

# Use of Justice Statement Funds and Financial Position

## Family Court of Australia

### Performance Audit

Tabled 22 August 1996

Audit Report No. 4 1996-97

#### *Part One*

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#### Summary

1. Initially the impetus for this audit arose from a recommendation in the Joint Select Committee on Certain Family Law Issues (JSC) report entitled *Funding and Administration of the Family Court of Australia* (November 1995). The Family Court of Australia (the Court) in evidence to the JSC claimed that it was under resourced for the functions it undertakes; but the subsequent JSC report raised concerns about the Family Court's allocation and use of its resources. The JSC recommended that the Auditor-General undertake an efficiency audit of the Court.
2. In May 1996 the Attorney-General asked that the Auditor-General provide a report on issues of immediate concern, namely:
  - the use of Justice Statement funding by the Family Court; and
  - the true financial position of the Court.
3. In the light of the Attorney-General's request and the recommendation of the JSC, the Auditor-General agreed to carry out an efficiency audit. The Australian National Audit Office (ANAO) is undertaking the review of the Family Court in a two-stage process. The first stage, the findings of which appear in this report to allow consideration in the Budget context, was undertaken as a project audit and had the objective of addressing the issues of immediate concern to the Attorney-General. The focus of this audit was to review Family Court records to ascertain how the Court had spent Justice Statement monies and to form an opinion on the current and projected financial position of the Court.
4. The ANAO has commenced planning a review of the efficiency and economy of the Family Court's administrative functions. It is expected that the resultant audit report will be tabled during the 1997 Autumn Sitzings of Parliament.

#### Overall conclusions

5. The ANAO found that the Family Court has not fully expended the funds provided by the previous Government under its Justice Statement initiatives for the purposes for which they were provided. The Court reallocated this funding by not proceeding with some initiatives, implementing others at a reduced level (in some cases as a considered strategy) and increasing expenditure to others.
6. By using the Justice Statement funding for purposes other than that for which it was

provided, the Court in effect circumvented the decisions made by the previous Government and avoided the pressure placed on agencies to meet the efficiency dividend imposed by the Government. However it is noted that once funds were appropriated, the Court had the legal discretion to allocate these funds for the purposes the Court saw fit. Nevertheless, as funding for Justice Statement initiatives was an addition to the Court's existing running costs and property operating expense appropriations, the ANAO considers that it would have been prudent for the Court to have obtained written endorsement for its revised priorities from the Attorney-General beforehand.

7. The ANAO faced difficulties in fully identifying Justice Statement expenditure because the Family Court had not implemented adequate activity costing or reporting procedures to identify accurately, or to monitor, Justice Statement expenditures. Although there was no requirement for the Court to identify separately Justice Statement expenditure, the ANAO considers it would have been sound practice, for accountability and performance purposes, for the Court to have implemented more comprehensive procedures to monitor the expenditure.

8. The ANAO estimates that of the Court's total budget of \$6.2 million for Justice Statement initiatives for 1995-96, some \$2.35 million remained unspent by the Court at 30 June 1996. The amount unspent is made up of \$1.51 million running costs and \$0.84 million Property Operating Expenses (POE).

9. The Family Court will achieve a cash surplus for 1995-96 of approximately \$5.9 million; made up of \$1.4 million in running costs and about \$4.5 million in POE. Under current running cost arrangements, the Court will be able to carry over all the running cost surplus. The Court will carry over approximately \$3.4 million of the POE surplus into the next financial year. The remainder of the POE surplus (\$1.1 million) will lapse.

10. The ANAO estimates that on an accrual accounting basis, which includes estimates of non-cash items such as depreciation and provisions for employees' entitlements (primarily recreation leave and long service leave), the Family Court will achieve an operating deficit of about \$1.5 million for 1995-96. Of this, \$0.9 million will be a deficit on running costs and \$0.6 million on POE. With the benefit of carryover arrangements and actions being taken by the Court, funding levels under current arrangements should be sufficient for known commitments for 1996-97.

11. The ANAO prepared an analysis that indicates that the Court may face a budgetary shortfall by 1997-98 unless it can identify efficiencies to reduce costs. As an indication of the possible effect, the Family Court may need to reduce staff from the current 815 ASL (Average Staffing Level), excluding the judiciary, to 714 ASL by 1999-2000. Similarly, the Family Court may also face a funding shortfall on its existing property commitments by 1999-2000 if current spending relationships are maintained. At the same time, the ANAO estimates that the Court's long-term workload trend is an increase of around 3-4 per cent per year on the basis of current policy settings. It is apparent that the Court may need to review its priorities, methods and approaches or even consider reducing the number or quality of services it provides.

12. The funding situation faced by the Court is not unique. For most entities it usually requires an assessment at least of the scope for generating internal efficiencies and reductions in service levels within the projected funding levels. Where the Court considers its obligations under legislation cannot be satisfied under existing funding

arrangements and projections, it has a responsibility to inform the Attorney-General of its position and its scope for absorbing the funding pressures.

13. In its response, the Court stated that it generally agreed with the conclusions expressed in the report and advised that it had already moved to address the issues identified by the ANAO and had informed the Government and the JSC that its funding position was parlous unless services were withdrawn.

14. The Court was also of the view that it had tacit agreement with the Attorney-General and his Department to the use of Justice Statement funding for the provision of its other services. The Court states its intention was not to avoid the pressure of the efficiency dividend and other budget adjustments but to use available money to the greatest advantage in accordance with assessed priorities.

15. Although the Attorney-General's Department agrees that the Court advised the Department and the Attorney-General of approaches it was taking to use Justice Statement funding, the Department advised that it has consistently been concerned about significant aspects of the Court's approach. The Department advised that while there had been acceptance that there might be some delays in commencing some initiatives it remained of the view that the Court should devote Justice Statement funds to the purposes intended by the former Government.

16. The Attorney-General does not have any direct authority over how the Court determines its priorities and spends its funds. However, in the light of the priorities established by the former Government in the Justice Statement, there would be a clear expectation that the Court would, prior to changing its spending priorities, obtain the Attorney-General's formal agreement to any revised priorities for Justice Statement funding. Any such revisions to Government spending priorities would also generally require consultation with the Minister for Finance and, in some cases, the Prime Minister. Although there was extensive consultation between the Court, the Department and the former and current Attorney-General, no such formal agreement was reached. In terms of monitoring, and being accountable for, performance in relation to specific program objectives there would seem to be benefit in the Court and the Attorney-General coming to an understanding on such matters to avoid similar circumstances recurring with their attendant uncertainties.

## **1. Introduction**

### **The Family Court of Australia**

1.1 The Family Court of Australia was created under section 21 of the *Family Law Act 1975* (the Act). The Court Plan states that the Court's objective is 'to serve the interests of the Australian community by providing for the just and equitable administration of justice in all matters within the Court's jurisdiction, with emphasis in its family jurisdiction on conciliation of disputes and the welfare of children.'

1.2 Since 1 July 1989 there has been a gradual process of devolution of administrative functions from the Attorney-General's Department to the Court. Separate administration commenced on 1 January 1990 and the Court is now responsible for all areas of its

administration. The responsibility for the administration of the Court lies with the Chief Justice (s. 38A of the Act). The statutory office of the Chief Executive Officer (CEO) assists the Chief Justice in the administration of the Court.

1.3 The Court's head office, the Office of the Chief Executive (OCE), is located in Sydney, Canberra and Melbourne. Service delivery to the public is through registries and sub-registries in 21 locations around Australia, excluding Western Australia which has its own State Family Court. The Court's total staff, including the judiciary, is about 870 people.

1.4 The Court currently offers a diverse range of services for assisting families. In addition to the traditional judicial role of the Court, counselling (both voluntary and court ordered), conciliation conferences and mediation also are offered. The scope and availability of these early intervention mechanisms varies across registries.

1.5 The majority of the Court's resources are provided by parliamentary appropriations. Current annual appropriations are approximately \$100 million. The Court returns approximately \$9 million to Consolidated Revenue from the collection of fees, fines and costs.

1.6 In May 1995 the then Prime Minister announced, in the Justice Statement, a range of initiatives to improve access to justice for Australians. The Family Court was to be a significant recipient of the Justice Statement funding, with additional funding of \$25.4 million to be allocated over four years. Funding was provided to enable the clearance of case backlogs and the introduction of simplified procedures, new or expanded counselling and mediation services, education of judiciary and staff and improved access to the Court by Aboriginal and Torres Strait Islanders.

### **Audit scope and focus**

1.7 Initially, the impetus for this audit arose from a recommendation in the JSC's report entitled *Funding and Administration of the Family Court of Australia* (November 1995). The JSC's report raised concerns about the Court's allocation and use of its resources. The Court, at hearings and in its submissions to the inquiry, claimed that it was under-resourced for the functions it undertakes. Nevertheless, the JSC accepted the views presented by other parties, notably the Attorney-General's Department and the Department of Finance, that the Court is adequately funded and has the flexibility under current running cost arrangements to set priorities for its expenditures to areas of most need. The JSC recommended that the Auditor-General conduct an efficiency audit of the Court.

1.8 In May 1996 the Attorney-General subsequently requested the Auditor-General undertake an efficiency audit of the Family Court. The Attorney-General asked that the Auditor-General to provide an interim report on issues of immediate concern, namely:

- the use of Justice Statement funding by the Court; and
- the true financial position of the Court.

1.9 In the light of the Attorney-General's request and the recommendation of the JSC, the Auditor-General agreed to carry out an efficiency audit of the Court. The Australian National Audit Office (ANAO) is undertaking the review of the Family Court in a two-stage process. The first stage, the findings of which appear in this report to allow

consideration in the Budget context, had the objective of addressing the issues of immediate concern to the Attorney-General. The first stage audit had a narrow focus: to ascertain how Justice Statement monies had been spent and to form an opinion on the current and projected financial position of the Court.

1.10 The ANAO undertook fieldwork for the audit during June and early July 1996, the majority in the OCE in Sydney. Fieldwork primarily involved interviews with relevant Court officers and the review and testing of Court documents and accounting records. In addition, the ANAO also held several discussions with the Attorney-General's Department and the Department of Finance.

1.11 On completion of fieldwork, the draft audit report of the ANAO's findings was prepared and sent to the Family Court, Attorney-General's Department and the Department of Finance for comment. The responses made by these agencies have been taken into account in the preparation of this final report.

1.12 With the completion of the first stage of the audit the ANAO has commenced planning for a more comprehensive performance audit of the Court. The second stage audit will have the broader objective of reviewing the efficiency and economy of the Court's administrative functions. One of the main outcomes expected from this audit will be identification of better administrative practices that can be promulgated throughout the Court. The ANAO expects the second audit report to be tabled during the 1997 Autumn Sittings of Parliament.

1.13 This audit was undertaken in accordance with the ANAO Auditing Standards and cost \$70 000.

### **Audit conclusion and key findings**

1.14 The ANAO found that the Family Court has not fully expended the Justice Statement funds provided by the previous Government under its Justice Statement initiatives for the purposes for which they were provided. The Court reallocated this funding by not proceeding with some initiatives, implementing others at a reduced level (in some cases as a considered strategy) and increasing expenditure to others. Major initiatives outlined in the Justice Statement affected in this manner include the establishment of new mediation teams in Adelaide and the establishment of a permanent Family Court sub-registry in Mackay (Qld) to provide counselling services instead of a visiting service; these initiatives are not now proceeding.

1.15 Although the Court has used the monies in providing its other services, by using Justice Statement funding for purposes other than that for which it was provided the Court has, in effect, circumvented the decisions made by the previous Government and avoided the planned pressure placed on agencies to meet the efficiency dividend imposed by the Government. However, it is noted that once funds were appropriated by Parliament the Court had the legal discretion to allocate these funds for the purposes the Court saw fit. Nevertheless, as funding for Justice Statement initiatives was an addition to the Court's existing running costs and POE appropriations, the ANAO considers that it would have been prudent for the Court to have obtained written endorsement for its revised priorities from the Attorney-General beforehand.

1.16 The ANAO faced difficulties in fully identifying Justice Statement expenditure because the Family Court had not implemented adequate activity costing or reporting

procedures to identify accurately, or to monitor, Justice Statement expenditures. The Justice Statement was not a separate program but rather provided additional funding to the Court's existing running cost and POE budgets. The ANAO considers that, given the importance of the Justice Statement initiative, and the expectation that evaluations of the initiative would be required, the Court should have implemented more comprehensive procedures to monitor the expenditure at the earliest possible date. The Department of Finance in its response to the draft audit report agreed that accurate records need to be kept by the Court.

1.17 Consistent with its existing practices, the Family Court did not isolate Justice Statement funds from ordinary funding and did not introduce program budgeting until 1 July 1996. Although the ANAO believes it would have been sound practice, there was no requirement for the Court to identify separately Justice Statement expenditure. The ANAO estimates that of the Court's total budget of \$6.2 million for Justice Statement initiatives for 1995-96, some \$2.35 million remained unspent by the Court at 30 June 1996. The amount unspent is made up of \$1.51 million running costs and \$0.84 million POE. The Court initially advised the ANAO that it intended to allocate the \$2.35 million surplus to Justice Statement initiatives in 1996-97. However, the Court has since advised that it is now aware that \$1.6 million of that funding will be withdrawn in this year's Budget.

1.18 The Family Court will achieve a cash surplus for 1995-96 of approximately \$5.9 million; made up of \$1.4 million on running costs and about \$4.5 million on POE. Under current running cost arrangements, the Court will be able to carry over all the running cost surplus. However, POE has been a separate appropriation item for the Court until and including the 1995-96 financial year and not subject to the same arrangements as running costs. The Court will carry over approximately \$3.4 million of the POE surplus into the next financial year. The remainder of the POE surplus (\$1.1 million) will lapse.

1.19 The ANAO estimates that on an accrual accounting basis, which includes estimates of non-cash items such as depreciation and provisions for employees' entitlements (primarily recreation leave and long service leave), the Family Court will achieve an operating deficit of about \$1.5 million for 1995-96. Of this, \$0.9 million will be a deficit on running costs and \$0.6 million on POE. With the benefit of carryover arrangements and actions being taken by the Court, funding levels under current arrangements should be sufficient for known commitments for 1996-97.

1.20 The ANAO prepared an analysis of the Court's forward budget estimates and expenditure estimates for each year up to 1999-2000. The analysis indicates that the Court may face a budgetary shortfall by 1997-98 unless it can identify efficiencies to reduce costs. As an indication of the possible effect, the Family Court's current staffing levels may need to be reduced from the current 815 ASL (Average Staffing Level), excluding the judiciary, to 714 ASL by 1999-2000 if current spending relationships are maintained. Similarly, the ANAO analysis indicates that the Family Court may face a funding shortfall on its existing property commitments by 1999-2000. In addition, the Court faces budget constraints during the time that its workload is increasing. The ANAO estimates that the Court's long-term workload trend is an increase of around 3-4 per cent per year on the basis of current policy settings.

1.21 The ANAO analysis suggests that the budget outlook for the Family Court based on current projections is challenging. It is apparent that the Court may need to review its

priorities, methods and approaches or even consider reducing the number or quality of services it provides. However, the funding situation faced by the Court is not unique. For most entities it usually requires an assessment at least of the scope for generating internal efficiencies and reductions in service levels within the projected funding levels. Where the Court considers its obligations under legislation cannot be satisfied under existing funding arrangements and projections, it has a responsibility to inform the Attorney-General of its position and its scope for absorbing the funding pressures.

### **Agencies' responses**

1.22 In its response, the Court stated that it generally agreed with the conclusions expressed in the report and advised that it had already moved to address the issues identified by the ANAO. The Court also advised the ANAO that it had informed the Government and the JSC on several occasions that its funding position was parlous unless services were withdrawn.

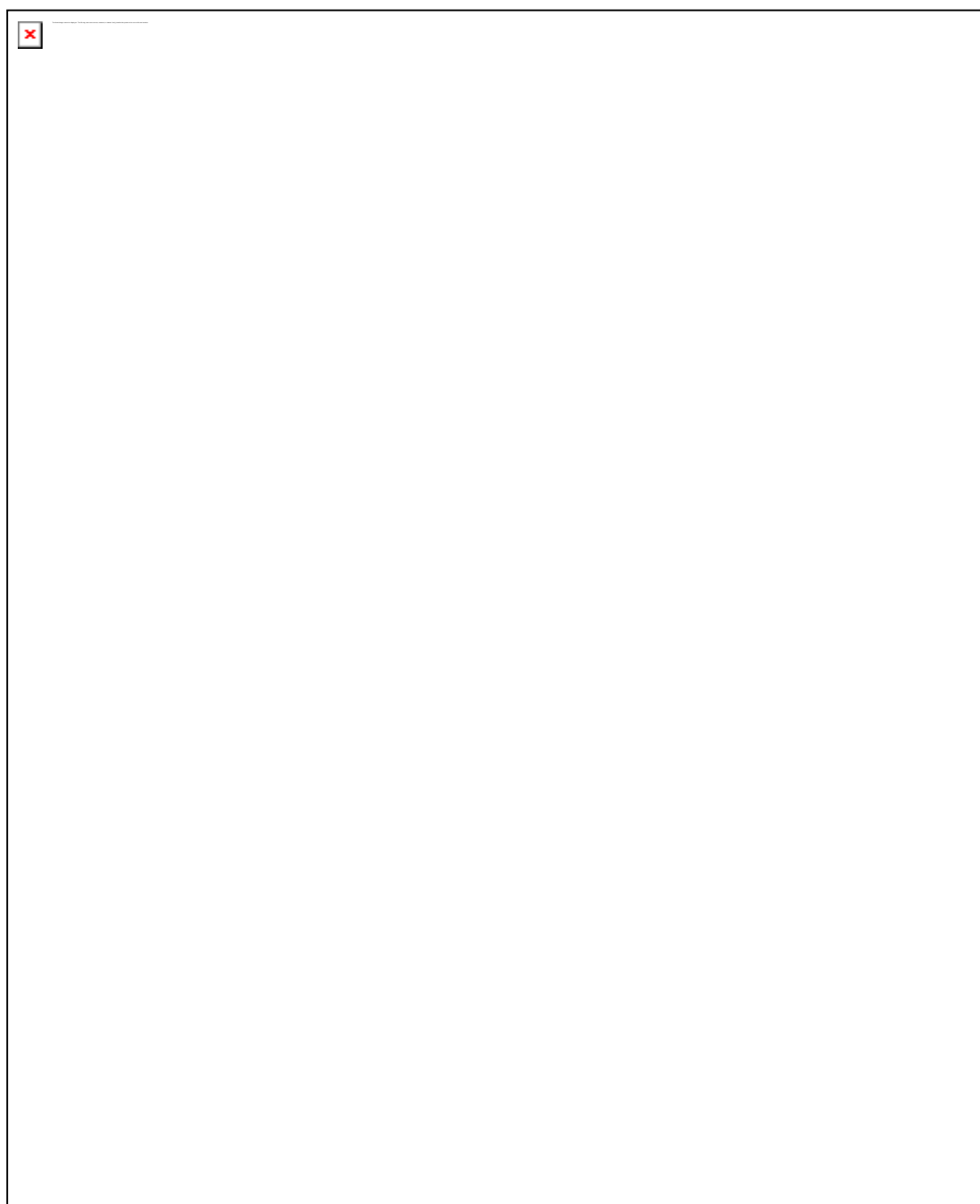
1.23 The Court was also of the view that it had tacit agreement with the Attorney-General and his Department to the use of Justice Statement funding for the provision of its other services. The Court states its intention was not to avoid the pressure of the efficiency dividend and other budget adjustments but to use available money to the greatest advantage in accordance with assessed priorities. On this matter the Court states that its strategy was discussed and agreed beforehand with the relevant parties.

1.24 Although the Attorney-General's Department agrees that the Court advised the Department and the Attorney-General of approaches it was taking to use Justice Statement funding, the Department advised that it has consistently been concerned about significant aspects of the Court's approach and had so advised the Court on a number of occasions, both orally and in writing. The Department advised that while there had been acceptance that there might be some delays in commencing some initiatives and that these could have the result of providing the Court with windfall gains of funds, the Department states it did not resile from its position that the Court should devote Justice Statement funds to the purposes intended by the former Government. In any case, the Department suggests that the substantial surplus gained by the Court for 1995-96 that includes about \$2.4 million in unspent Justice Statement funding indicates that the Court in practice departed substantially from its own stated strategy.

### **ANAO comment**

1.25 The Attorney-General does not have any direct authority over how the Court determines its priorities and spends its funds. However, in the light of the priorities established by the former Government in the Justice Statement, there would be a clear expectation that the Court would, prior to changing its spending priorities, obtain the Attorney-General's formal agreement to any revised priorities for Justice Statement funding. Any such revisions to Government spending priorities would also generally require consultation with the Minister for Finance and, in some cases, the Prime Minister. Although there was extensive consultation between the Court, the Department and the former and current Attorney-General, no such formal agreement was reached. In terms of monitoring, and being accountable for, performance in relation to specific program objectives there would seem to be benefit in the Court and the Attorney-General coming to an understanding on such matters to avoid similar circumstances recurring with their attendant uncertainties.

**Diagram 1: Family Court of Australia Registries and Subregistries**



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## **2. Justice Statement Expenditures**

*The Attorney-General asked the Auditor-General to provide a detailed accounting of the expenditure of Justice Statement funds by the Court. This chapter presents the findings of the ANAO review of the Court's expenditure so far, under the Justice Statement initiative.*

### **Background**

2.1 In May 1995 the then Prime Minister announced a range of initiatives to improve access to justice for Australians. He committed the former Government to providing agencies and private organisations with an additional \$160 million in funding over four



years, commencing in July 1995<sup>1</sup>. The Family Court was to be a significant recipient of the Justice Statement funding, with additional funding of \$25.399 million to be allocated over the four year period. In formulating the Justice Statement initiative, the former Government did not support some of the Court's proposals altogether and allocated less resources than had been requested by the Court to others.

2.2 The Justice Statement funding allocated to the Court by the former Government appears in Table 1.

2.3 The Family Court introduced program budgeting from 1 July 1996. Before this, the Court did not record expenditure by program and therefore did not have comprehensive documentation of Justice Statement expenditure. The Justice Statement was not a separate program but rather provided additional funding to the Court's existing running cost and POE budgets. In some instances funding was to enable extension of existing services. Therefore, the Court did not isolate Justice Statement funds from its ordinary funding. Although there was no requirement for the Court to identify separately Justice Statement expenditure, the ANAO considers it would have been sound practice, for accountability and performance purposes, for the Court to have implemented more comprehensive procedures to monitor the expenditure. It was necessary for the Court to prepare estimates of Justice Statement expenditure by manually preparing expenditure breakdowns from invoices and other supporting documentation, by identifying staff employed on or engaged under Justice Statement initiatives, and by extracting balances from the accounts system where a distinctive Justice Statement account or job code had been created.

2.4 The ANAO used a similar methodology to review the Court's estimates. By following this methodology it was eventually possible to apportion expenditure by budgetary item to gain an insight into the relationship between Justice Statement expenditure and overall Court expenditure. However, the ANAO recognised from the outset that the records would not provide total assurance and certainty on the actual expenditure in these respects.

**Table 1: Funds allocated under the Justice Statement to the Family Court (gross amounts in \$ millions)**

	1995-96	1996-97	1997-98	1998-99
Salaries	3.650	3.791	4.222	4.222
Administrative	2.082	1.548	1.533	1.537
Property	1.027	0.291	0.441	0.291
<b>Sub-total</b>	<b>6.760</b>	<b>5.630</b>	<b>6.196</b>	<b>6.050</b>
Allowance for price changes in future years		0.139	0.255	0.369
<b>Total</b>	<b>6.760</b>	<b>5.769</b>	<b>6.451</b>	<b>6.419</b>

Note: The figures contained in the above table are the gross amounts allocated to the Family Court. The actual funding to be received by the Court would be the above amounts reduced by the one per cent New Policy Proposal offset requirement. Amounts have been rounded to the nearest one thousand dollars.

## **Justice Statement expenditure by the Court**

2.5 Although the amounts allocated to the Court in the Justice Statement were generally consistent with those estimated by the Court as necessary to implement the initiatives, in several cases the Court's estimates were reduced by the Attorney-General's Department; the total reduction on the items affected being approximately \$0.555 million. The Court's running cost base was reduced by one per cent of the New Policy Proposal (NPP) running cost component, in line with the recently introduced NPP offset requirements. From the 1995-96 Budget up to one per cent of an agency's existing running costs are required to offset the cost of the additional funding sought by the agency for NPPs. This is to ensure that the costs of new programs are partly offset by reorganisation of existing agency activities <sup>2</sup>. When allocating 1995-96 budgets to regions and registries, the Court reduced the amount of funds available for Justice Statement initiatives by the amount of this offset.

2.6 Similarly, from 1995-96 agencies (including the Family Court) have been supplemented from the Budget for the employer's superannuation contributions to be paid to Comsuper from 1 July 1995. Under these arrangements, agencies must fund the additional superannuation payments arising from increases in staff numbers from within existing running costs budgets. Costings for NPPs should include a component for superannuation contributions <sup>3</sup>. The Department of Finance based its calculation of the superannuation supplementation on the Court's total running cost base (after Justice Statement funding was added to the base) and so the Court received superannuation supplementation for the new staff to be engaged under Justice Statement initiatives.

2.7 The Court reordered the priorities of its Justice Statement initiatives to cope with the reduced budget allocation. For example, the NPP for mediation requested funding to fully resource and expand existing mediation teams in Sydney, Melbourne and Brisbane in addition to introducing new mediation teams to the Adelaide and Parramatta registries. As originally proposed, the Court would implement three mediation teams of two people in Adelaide and Parramatta. However, when the request for additional funding for the existing mediation teams was rejected, the Court modified planned implementation to allow for only two teams of two people in Adelaide and Parramatta; with the Sydney registry gaining an additional team of two people to take the number at that location to three mediation teams.

2.8 Similarly, the allocation for the Aboriginal and Torres Strait Islander (ATSI) initiative allowed for only three family consultants. As this would have created a gender imbalance that the Court believed would compromise the effectiveness of the service, the Court allocated funds to employ a fourth family consultant.

2.9 Details of the 1995-96 budget and total expenditure by individual items, as estimated by the ANAO from its review of the Court's records, appear in Table 2.

2.10 The Court's implementation of individual components of the Justice Statement has been uneven in coverage and timing. In some areas, for example law reform and education, and education of judiciary and Court staff, the Court has fully expended, or may have exceeded, its budget allocation (the ANAO cannot identify definite overspending on these initiatives because of a lack of supporting documentation for some expenditure estimates supplied by the Court). The ATSI initiatives have also had the majority of their funding expended during 1995-96, with family consultant teams being established in Darwin and Alice Springs as envisaged by the Justice Statement.

**Table 2: Justice Statement 1995-96 cash budget and expenditure for the Family Court (\$ millions)**

Particulars	Budget	Expenditure	Under (Over) Spend
Aboriginal and Torres Strait Islander initiatives	0.479	0.415	0.064
Registry upgrades	1.002	0.222	0.780
Law reform and education	1.007	1.581	(0.574)
Women's justice initiative	0.153	Nil	0.153
Educating judiciary and Court staff	0.232	0.268	(0.036)
Court systems and procedures (Simplification)	0.479	0.441	0.038
Court charter	0.117	0.044	0.073
Mediation	1.004	0.178	0.827
Counselling	1.732	0.703	1.029
<b>Totals</b>	<b>6.205</b>	<b>3.850</b>	<b>2.355</b>

Note: All figures rounded to the nearest one thousand dollars. The expenditure figures have been estimated from the ANAO review of available Court records and documentation. The difference between the Justice Statement budget figure in this table (\$6.205 million) and that shown in Table 1 (\$6.760 million) is the one per cent NPP offset amount of \$0.555 million.

2.11 In contrast, the Court has not implemented other initiatives to the extent the former Government intended. In some instances, factors outside the Court's control have caused the delay in implementation. For example, the Court Order database under the Women's Justice Statement has not proceeded because it was found that the proposed database could not be implemented as originally envisaged. The Court advised the ANAO that the database was not an initiative of the Court but arose from a proposal by the Police Commissioners' Advisory Group to an earlier Joint Select Committee. The Court states that it is on record as saying the database would not work as proposed. Nevertheless, the initiative was included as a NPP.

2.12 Some initiatives, such as new and expanded mediation and counselling services, were only funded for part of 1995-96 in the Justice Statement, to allow for delays and lead times in recruiting staff and obtaining suitable premises. However, the Court has been slow to implement these Justice Statement initiatives. For mediation, the ANAO estimates the Court has spent about \$0.178 million of the total budget of \$1.004 million; and for counselling \$0.703 million out of a budget of \$1.732 million. This represents underspending of \$0.826 million and \$1.029 million or 82 per cent and 59 per cent respectively for these two items.

### **Use of Justice Statement funds for other purposes**

2.13 The ANAO also addressed the issue whether the Court had spent Justice Statement funds for purposes other than for which the former Government provided.

2.14 Table 3 presents the ANAO's estimate of the Court's total expenditure on Justice Statement initiatives dissected by major budget category. As shown by the table, of the total Justice Statement budget for 1995-96 of \$6.205 million, the ANAO estimates

approximately \$2.355 million remained unspent by the Court at 30 June 1996. Of this amount some \$1.856 million was underspent in the functions of mediation and counselling.

2.15 For the purpose of its analysis, the ANAO assumed that if the Court had spent Justice Statement monies in other areas of its operations, this would be disclosed if the Court's overall budget surplus was compared to amounts underspent on Justice Statement items. In effect, the ANAO assumed it was reasonable to expect that the Court would have a budget surplus on total running costs and POE at least equal to the underspending on Justice Statement items. Table 4 compares the Justice Statement underspend amounts to the operating surplus identified by the Court for 1995-96.

**Table 3: ANAO estimate of Justice Statement expenditure by budgetary item (\$ millions)**

Particulars	Budget	Expenditure	Underspend
Salaries	2.774	1.813	0.961
Superannuation	0.523	0.277	0.245
Administration	1.881	1.571	0.309
<b>Total running costs</b>	<b>5.178</b>	<b>3.663</b>	<b>1.515</b>
Property Operating Expenses	1.027	0.188	0.839
<b>Total</b>	<b>6.205</b>	<b>3.850</b>	<b>2.355</b>

Note: Figures have been rounded to the nearest one thousand dollars.

**Table 4: Comparison of operating surplus and Justice Statement underspending (\$ millions)**

Particulars	Budget	Expenditure	Surplus (Deficit)	Justice Statement underspending	Surplus (deficit) less Justice Statement underspending
Salaries	43.733	44.188	(0.455)	0.961	(1.416)
Superannuation	7.018	5.716	1.302	0.245	1.057
Administration	18.573	18.011	0.562	0.309	0.253
Total Running Costs	69.324	67.915	1.409	1.515	(0.106)
Property Operating Expenses	35.416	30.968	4.448	0.839	3.608
<b>Total</b>	<b>104.740</b>	<b>98.883</b>	<b>5.857</b>	<b>2.355</b>	<b>3.502</b>

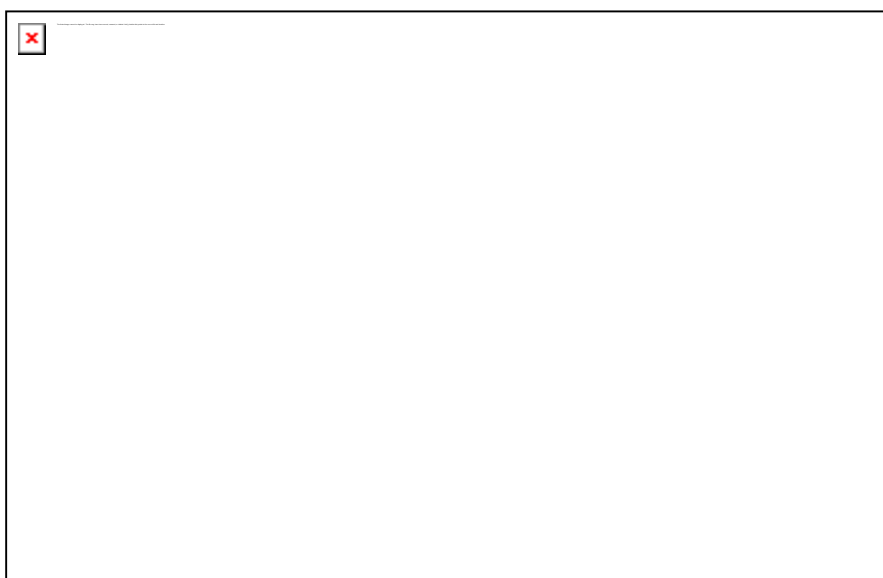
Note: Figures have been rounded to the nearest one thousand dollars. The table 'isolates' the Justice Statement underspending from the Court's existing operations. The figures in the last column of the table are the surplus (deficit) after the notional Justice Statement underspending previously calculated has been removed. This represents an estimate of the end of year position for the Court's activities excluding Justice Statement funding.

2.16 In correspondence to the Attorney-General, the Attorney-General's Department and the JSC, the Court stated its intentions to use Justice Statement funds to maintain existing activities and to offset, for example, the effects of the efficiency dividend. Table 4 suggests that this has occurred for the salaries component of running costs; the deficit less

the Justice Statement underspending on salaries that should be available for carryover indicating a notional overspending of approximately \$1.416 million. The superannuation and administration expense items both have substantial surpluses that exceed the Justice Statement underspending amounts. The overall result for running costs indicates a notional \$0.106 million shortage on funds that should be available to the Court to carry over for Justice Statement underspends. The Court has achieved a substantial surplus for the year on POE; and retains the amounts to cover the Justice Statement underspending for this budgetary item.

2.17 Under the running cost arrangements the Court has the ability to transfer funds between salaries, superannuation and administration components as management sees fit. The ANAO also acknowledges that the perceived \$0.106 million shortfall in overall cash activities may be explained by deficiencies in estimating Justice Statement underspending caused by lack of documentary evidence and adequate audit trails. Nevertheless, again on a cash basis, without the windfall surplus on the superannuation component of running costs (\$1.302 million), the Court would have a shortfall of \$1.163 million on Justice Statement underspending to carry over. The Court states, however, that it should be noted that any shortfall will be covered by an adjustment in the 1996-97 Budget of \$1.728 million for increases under the workload formula between the Court and the Department of Finance. Analysis of the Court's financial position and the effects of cash and accrual-based accounting is discussed further in Chapter 3.

#### **Graph 1: Family Court 1995-96 budget and expenditure highlighting Justice Statement items**



#### **Recent developments**

2.18 The implementation of some Justice Statement initiatives has been affected by the reductions to the Court's budget that have been foreshadowed in the latter part of 1995-96. The Court has faced the task of finding \$3.79 million in savings per year in future, as a result of the Government's 'Meeting Our Commitments' statement and Expenditure Review Committee of Cabinet decisions. Faced with these budget adjustments, the Court has taken a decision to maintain existing services and will defer the expansion of services to other areas. As a result, some of the initiatives planned under the Justice Statement, such as the establishment of new mediation teams in Adelaide and the establishment of a

permanent Family Court sub-registry in Mackay (Qld) to provide counselling services instead of a visiting service, have not proceeded. Expanded counselling services and outreach programs have also been curtailed.

2.19 The cancellation or cutback of Justice Statement initiatives raises issues as to whether the Court should retain the monies provided by the former Government specifically for these services. Although the Court has used the monies in providing its other services, by using Justice Statement funding for purposes other than that for which it was intended, the Court in effect circumvents the decisions made by government and avoids the planned pressure placed on agencies to meet the efficiency dividend imposed by government. Once funds were appropriated by Parliament, the Court had the discretion to allocate these funds for the purposes of the Court as a whole, as it saw fit. Nevertheless, as funding for Justice Statement initiatives was an addition to the Court's existing running costs and property operating expense appropriations, the ANAO considers that it would have been prudent for the Court to have obtained written endorsement for its revised priorities from the Attorney-General beforehand.

2.20 The Court questioned the ANAO's suggestion that it had not discussed, and obtained agreement on, its strategy with the Attorney-General and the Department beforehand. The Court advised the ANAO that consultation with the Department had occurred regularly and that the Department was aware of the Court's strategy and concurred. The Court further advised that its strategy was to respond to pressures of the efficiency dividend by taking a strategic approach of providing those services with the highest priority as agreed with the Attorney-General and leaving aside some of the new and more peripheral activities. The intention of the Court was not to avoid the pressure of the efficiency dividend but to use available money to the greatest advantage in accordance with assessed priorities. On this matter the Court states that the strategy was discussed and agreed beforehand with the relevant parties.

2.21 Although the Attorney-General's Department agrees that the Court advised the Department and the Attorney-General of approaches it was taking to the use of Justice Statement funding, the Department advised the ANAO that it had consistently been concerned about significant aspects of the Court's approach and had so advised the Court on a number of occasions, both orally and in writing. The Department advised that there had been acceptance that there might be some delays in commencing some initiatives and that these could have the result of providing the Court with windfall gains of funds freed up as a result of those delays. According to the Department, agreement was reached that there could be some departure from the intention that all Justice Statement funds be spent on relevant initiatives but only in relation to the question of the timing of the commencement of one or two initiatives. The Department advised that it had conceded that it might be possible for the Court to divert a small amount of Justice Statement funding which would otherwise remain unspent because of minor delays in the commencement of some initiatives. Nevertheless, the Department went on to state that it remained of the view that the Court should devote Justice Statement funds to the purposes intended by the former Government and of its disagreement with the Court's apparent intention to apply Justice Statement funds to reducing its deficit and to services which were not previously funded.

2.22 The Attorney-General's Department also raised concerns with the ANAO that the Court had, in any case, departed from its intentions as conveyed to the former Attorney-

General and its submission to the JSC. The Court stated that it proposed to budget for a deficit of \$1.066 million for 1995-96 so that it could meet the Justice Statement commitments and maintain its existing level of service. The Department suggests that the substantial surplus gained by the Court for 1995-96 that includes about \$2.4 million in unspent Justice Statement funding indicates that the Court in practice departed substantially from its own stated strategy.

## **Conclusions**

2.23 The ANAO concludes that the concerns expressed by the Attorney-General's Department that the Family Court has used funds provided under the Justice Statement for existing programs were justified. If the Court's expenditure is dissected by individual running cost item, it appears that Justice Statement funds were used to reduce the overspending in salaries. However, under existing running cost arrangements, the Court has the ability to transfer surplus funds on other items (administration and superannuation) to cover the deficit on salaries. Finance, in its response to the draft audit report, highlighted the Court's responsibility to monitor the expenditure of funds that have been appropriated for a specific purpose such as the Justice Statement. It stated that unless those funds are quarantined, the running cost rules allow funds unspent in the year they are appropriated, to be spent on other running cost purposes. However, Finance went on to state it would expect accurate records to be kept and the funds expended the following year for the purpose for which they were appropriated.

2.24 The overall estimated deficit on running costs shown by the ANAO analysis could be the result of the methodologies used and the lack of comprehensive supporting records and documentation. Nevertheless, there would be concern if expenditure was diverted from additional funding provided for specific purposes without any ministerial concurrence for such diversion. This is more a prudential rather than a legal concern.

## **Other issues**

2.25 As mentioned previously, the ANAO has reviewed the Court's files and estimates of expenditure to derive its estimate of Justice Statement expenditure. However, the ANAO's task was complicated by the lack of adequate procedures for identifying and monitoring Justice Statement expenditure. Although the Court was aware that initiatives funded under the Justice Statement would be likely to be subject to evaluation (and registries and regional offices were made aware of this fact and asked to consider evaluation strategies), job codes to identify Justice Statement expenditure in the Court's accounts system were not introduced until mid-November 1995, four and a half months after funding commenced. In many cases Court staff had not used these specific codes and so expenditures on Justice Statement items were not clearly identified in the Court's accounts system. In such instances OCE, and the ANAO, has had to rely on registries and regional offices to identify and report expenditure. In other cases, only estimates of actual expenditure could be provided, which made verification difficult or impossible.

2.26 The effect on the audit was to necessitate acceptance of some of the estimates provided by the Court that could not be easily substantiated by the ANAO within the timeframes set for the task. The ANAO considers that, given the importance of the Justice Statement initiative, and the expectation that evaluations of the initiative would be required, the Court should have implemented more comprehensive procedures to monitor the expenditure at the earliest possible date. As mentioned at paragraph 2.23, Finance in its response to the draft audit report agreed that accurate records need to be kept by the

Court.

2.27 Since 1 July 1996 the Court has commenced using program budgeting in line with recommendations contained in an evaluation report prepared earlier this year by Professor Peter Coaldrake. The ANAO considers this is a useful initiative for the Court and will assist in overcoming monitoring difficulties noted with Justice Statement spending.

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### **3. Financial Position**

*The Attorney-General's second request to the Auditor-General was to identify the Family Court's present financial position. This chapter presents the ANAO's findings.*

#### **1995-96 budget and expenditure (cash basis)**

3.1 The Family Court's budget appropriation for 1995-96 was affected by several changes that increased the budget over previous years. One major effect was the additional funding provided by the Justice Statement that provided an additional \$6.205 million to the Court for 1995-96. In addition, the Court, along with other agencies, was supplemented from 1 July 1995 for the employer's superannuation contributions to be paid to Comsuper. Supplementation for superannuation was calculated by the Department of Finance using a standard formula and added \$7.018 million to the Court's running cost base from 1995-96.

3.2 Against these increases the Court was subject to a 1.25 per cent efficiency dividend reduction on running costs of \$0.576 million, the previous Government's decision to reduce agencies' running cost budgets by two percent and the repayment of borrowings of \$1.285 million under running cost arrangements for salary overruns in 1994-95. The Justice Statement additional funding triggered a one per cent NPP offset to the running cost base. This reduced the Court's total running cost base by a further \$0.555 million.

3.3 The Court's cash budget and expenditure for 1995-96 appear in Table 5. The figures show that the Court is expected to achieve an estimated budget surplus of approximately \$1.409 million on running costs and \$4.448 million on POE in 1995-96. Under the running cost arrangements that allow agencies to carryover up to ten per cent of their running costs budget, the Court will be able to carry the running cost surplus into the next financial year.

3.4 The position for the POE surplus is different. POE has been a separate appropriation item for the Court until and including the 1995-96 financial year. The advantage for the Court was that the POE budget was not subject to the efficiency dividend. However, any surpluses arising in POE could not be used as an offset against deficits in running costs for the same year. The effect of these arrangements on the 1995-96 POE surplus is that \$2.0 million current and \$1.4 million capital funding unspent from NPP funds or for uncompleted projects will carry over into 1996-97. The balance (\$1.073 million) will lapse.

3.5 For 1996-97 the Court has entered into a Property Resource Agreement (PRA) with the Department of Finance whereby the Court's property budget will become a part of the overall running cost budget. The advantage to the Court is the flexibility available under the running costs arrangements of transferring funds between expenditure items (salaries, superannuation, administrative and property operating expenditure) and for borrowing against, or carrying budget surpluses into future appropriations. The Court can, if it so



chooses, use non-POE funds for property expenses in a particular year or circumstance. For example, Finance suggests that as the Court leases about three quarters of its properties from the private sector, it can take advantage of favourable market conditions to negotiate advantageous deals without the need (in most cases) to approach the Government for additional funding. Nevertheless, the ANAO notes that 65 per cent of the Court's property expenditure is for specific purpose buildings on which there is little flexibility available.

3.6 Under running costs arrangements the Court also has the ability to 'bank' funds for expenditure in future years subject to having a separate resource agreement with Finance. This is particularly useful for property matters where fitout costs might occur irregularly but may exceed ten per cent of the Court's carryover.

3.7 From the Court's viewpoint a disincentive of a PRA is that the POE component of the Court's budget will become subject to an efficiency dividend along with other running costs. However, to compensate, an efficiency dividend of one per cent will apply (to all running costs) rather than the 1.25 per cent that would have otherwise applied. The Court expressed concerns to the ANAO that it may well be seriously disadvantaged by future decisions to move the Court into special purpose law courts buildings which will, the Court claims, impose significant additional expenditure on it without any guaranteed machinery for compensation.

3.8 The Department of Finance advised the ANAO that it was aware that special purpose buildings will have an impact on the funding requirements of the Court. However, at the present time these costs cannot be quantified and therefore funding cannot be incorporated into forward estimates. Finance stated that normal budgetary processes need to be followed whether or not a PRA is involved and funding of rentals for new special purpose buildings will be a matter for the Government to determine once costs are known.

**Table 5: Family Court cash budget and expenditure 1995-96 (\$ millions)**

Particulars	Budget	Expenditure	Surplus/(deficit)
Salaries	43.733	44.188	(0.455)
Superannuation	7.018	5.716	1.302
Administration	18.573	18.011	0.562
Total running costs	69.324	67.915	1.409
Property Operating Expenses	35.416	30.968	4.448
Total	104.740	98.883	5.857

Note: Budget and expenditure amounts in this table include all budget adjustments to 8 July 1996 and include Justice Statement allocations and expenditures. Figures have been rounded to the nearest one thousand dollars.

#### **1995-96 budget and expenditure (accrual accounting basis)**

3.9 The cash budget and expenditure presented above is useful in showing how the Court has spent the monies appropriated to it in a given year by Parliament. Nevertheless, cash reporting does not show the complete picture of the Court's financial position for that year.

3.10 Accrual accounting recognises the economic effects of transactions and events at the time that they occur, irrespective of when cash is paid or received. It seeks to match the costs incurred during a particular reporting period with the benefits earned in the period. Accrual accounting provides information useful for making and evaluating decisions about the overall allocation of resources (not just cash) and allows the full cost of operations and the total resources and obligations of an entity to be established. To the cash figures identified above, allowance is made for non-cash items such as depreciation and provisions. Similarly, transactions with timing differences, where a liability may be incurred in one period but the obligation discharged in another period, should also be included in the period when they are incurred. Timing difference adjustments include accruals (for example, where an invoice has been received but not paid at balance date) and prepayments (for example, where the Court has discharged a liability before it is actually incurred, such as rent that is usually paid in advance).

3.11 In the normal course of events the Court prepares its financial statements during August. In turn, these will be subject to ANAO financial statement audit. However, to conform to the deadlines set for this audit and to enable a reasonable picture to be gleaned of the Court's financial position at 30 June 1996, the ANAO has estimated the likely operating result for the Court based on its cash budget figures and expected accrual adjustments.

3.12 The Court advised the ANAO that it expects accruals and other adjustments to be similar to the amounts disclosed for 1994-95. After reviewing the 1994-95 financial statements and calculating an amount for the employee entitlement provisions (that is, for long service leave and recreation leave) and the estimate for judges' pensions of some \$6.4 million, the ANAO estimates the total for salaries and superannuation expenses will be about \$56.76 million. Similarly, when estimates for depreciation, accruals and prepayments are added to the cash figure, the ANAO estimates the total administration costs for the Court for 1995-96 will be approximately \$18.2 million.

3.13 Overall, the ANAO estimates that the Family Court will achieve an operating deficit of approximately \$1.5 million on an accrual basis of which \$0.9 million relates to running cost (employee and administration) expenses and \$0.6 million to POE. If an operating deficit of \$1.5 million is actually achieved by the Court, the resulting Statement of Assets and Liabilities for the Court would show net liabilities (that is a deficiency of assets over liabilities) of approximately \$8 million (increased from \$6.5 million net liabilities for 1994-95).

## **Conclusions**

3.14 The cash financial analyses disclose that the Family Court is expected to produce a budget surplus for 1995-96. The cash surplus on running costs is largely the result of the additional funding the Court has received through the Justice Statement and not spent as well as supplementation for superannuation that occurred from 1995-96. Without these additional funds the Court may well have run a cash deficit on running costs for the year. On an accrual basis, the Court is anticipated to achieve a deficit of approximately \$1.5 million. Nevertheless, with the benefit of carryover arrangements and actions being taken by the Court, funding levels under current arrangements should be sufficient for known commitments for 1996-97.

3.15 The Court advised the ANAO that for accrual purposes there are funding adjustments

arising from workload formula that should be brought into the 1995-96 accounts. The first adjustment is an additional \$441 000 workload formula payment for 1994-95 year which, because of accounting errors by the Court and the Department of Finance, has only now been included in the Court's funding. The second adjustment is an additional \$1.287 million resulting from an increase to the 1996-97 Budget for changes in workloads in 1995-96. The Court stated that it planned to run a cash deficit of \$1.066 million in running costs for 1995-96 but was aware that this was covered on an accrual basis by the workload formula funds. The ability to borrow against the 1996-97 running costs appropriations existed but the Court did not need to do this because of the surplus on superannuation funding provided in 1995-96.

3.16 Despite the Court achieving a cash budget surplus for 1995-96, the ANAO believes that the Court's underlying financial position is not strong. The ANAO prepared budget projections for the Court and the analysis of these projections is discussed in the following chapter.

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## 4. Future financial position

*The ANAO has prepared projections of the Court's financial position to highlight the possible effect on the Court of the budget outlook already announced by the Government. The ANAO concludes that, without changes to existing organisational structures or work practices that produce economies and greater efficiencies, these budget adjustments will have a significant effect on the ability of the Court to maintain existing service levels.*

4.1 The ANAO presents the following budget analyses in two parts; one for running costs including salaries, superannuation and administration expenses and the other for property operating expenses. The analyses have been prepared in this manner to differentiate between costs that are relatively fixed for the Court (and therefore not easily reduced by the Court) and those that have a shorter lead time before savings can be achieved.

4.2 Property operating expenses are a relatively fixed expense for the Court. Property rentals usually carry long-term leasing agreements committing the lessor to the premises for several years. Generally, property leases cannot be terminated quickly. If they can be cancelled at short notice there may be penalty payments involved. On the other hand, salaries and administration costs provide more flexibility. Administration costs may be cut quickly (compared to other items) and freezes on staff recruitment and normal staff attrition have the ability to generate savings relatively quickly.

4.3 Although separating POE from other running costs for illustrative purposes in this analysis, the ANAO acknowledges that current running costs arrangements and PRAs are intended to provide managers with greater flexibility in managing available resources efficiently and effectively. The ANAO would encourage the Court to take full advantage of the flexibilities available under the running costs arrangements in managing its budget.

### Running costs

4.4 Graph 2 following shows the ANAO's estimate of the Court's running cost budget for 1996-97 to 1999-2000 and the staffing levels commensurate with this level of funding. The analysis was prepared on the basis of current running cost arrangements and the existing workload agreement between the Court and the Department of Finance at the time of the audit. The 1995-96 figures are the actual budget and ASL for that year. The

budget estimates are based on the Department of Finance's forward estimates adjusted for announced reductions to the Court's budget. These reductions result from the decisions of the Expenditure Review Committee of Cabinet and include a reduction in Family Court running costs (\$2 million per year commencing 1996-97), a reduction in Justice Statement funding (\$1.652 million 1996-97 and about \$2.5 million for each subsequent year) and a proportion of the reduction in running costs required from the Attorney-General's Portfolio (\$0.526 million per year commencing 1996-97). The ANAO-prepared budget estimates also allow a component for increases under the workload agreement between the Court and Finance of approximately \$1.122 million each year.

### *Analysis*

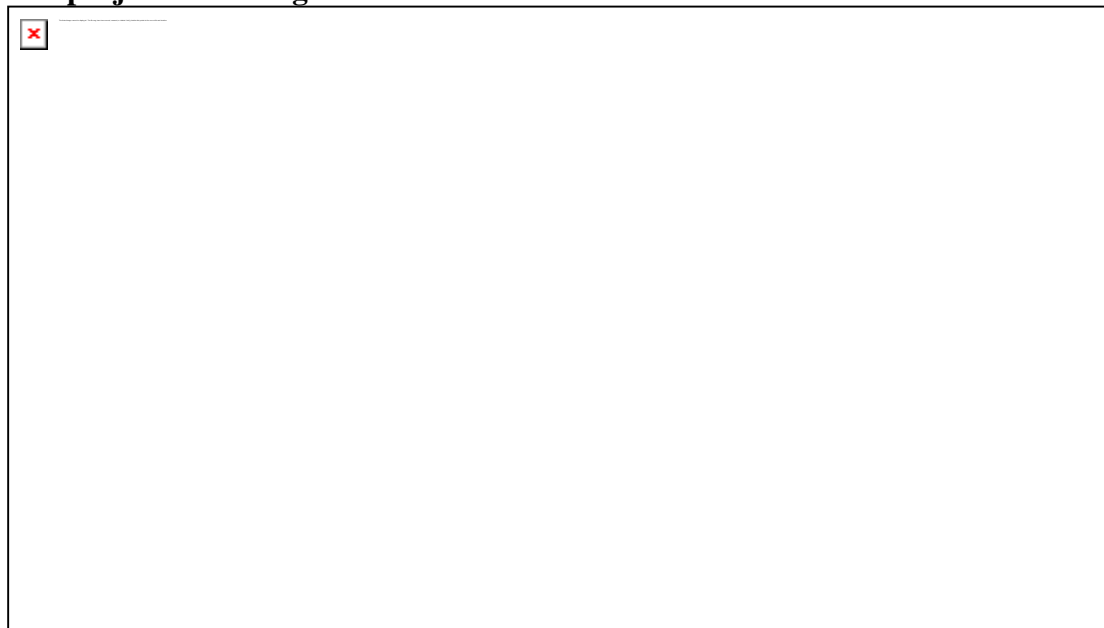
4.5 The projections indicate that, based on current expenditure patterns and relationships between salary, administration and superannuation components, the Court's reductions in budget will necessitate consideration of a decrease in staffing levels for each of the four years in review. The analysis assumes that the Court will balance its budget each financial year and there will be no borrowings or carryovers from one year to the next as allowed under the running cost arrangements.

4.6 The indication of the projections in graph 2 is that, in the absence of generating savings from POE, the current level of staffing cannot be maintained by the Court based on the budget projections without any other action. As an indication, in the absence of any additional funding for salaries by 1999-2000 the Court will only have sufficient funds for 714 ASL staff (excluding the judiciary and holders of public office who are appointed by Parliament and therefore are effectively 'fixed') compared to the approximately 815 ASL for 1995-96. The implication for the Court is that it will have to examine its priorities including reviewing the methods by which it delivers its services to the public to achieve greater efficiencies and remove any duplicated or redundant procedures. Alternatively, the Court will be faced with reducing the number and/or quality of services. In either case, on the basis of current funding projections, the ANAO concludes that it is difficult to see existing staffing levels being maintained by the Court in the future. This is despite the fact that over the past few years the Court's annual workload has increased by an average of approximately 3-4 per cent each year.

4.7 The Court in response stated that it had already moved to restructure its organisation and its operations to bring costs down because the Court's assessment of its future budgetary constraints is similar to that of the ANAO.

### **Graph 2: Estimated Court running cost budgets (excluding POE) 1996-2000**

## and projected staffing levels



The ANAO used Department of Finance forward estimates that included the reductions to the Court's budget already announced. The forward estimates were adjusted to include a component for future increases under the workload formula. The analysis assumes that expenditure patterns between items of budget (that is salaries, superannuation and administration expenses) remains similar to that in 1995-96. Figures for 1995-96 are actuals. Figures for 1996-97 include the carryover amounts for salaries, superannuation and administration expenses from the 1995-96 year. Staffing levels (ASL) exclude the judiciary and holders of public office who are appointed by Parliament and so are effectively fixed.

### Property Operating Expenses

4.8 The ANAO prepared projections for the Court's POE budget and expenditure commitments (graph 3). Again, Department of Finance forward estimates have been used as the starting point for developing the budget. Spending reductions already announced have been subtracted from the Finance figures. As mentioned previously, from the 1996-97 financial year the Court will have a PRA with the Department of Finance. The Court's POE budget will be included in running cost arrangements and will be subject to a one per cent efficiency dividend; the efficiency dividend has been included in the budget figures. Finally, an estimate has been added to the budget for increases allowed under the workload agreement between Finance and the Court.

4.9 The significant difference between the actual 1995-96 budget and forward estimates for 1996-97 and beyond is the inclusion in 1995-96 figures of \$4.158 million for capital and minor works that reduces to about \$1.4 million per year from 1996-97. An additional \$3.392 million has been added to the Court's current POE base as a result of the PRA. Against this, \$1.349 million per annum has been removed from POE forward estimates from 1996-97 as a result of the first round of the Expenditure Review Committee's deliberations. The Court's POE forward estimates are being reduced by a further \$2.001 million per year for 1996-97 and 1997-98 for monies borrowed against lease incentives received for the Court's Adelaide premises and also the Commonwealth Budget's share of those lease incentives.

4.10 Expenditure commitments have been calculated from the estimates of future increases in rent and property outgoings provided by commercial property consultants engaged by the Court's National Property Unit. Although property rental estimates can

vary with market forces, sometimes considerably from quarter to quarter, the ANAO believes these forecasts are a reasonable indicator of future property outlays.

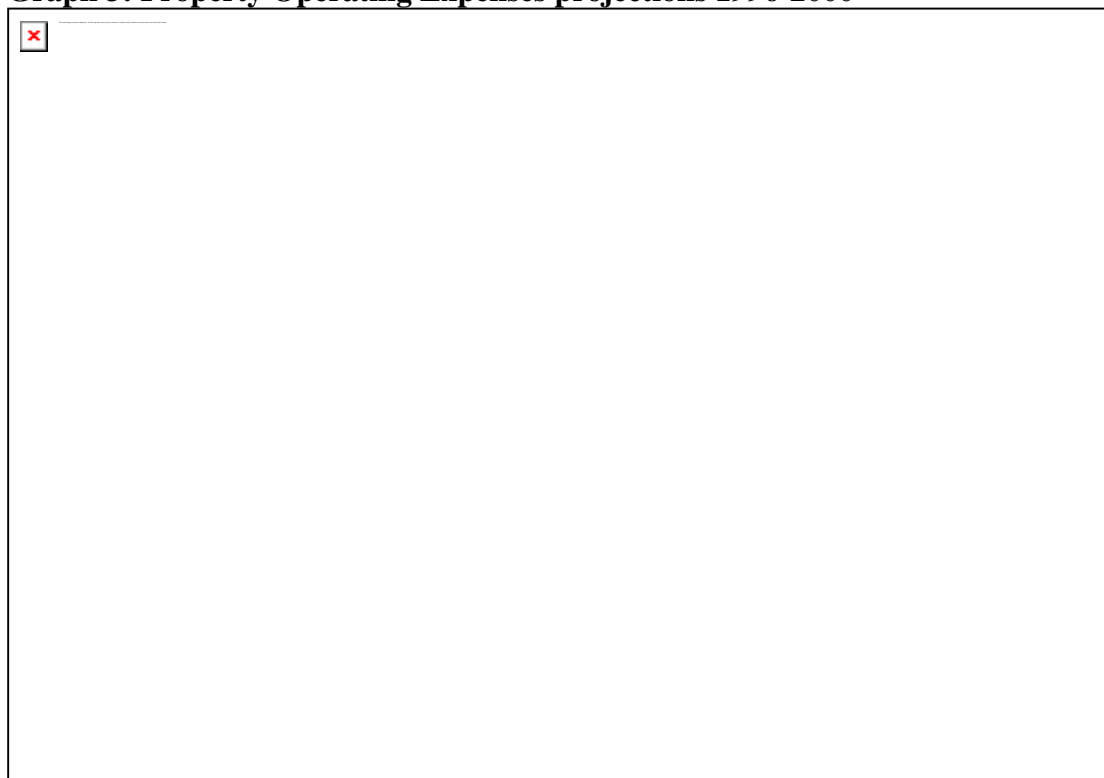
4.11 However, for the purposes of this analysis any surplus or deficit arising from POE is assumed to be carried over into the subsequent year's POE budget and not used to offset other running cost deficits. In fact, the Court's carryover or borrowings are limited by the provisions of the running cost arrangements to a maximum carryover or borrowing between years of ten percent of the total running cost budget unless the Court enters into a resource agreement with the Department of Finance to exceed this limit. Finance advised the ANAO that it has an open view on the Court exceeding these limits; it would be a matter for the Court to substantiate such a need if it arose.

#### *Analysis*

4.12 The situation for POE before the PRA was similar to running costs. Considering the cutbacks to the Court's budget already announced by the Government and the Department of Finance's previous forward projections, the Court would face a resource shortfall on its POE budget as early as 1997-98. The additional funding added to the Court's POE base as a result of entering into a PRA with Finance has alleviated the situation to a certain extent but the ANAO's analysis suggests the Court may still face a funding shortfall by 1999-2000. The ANAO concludes it is unlikely that savings of the required magnitude can be realistically achieved from other running cost items such as salaries and administrative expenses. If staff numbers are not reduced the Court may need to cut the number of registries it operates and find innovative methods of providing its services to the public which would not require the physical presence of a Court building or office.

4.13 The majority of Court's POE is for special purpose buildings (for example, courts) owned by the Commonwealth. Although the Court's rental payments for these buildings remain with the Commonwealth, the Court has little scope for flexibility in its use of these buildings. In most cases they have been specifically built to meet the Court's needs, for example in security, and are difficult to modify to alternate uses even were the Court allowed to consider such options. In addition, all of these special purpose buildings are in State capital cities or metropolitan areas. The implication for the Court is that the savings to be made on POE will most likely have to come from reductions in accommodation in non-metropolitan areas.

### **Graph 3: Property Operating Expenses projections 1996-2000**



Department of Finance forward estimates have been used for the analysis. POE commitments are for Court-occupied buildings at 30 June for which future projections for rental increases have been obtained by the Court from independent property valuers. The analysis also assumes that the Melbourne Law Court proposal eventuates. 1995-96 figures are actuals.

#### **Workload and staffing**

4.14 Graphs 4 to 6 in appendix 1 show the changes that have occurred in some of the Court's key workload indicators over a four-year period, together with projections until the year 1999-2000.

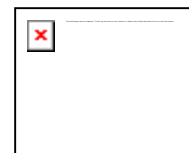
4.15 The ANAO estimates that the Court's long-term workload trend is an increase of around 3-4 percent per year on the basis of current policy settings. Much of the Court's demand is externally driven and, faced with the budget outlook mentioned above, pressure is on the Court to investigate innovative ways of delivering its services. The Court may also need to review its resource allocation and reassess its priorities to concentrate on core functions. Outsourcing and contracting of other services may also be options that the Court may have to seriously consider where cost effective.

#### **Overall conclusions**

4.16 The analyses presented in this chapter suggest that the budget outlook for the Family Court based on current projections is challenging. The Court faces budget constraints during the time that its workload is increasing. The Court will have to address these issues quickly if it is to avoid serious difficulties and disruption to its service delivery in the future.

4.17 The funding situation faced by the Court is not unique. For most entities it usually requires an assessment at least of the scope for generating internal efficiencies and reductions in service levels within the projected funding levels. Where the Court

considers its obligations under legislation cannot be satisfied under existing funding arrangements and projections, it has a responsibility to inform the Attorney-General of its position and its scope for absorbing the funding pressures. It is then normally a decision for the Government and the Parliament to determine whether or not appropriate arrangements should be made to fund any assessed shortfall in the Court's running costs including POE.



Canberra ACT  
21 August 1996

P. J. Barrett  
Auditor-General

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Prime Minister's speech at the launch of the Justice Statement, Brisbane, 18 May 1995.

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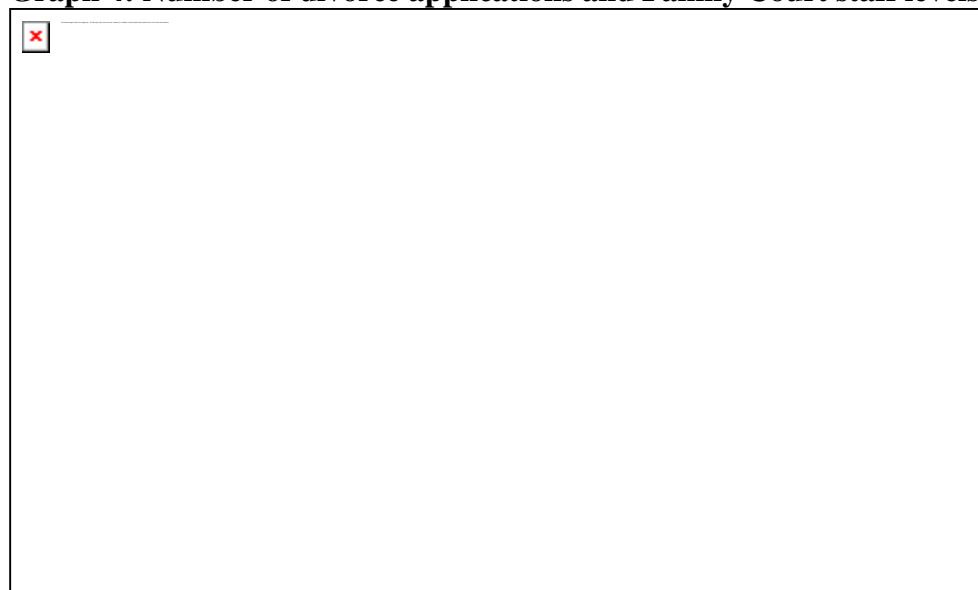
*Further Changes to the Running Costs Arrangements*, Department of Finance Estimates Memorandum 1995/18, 23 May 1995, p 3.

3

*Incorporation of Employer Superannuation Contributions into Running Costs Appropriations*, Department of Finance Estimates Memorandum 1995/13, 12 April 1995, pp 2-3.

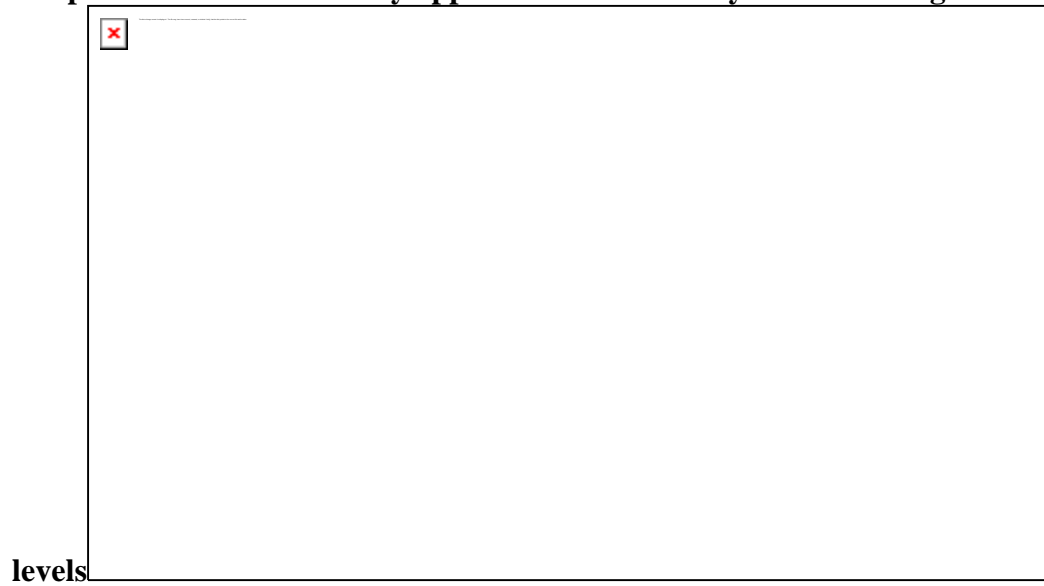
## **Appendix 1 - Workload and staffing levels projections**

### **Graph 4: Number of divorce applications and Family Court staff levels**





**Graph 5: Number of custody applications and Family Court staffing**



**Graph 6: Number of counselling interviews and Family Court staff levels**

