to the Department seeking information on any aspect of its operations. The correspondence can be addressed to either the Secretary of the Department or the director of the relevant business unit. Guidance on the relevant business unit can be taken from the Department's organisation chart contained in the Appendices of this report.

Appendix K: Additional information

The following information, where it relates to the Department of Justice and is relevant to the financial year 2003–2004, is available to the Minister, Members of Parliament and the public on request.

1. A statement that declarations of pecuniary interests have been duly completed by all relevant officers of the Department.
2. Details of shares held by senior officers as nominee, or held beneficial in a statutory authority or subsidiary.
3. Details of publications produced by the Department about the activities of the Department and where the publications can be obtained.
4. Details of changes in prices, fees, charges, rates and levies charged by the Department including services that are administered.
5. Details of any major external reviews carried out in respect of the operation of the Department.
6. Further details of any other research and development activities undertaken by the Department that are not otherwise covered in the Report of Operations or in a document which contains the financial report and Report of Operations.
7. Details of overseas visits undertaken, including a summary of the objectives and outcomes of each visit.
8. Details of major promotional, public relations and marketing activities undertaken by the Department, in order to develop community awareness of the services provided by the Department.
9. Details of assessment and measures undertaken to improve the occupational health and safety of employees, not otherwise detailed in the Report of Operations.
10. A general statement on industrial relations within the Department and details of time lost through industrial accidents and disputes, which are not otherwise detailed in the Report of Operations.
11. A list of major committees sponsored by the Department, the purposes of each committee and the extent to which the purposes have been achieved.



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