

THE WINSTON CHURCHILL MEMORIAL TRUST OF AUSTRALIA

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1 Report of - COLIN ROWLEY – 2001 Churchill Fellow

JUDICIAL SECURITY

A corner stone of our democracy is the independence and protection of the judicial process. In Australia it has been evident over the past two decades, commencing with the tragic murders of a Family Court Judge and a Judge's wife as well as countless other incidents at Courts that the protection element is under constant threat. The notion of protection within the Family Court of Australia extends past the Judges themselves and involves their families, colleagues, Court staff and the people they serve. This is not a common standard in other Courts. Although some security counter measures have been implemented, security in many Australian Court jurisdictions is outdated and remains a critical issue.

The Court Security Guide developed by the US National Association for Court Management in 1995 provides an excellent illustration of the complexity of contemporary security in seeking to deal with needs and the perceptions of a demanding and diverse community.

'Court security includes the procedures, technology, and security. Court security addresses the need to prevent disturbances and acts of violence that can impede the administration of justice. If Courts are to preserve constitutional rights and ensure the proper administration of justice, effective security is essential. Court disturbances threaten an orderly system of justice by interrupting the trial process and making it difficult for a defendant or party to obtain a fair trial. Disturbances also undermine public confidence in the Court institution, as well as respect for the legal process.

Personnel and architectural features needed to ensure the safety of people and property within a Courthouse and nearby grounds, protecting the integrity of the judicial process and protecting the community precinct surrounding a Courthouse.

However, Court security is more than a modern building with the latest equipment. It encompasses an understanding of the role Court security plays in the justice system, an evaluation of threats to that system and plans for an effective response to those threats. By taking a few basic precautions, security can be maintained in most Court buildings.'

2 INDEX

1 REPORT OF - COLIN ROWLEY – 2001 CHURCHILL FELLOW..... 1

2 INDEX.....2

3 INTRODUCTION.....3

4 EXECUTIVE SUMMARY.....4

3 INTRODUCTION

In preparing this paper I have had a great deal of help from many people and organisations.

A wide cross section of international experiences and opinions was sought for this project. I have distilled this information with the intent to accurately represent their insights, however have endeavoured to place the information within the context of the Australian Court environment. I never wish to portray myself as an 'instant expert', on security matters overseas.

Much of the information can only be generalised and are largely my impressions following my observations and interviews. Any comments should not be regarded as being either authoritative or specific.

It personally and professionally was very rewarding to know that my overseas colleagues valued my perspectives and opinions on their own jurisdictional issues.

I am grateful to the persons who agreed to be my referees for the selection of this fellowship.

My thanks go to the many people from the Family Court of Australia and the Federal Magistrates Service for their assistance in the preparatory stages of this project. The information and contacts provided were invaluable.

I wish to acknowledge all the people who assisted me in the various countries. They unselfishly provided informal forums in which to air and discuss ideas. They also enriched my experience with considerable privileged information.

I now have the good fortune to be part of a growing community of Churchill Fellows. Their guidance and support was especially useful both in Australia and whilst overseas.

My thanks and appreciation goes to the Chief Justice and Chief Executive Officer of the Family Court of Australia for their support for this project from the outset and to the Chief Executive Officer of the Federal Magistrates Service who assisted me.

My deepest thanks to my family and friends who gave me encouragement at each stage.

4 EXECUTIVE SUMMARY

This project's mission was to ensure that the various Australian Court administrations would have the necessary information to maintain the highest level of protection to staff, Court users, public trust and government confidence from a security risk management perspective. The method of achieving this was to identify and evaluate innovative security measures applied in Courts in countries participating in the study.

During the conceptual stage of this project a number of benefits to Australian Courts were envisaged. A set of objectives were established for the project. The first objective was a contemporary assessment of how Australian Courts perform when placed within a framework of international best security practice (of comparable justice environments). The second objective was the provision of information to Australian Courts on appropriate management methods and/or technologies proven overseas and not yet considered or implemented in Australia.

The countries selected for this project were the USA, Canada, United Kingdom, Northern Ireland, Republic of Ireland, Israel, Italy (including Sicily) and Hong Kong. Each provided common themes to make them eligible for inclusion in a best practice exercise.

During the study, each country offered their unique experiences including some failures, which was beneficial. They provided information regarding security reviews conducted. They also disclosed the rationale behind their strategic and operational decisions including legislative framework, organisational imperatives, administrative traditions, risk/threat assessments, budget constraints, procurement/outsourcing policies, inter-agency agreements/obligations and critical and socio-political factors.

A third objective of this project was to identify any inter-country or intra-country trends that impacted on Court security, which may be worth considering in Australia. Criminality, legislation, resource management, technology applications were areas of interest identified prior to the overseas component of the study. For example an international trend is emerging where police services are redefining their role as a response to increasing demands for their limited resources. As a result the police involvement in Courts security appears to be outside the new definition of police core business. Courts can reduce the likelihood of management failure if information about the transition of protection arrangements is monitored and analysed from other jurisdictions.

The extent of on-going lines of communication and information sharing, trend monitoring and analysis with related value-added advantages subsequent to this study would depend on the perceived strategic value and cost-benefit analysis by the stakeholders in Australian Courts' security. The important strategic value would be better decision making about major issues such organisational development, technology procurement and input into legislative and policy reform that impacts on Court security. This would enhance security performance, financial performance and duty of care. From an operational perspective, it would hopefully reduce the likelihood of surprises in the conditions that create adverse circumstances for the security of Courts, thus less costly knee-jerk reactions.

The challenge is to be able to provide a cost effective, sensible and balanced approach to counter the assessed current and potential threats thus aligning the security strategy with the individual corporate objectives within the allocated financial constraints.

The study indicates that Courts have similar security management issues. Planning for, and responding to, issues are generally similar as well. However, there are some stark differences. As would be expected, the unique legislative framework in which each Court is given their respective jurisdiction, shapes the organisational structure, which in turn influences the way the dimensions of authority, power, accountability and priorities are formally and informally arranged. It appears that it is how these dimensions are translated on behalf of the security function that largely creates the range in levels of commitment to security (including resources) and performance between the Courts.

The Report acknowledges that all Courts within Australia and overseas have strengths and weaknesses. Contained in this report are a number of recommendations. Information gained including details of overseas contacts will occur at a proposed national Court security forum and establish a secure Electronic Bulletin Board for Court Security Professionals.