

# CHANGES TO PRACTICAL LEGAL TRAINING FOR WOULD BE LAWYERS

Peter Tiffin, Office of the Director of Public Prosecutions

Major changes to the system of practical legal training for those seeking to become lawyers will be introduced within three years, and probably by July 2002. The changes are part of a national scheme, and will have a significant effect on many legal offices in the Territory, including government and legal aid offices.

Most applicants for first admission in the Northern Territory do their practical legal training by way of articles of clerkship. At the end of the period of articles the principal signs a short certificate that the service of the articulated clerk has been "satisfactory", and no further detail is required.

Under the new scheme — details of which have still to be finalised — an intending lawyer will have to demonstrate competence in a number of skills and practice areas, as well as an appreciation of professional ethics and professional responsibilities, before being admitted.

In the documentation the skills are listed as:

- Lawyer's skills
- Problem solving
- Work management and business skills
- Trust and office accounting

The areas of practice in which the intending lawyer will have to demonstrate competence are listed as:

- Civil litigation
- Commercial and corporate practice
- Property practice
- **One of:** Administrative law practice; criminal law practice; and family law practice
- **One of:** Consumer law; employment and industrial relations law; planning and environment law; and wills and estates

The scope and requirements of these various skills, practice areas and values

are set out in the document *Practical Legal Training – Competency Statements for Entry Level Lawyers* issued in November 2000 by the Australasian Professional Legal Education Council (APLEC) and the Law Admissions Consultative Committee (LACC), a document of some 33 pages. This document can be inspected at the office of the Law Society.

## Why the change?

The adoption of "mutual recognition" and associated procedures means that a legal practitioner admitted in one state or territory of Australia can now be admitted in another state or territory with relative ease. Admission anywhere effectively means admission everywhere.

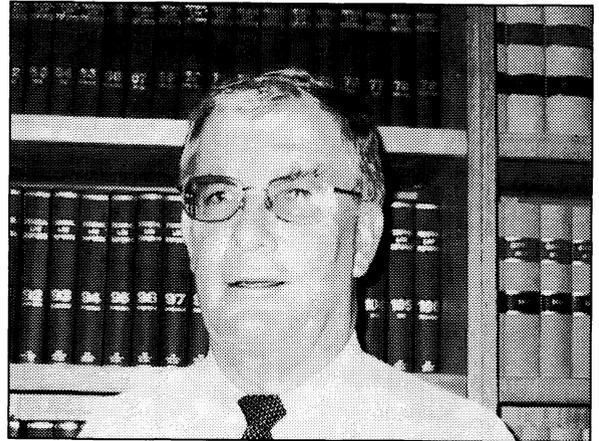
No jurisdiction wishes to be seen as the "soft option" for first admission.

The admitting authorities throughout Australia have been moving to ensure persons being admitted to practice meet certain minimum standards. In relation to the academic qualifications the minimum is what is known as the "Priestly 11", reflected in rule 10 of our *Legal Practitioners Rules*.

More recently the focus has turned to the practical training of intending lawyers.

## What will be different?

Under the present system, at the end of the period of articles the clerk's master signs a brief certificate that the service of the clerk has been satisfactory (the "Rule 30 certificate"). Under the new system the master will have to certify in respect of each of the required areas of competency, identifying any that have not been achieved to the requisite standard for any reason.



Peter Tiffin

Where the master of an articulated clerk is not able to provide training and instruction to the appropriate standard in relation to a required area of competency (perhaps because the firm or office does not do work in that area) the clerk will have to undertake a formal course with an approved institution to obtain certification in relation to that area, before being admitted.

On the assumption that it will be the clerk who has to meet the cost of such course or courses, articles of clerkship with smaller and/or specialised legal offices will be less attractive than articles with larger firms. This may mean that smaller and/or specialised offices will have to offer to meet the whole, or at least part, of the cost of such courses in order to attract articulated clerks.

No information is presently available as to the likely cost of such courses.

Further, it has been suggested (though not yet formally adopted by APLEC or LACC) that articles of clerkship should include at least 90 hours of programmed training, being structured and supervised training activities, research and tasks, followed by a comprehensive assessment. This is approximately two hours per working week for a clerk who takes the permitted four weeks recreation leave during articles.

*Continued over*

CHANGES TO PRACTICAL  
LEGAL TRAINING FOR  
WOULD BE LAWYERS  
Continued from page 15

It is not clear how the proposed new national scheme will affect those who serve a period as a judge's associate as part of their practical legal training for admission. Under the present Territory rules, twelve months spent as an associate counts as six months towards the required period of articles which is one year. (Twelve months is the usual period of service as an associate, and the period of "credit" cannot be more than six months no matter how long is spent as an associate.)

It seems unlikely that an articulated clerk could achieve all the necessary competencies in only six months of articles. If the requirement of 90 hours or programmed training is also adopted, this would be a significant imposition on both clerk and master for a clerk doing only six months articles. Perhaps the period of post-associate articles will have to be twelve months, or associates will have to attain some competencies by courses while serving as an associate.

Whatever the details of the new scheme as ultimately implemented, it is clear that there will be changes, and at first blush they would seem to be changes for the better.

### Commercial Lawyers Committee

The Law Society Commercial Lawyers Committee was formed to provide advice and recommendations to Council on commercial law matters and to discuss relevant issues. The committee is currently comprised of:

Tim Jacobs (Chair)  
Bill Parish  
Tracey Reeves  
Alastair Shields  
Peer Schroter  
Jim McEwen

Any interested commercial lawyers are invited to join this committee. Please contact Tim Jacobs at Ward Keller on 8946 2901 or [timjacobs@wardkeller.com.au](mailto:timjacobs@wardkeller.com.au)

# DNA EVIDENCE: ALTOGETHER USEFUL

John Adams, Director of Public Prosecutions

Earlier this year at about 6.00 am I was sitting at my desk preparing yet another prosecution. While watching dawn break and sipping on some coffee I was thinking how I was to argue that yet another drunk should spend more time in gaol.

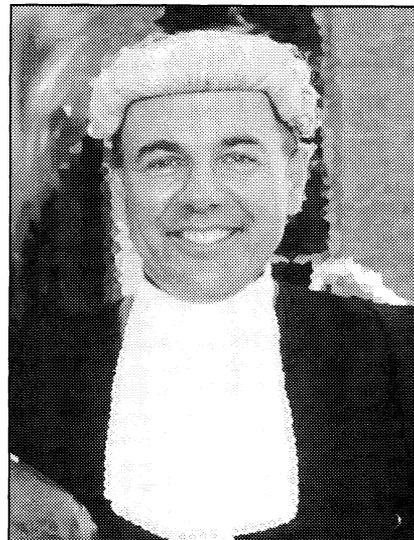
As I was wondering how to answer another no case submission my gaze turned to a brochure that had been on my desk for a week or so. A DNA conference in Adelaide. Now there's an idea. Accommodation in the Stamford Grand Hotel, a gala dinner, and three days away from the office.

Over the years I had prosecuted several cases where DNA evidence was important. Whilst preparing these cases I had several meetings with the scientists and learned some of the jargon. The statistical side always remained somewhat of a black art. What do odds of one in 20 million mean?

During one of my cases my opponent was brave enough to ask for the calculations supporting the statistical conclusions so I gave them to him at the bar table — a big lump of pages with numbers all over them. He complained to the court that the material may as well be in French. I secretly agreed.

I forwarded the DNA brochure to the boss with a request to attend the conference together with a carefully crafted argument about raising the office expertise etc. So I found myself in Adelaide early in September this year.

The conference was open to all interested persons and defence lawyers were encouraged to attend. There were about 150 attendees including representatives of the manufacturers of DNA testing kits and many of the leading lights throughout Australia. These people made the topic sound simple. They spoke of "take home messages" and this is what I was able to "take home".



John Adams

### Basic theory

Human beings (and all living things) are made of cells. The organization of these cells is dictated by Deoxyribonucleic Acid (DNA). There are over three billion pairs of DNA in each person. Each person is different (except identical twins) because whilst they inherit equal parts of DNA from each parent the possible combinations are almost limitless.

### Forensic testing

DNA exists in every cell in the body and is identical in every one of these cells. It looks like a double stranded helix.

I was told at the conference that there is enough DNA in each human body to reach to the sun and back three times. I am not sure why I was told this but it was probably in order to give me a useful edge at the next quiz night I am unable to avoid.

DNA can be extracted from blood, saliva, semen, hair follicles, fingerprints, teeth, bone and tissue.

Analysis involves isolating the DNA material at certain sites on the long double stranded helix. This material is

*Continued over*