

is available in different forms under Commonwealth, New South Wales, South Australian, Western Australian and Northern Territory legislation.

The major concern in relation to the admission of computer evidence relates to the risk that the information supplied will be inaccurate and that the inaccuracy will not be obvious to the user. The author counters these concerns. The main area of attack on computer evidence should not be on the computer itself, he argues, but on the accuracy of the data entry, and the safeguards, or lack of them, taken to avoid error in that

process.

The author concludes that the presumption of accuracy of business records as a basis for accepting them as evidence is particularly attractive for use in the admission of computer evidence. The reliance by business on computer records should be treated by the courts as a sound basis for accepting them as reliable. The New South Wales business records provision is the provision he most favours because of the conceptual generality of its language.

• *Technology partner,*
Finlaysons

Comment

Both Meagher Q.C. and Nosworthy are unconvinced of the usefulness of the computer specific legislation governing the admission of computer evidence. While Meagher Q.C. argues for the ability of the common law to develop to cope with this issue, Nosworthy would prefer the business records exception to the hearsay rule to be enacted and used for this purpose throughout Australia. In the meantime we have a combination of those approaches in some jurisdictions. No doubt there will be inconsistency flowing from this diversity for some time to come.

A COMPUTERISED SENTENCING INFORMATION SYSTEM FOR NSW COURTS

• *by Janet Chan*

One of the major roles of the Judicial Commission of New South Wales has been the design of a computerised sentencing information system, as a method of promoting consistency in sentencing.

Janet Chan, the Research Director at the Judicial Commission, describes the background and development of the computerised sentencing information system (SIS),

and compares it with other forms of guidance proposed or used in other jurisdictions.

Aims

The aim of the SIS is to promote sentencing consistency through the dissemination of information. The assumption is that sentence disparity may be reduced by providing judicial officers with information on

the statistical distribution of penalties imposed under specified combinations of "case characteristics".

Data Bases

The SIS is made up of four data bases:

1. The *Penalty Statistics* data base which reports the range and frequency distribution of penalties imposed in past cases similar to the one being

considered for sentence;

2. The *Sentencing Law* data base which provides up-to-date material on the statutory constraints with respect to the choice of dispositions and the forms of order which may be appropriate to the disposition;
3. The *Court of Criminal Appeal Judgments* data base which offers ready access to recent unreported CCA judgments and the principles enunciated by the Court in respect of sentencing; and
4. The *Facilities* data base which details any practical restrictions relevant to the choice of penalty in the case being considered for sentence.

Janet Chan's paper deals mainly with the *Penalty Statistics* data base and gives a brief description of the *Sentencing Law* data base.

Implementation

The implementation of the system has commenced,

with a contract awarded to NEC. The system consists of a central minicomputer, the Unix-based XL/300 with 26 Mb of main memory and 420 Mb disk storage, with access from microcomputer terminals via the NSW Computer Services' Statewide Network. The software is being developed using Unify Corporation's ACELL cooperative processing software. The use of intelligent terminals to handle screen management and data validation relieves the host system of extra processing and reduces the volume of host-terminal traffic.

The SIS is expected to be implemented in four phases, with the first phase under way and to be implemented by the end of 1989. This involves the *Penalty Statistics* and *Sentencing Law* data bases being available for piloting, in two District Court locations, with only District and Supreme Court data available on the data base. The rest of the scheme is to be implemented progressively over the next couple of years.

Janet Chan's paper gives an example of a typical SIS session using the *Penalty Statistics* data base. The user types in such information as the jurisdiction, the section number of the principal offence, whether ninth schedule matters are involved, whether the offender is an individual or corporation, and the number of counts. The system displays the statutory maximum penalty and then goes on to enquire about specific offender characteristics. The user may then view the statistical distribution of penalties imposed for cases which match the characteristics specified.

Availability

Of particular interest to practitioners is that SIS, when fully implemented may be available to the Director of Public Prosecutions and the Public Defender, and accessible to the private legal profession through the Law Society computer network.

• *Research Director,
Judicial Commission of
New South Wales*