The Sentencing Information System enables judicial officers to access sentencing statistics, and material on sentencing principles and practice. Needless to say, the ready availability of sentencing statistics is of considerable benefit to judicial officers contemplating the imposition of appropriate penalties.

The Attorney-General said:

> Needless to say, the ready availability of sentencing statistics is of considerable benefit to judicial officers contemplating the imposition of appropriate penalties.
>
> In a paper[7] presented to the Annual Conference of the Supreme Court of New South Wales in 1995, your Honour speculated that in 20 years time the Supreme Court:
>
> > "will be a 'paperless court,' operating without paper files. Solicitors will institute proceedings electronically. There will be no need for people to attend a court registry in order to file documents. The court will be both unable and unwilling to act as the repository of masses of paper".
>
> Anybody who has witnessed the advances in information technology over the last 10 years would not question the accuracy of your Honour's predictions. It is vitally important that scarce taxpayer resources expended on the application of information technology in our courts produce maximum benefits for all jurisdictions.
>
> I would hope that the Council of Chief Justices might adopt a leadership role in this area by encouraging sharing between jurisdictions of information on technological change to ensure that the benefits of initiatives to improve the workings of our courts are shared by all.

[7] The Supreme Court in Twenty Years Time

In 1989, his Honour was appointed Lieutenant Governor of New South Wales. That same year, he was made an Honorary Bencher of Middle Temple of the Inns of Court in London. In 1992, his Honour's services to the law were further recognised with his appointment as a Companion of the Order of Australia.

On behalf of the Government and himself, the Attorney-General extended to his Honour congratulations, best wishes and a very warm welcome on his appointment as Chief Justice of Australia.

Third Parliamentary Report on the Australian Legal Aid System

On 27 May 1998, the Government tabled its response to the first and second reports of the Senate Legal and Constitutional References Committee's Inquiry into the Legal Aid System. These reports have been discussed in previous issues of *Admin Review.*

Essentially, the Government's response is that the major recommendations of those reports are already being addressed, that a number of matters are the responsibility of State Governments or the legal profession and that the Government is already fully committed to resolving the impact of the *Dietrich*[8]

[8] In *Dietrich v The Queen* (1992) 177 CLR 292, the High Court of Australia considered the question of the right of an indigent accused to legal representation in a case in which legal aid had been refused. The majority concluded that where a trial judge is faced with an application for adjournment or stay by a person charged with a serious offence, who, through no fault, is unable to obtain legal representation, then in the absence of exceptional circumstances the trial should be adjourned, postponed or stayed until representation is available. If a trial proceeds in those circumstances without representation, the

decision through the Standing Committee of Attorneys-General as a matter of priority.

Committee's Third Report

On 25 June 1998, the Senate Legal and Constitutional References Committee tabled the Third Report of its Inquiry into the Legal Aid System. The Third Report concludes the Committee's Inquiry.

The report's recommendations cover 3 main areas:

- unrepresented litigants

Recommendation 4: the Government examine and report on whether savings made by denying legal aid are outweighed by the extra cost imposed on the public purse by unrepresented litigants.

- special legal assistance schemes

Recommendation 7: the data currently collected on the number of applications for legal aid that are refused be expanded to show how many applications meet all the criteria and are refused solely for lack of Commonwealth funds.

- aid in civil matters

Migration Matters

The Committee noted at para 7.11 that under the 1 July 1997 version of the Commonwealth priorities and guidelines (a Schedule to the Commonwealth/State funding agreements), assistance in immigration matters was limited to refugee applications from applicants in Australia. The guideline provided that aid should normally be limited to the giving of advice, preparation of written material and costs of expert reports. However, the grant could extend to representation where in the opinion of the legal aid commission the applicant was unable adequately to represent himself/herself. The guideline also explicitly stated: 'The Commission will not usually grant assistance for other immigration cases'.

From 1 July 1998, this position will be further restricted. Assistance is generally no longer available in migration and refugee cases unless it comes from the Immigration Advice and Application Assistance Scheme (which has a Budget of $2 million per annum, with the allocation for detention work being 60% of this figure). Otherwise the Commonwealth legal aid guidelines provide that legal assistance in relation to proceedings in the Federal Court or High Court in a migration matter (including a refugee matter) is limited to where:

(i) there are differences of official opinion which have not been settled by the Full Court of the Federal Court or the High Court; or

(ii) the proceedings seek to challenge the lawfulness of detention. A challenge to the lawfulness of detention does not include a challenge to a visa decision or a deportation order.

Social Security Matters

The Committee noted at para 7.17 that the new legal aid arrangements reduced the availability of legal aid for social security appeals to the AAT, partly

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resulting trial will not be a fair one and any conviction will be quashed. All members of the High Court agreed, however, that there was no right to be provided with counsel at public expense in serious trials.

through the guidelines and partly through lack of sufficient funding to provide assistance in all cases that comply with the new guidelines.

The guideline for appeals in relation to social security and other Commonwealth benefits now provides 2 levels of assistance:

> Assistance in order to obtain instructions and necessary reports and prepare submissions for appeals to the AAT may be granted where
>
> (i) the case relates to an overpayment exceeding $5000; or
>
> (ii) the applicant is at significant risk of prosecution; or
>
> (iii) the applicant cannot afford to pay for medical reports and the appeal is about the health of the applicant or of someone for whom the applicant has parental responsibility; or
>
> (iv) the applicant by reason of disability or disadvantage cannot adequately prepare or present the case; or
>
> (v) the appeal raises important or complex questions of law.
>
> For actual representation in Tribunal proceedings, assistance may be granted where
>
> (i) the applicant may incriminate himself/herself; or
>
> (ii) the case is complicated; or
>
> (iii) the applicant by reason of disability or disadvantage cannot adequately prepare or present the case: or
>
> (iv) the appeal raises important or complex questions of law.

War Veterans' Matters

The Committee noted (para 7.36) that the July 1998 guidelines restrict eligibility to war-caused disability pension entitlements or assessment claims. Funding for AAT appeals in respect of war related disability pensions is now subject to a means test.

However, the Committee noted that the Attorney-General's Department is conducting a national review of the provision of assistance in veterans' matters.

Australian Law Reform Commission report *Australia's Federal Record: A Review of the Archives Act 1983*

The Australian Law Reform Commission Report *Australia's Federal Record: A Review of the Archives Act 1983* was tabled in Parliament on 2 July 1998.

The Report is concerned that during the past two decades since the *Archives Act 1983* was drafted, technologies for the capture, storage and transfer of records electronically have developed rapidly. This has compelled records managers and archivists to define clearly what is meant by a record and to recognise the distinctions between the terms record, information (which may be included in