



**DIRECTOR OF PUBLIC
PROSECUTIONS**

**NORTHERN TERRITORY
OF
AUSTRALIA**

**A N N U A L
R E P O R T**

2002-2003



**OFFICE OF THE
DIRECTOR OF PUBLIC PROSECUTIONS
NORTHERN TERRITORY**

THIRTEENTH ANNUAL REPORT

FOR YEAR ENDED 30 JUNE 2003





**Director of Public Prosecutions
Northern Territory**

Rex Wild QC

30 September 2003

43 Mitchell St
Darwin NT 0800
Telephone (08) 8999 7533
Facsimile (08) 8999 7821
GPO Box 3321
Darwin NT 0801
Australia

The Hon Peter Toyne MLA
Attorney-General
Parliament House
State Square
DARWIN NT 0800

Dear Attorney-General

ANNUAL REPORT 2002-2003

In accordance with the requirements of section 33 of the *Director of Public Prosecutions Act*, I submit to you the Annual Report on the performance of the Office of the Director of Public Prosecutions for the period 1 July 2002 to 30 June 2003.

In all previous years I have provided a Report in accordance with section 28 of the *Public Sector Employment and Management Act*. I have been advised that none is required of me this year.

This is the thirteenth Annual Report of the Office since its establishment in January 1991 and the eighth since my appointment in February 1996. It is hoped that the information contained within the Report in respect of the Office will advance public knowledge of its operations and its role in the criminal justice system.

This year's Report does not include the various statements of guidelines issued and published pursuant to section 25 of the *Director of Public Prosecutions Act*. They have been published in each previous Annual Report following the date of their respective issue and implementation. New or amended guidelines will continue to be published in the Annual Report, but existing guidelines will be available on the ODPP website (www.nt.gov.au/justice/dpp) or on request.

The statement of these various guidelines provides Crown prosecutors and others engaged in law enforcement with clear guidelines for the making of various decisions which arise in respect of prosecutions. They are intended also to inform the public generally of the considerations upon which those decisions are made.

Yours sincerely

REX WILD



TABLE OF CONTENTS

	Page No
OFFICE LOCATIONS	7
MISSION STATEMENT(S)	8-9
DIRECTOR'S OVERVIEW	11
FUNCTIONS OF THE DIRECTOR OF PUBLIC PROSECUTIONS	17
STRATEGIC PLAN AND PERFORMANCE	19
ORGANISATION CHART	23
PROFESSIONAL STAFF	25
PROFESSIONAL ACTIVITIES	29
• General workload	29
• Results	30
• Management	30
• Case summaries	31
• ODPP website	31
• Legislative review	32
• Continuing legal education	32
• Conference of Australian Directors	32
• Heads of Prosecuting Agencies Conference	33
• International Association of Prosecutors	34
• Criminal Lawyers' Association of the Northern Territory	35
SUMMARY PROSECUTIONS	37
VICTIM SUPPORT	49
ABORIGINAL SUPPORT	57





OFFICE LOCATIONS

1. **DIRECTOR'S CHAMBERS (Head Office)**

Level 2
Tourism House
43 Mitchell Street
DARWIN NT 0800
GPO Box 3321
DARWIN NT 0801

Telephone: (08) 8999 7315
Fax: (08) 8999 7544

2. **NORTHERN REGIONAL OFFICE DARWIN**

Level 1
Tourism House
43 Mitchell Street
DARWIN NT 0800
GPO Box 3321
DARWIN NT 0801

Telephone: (08) 8999 7533
Fax: (08) 8999 7821
Free Call: 1800 659 449

3. **SOUTHERN REGIONAL OFFICE ALICE SPRINGS**

1st Floor
Centrepoint Building
Cnr Hartley St & Gregory Tce
ALICE SPRINGS NT 0870
PO Box 2185
ALICE SPRINGS NT 0871

Telephone: (08) 8951 5800
Fax: (08) 8951 5812



MISSION STATEMENT

The mission of the Office of the Director of Public Prosecutions is to provide the people of the Northern Territory of Australia with an independent, professional and effective criminal prosecution service that:

- *operates with integrity*
- *is fair and just to both victims and the accused and*
- *is sensitive to the needs of victims, witnesses and to the interests of the community on whose behalf it acts.*



MISSION STATEMENT (IN KRIOL)

Wed bla DPP-mob

DPP-mob bin pudimdan dijlat wed la dijan peipa dumaji olabat wandi dalim eberibodi bla no, hau detmob wandi duwim det wek bla olabat brabli raitwei.

Det wek bla olabat, jei gada album yu bla dijkain trabul:

maiti ib pilijimen im rekin samwan bin meigim brabli nogudwan trabul, laiga ib jei merdrem o kilimbat yu; ib jei stilimbat o demijim enijing blanganta yu.

Maiti det pilijimen rekin det ting im lilbit nogudwan, wal olabat pilijimenmob teigim la kot. O maiti det pilijimen rekin det trabul im rili rongwei, wal det DPP-mob gada teigim la kot det nogudwan sambodi.

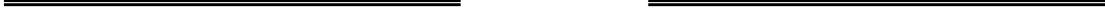
Det DPP-mob olabat teigim yu pleis la kot, seimwei laig det Liguleid teigim pleis la det sabodi weya olabat rekin imin duwim rongwan ting.

Det DPP-mob gan weistimbat taim en mani en olabat gan libim dijan hiya rul bla olabat wek:

- Ola weka onli gada woriyabat faindimbat raitwan wed bla wot bin hepin - nomo laigim yu o heitim yu o yu femli o enibodi.
Jei gan toktok la enibodi bla yu bijnij, onli la jeya weka wen jei albumbat yu.
- Det DPP-mob wandim stap gudwan binji seimwei la yu en la det sambodi weya olabat rekin imin duwim det nogudwan ting.
Jei wandi album yu gidim det samwan hu bin duwim det samting rong en faindat la kot raitwei bla banijim bla wot imin du.
- Olabat DPP-mob wandi meigim bla yu en en det sambodi en ola widnijmob go la kot gudwei, nomo hambag en nomo bla meigim yu fil sheim. DPP-mob duwim dijkain wek bla album eberibodi la Northern Territory jidan seifwan en gudbinjigeja.

DPP-mob bin pudim dan dislat wed la dijan peipa dumaji olabat wandim dalim eberibodi bla no, hau detmob wandi duwim det wek bla olabat brabli raitwei.







DIRECTOR'S OVERVIEW

Introduction

The undoubted highlight of the year was the joint hosting by the Director and the Attorney-General of HOPAC. This was the seventh biennial meeting of this group, the acronym standing for *Heads of Prosecuting Agencies Conference*. The Conference was held in Darwin in May of this year following the relatively last minute cancellation by Barbados. The Conference brought together heads of agencies from England & Wales, Scotland, Northern Ireland, Ireland, Canada, New Zealand, Hong Kong, Papua New Guinea and all Australian States and Territories. There was also a representative from the United States District Attorneys' Association. Last minute apologies were received from South Africa and Singapore.

There is further discussion of HOPAC in the *Professional Activities* section of this report. The Conference has proved invaluable in providing a forum for sharing knowledge and networking, international co-operation and movement towards consistency in legislation. The presentation of topics at this Conference was at a very high level. The outstanding paper was that presented by Bruce MacFarlane QC, the Deputy Attorney-General from Manitoba in Canada whose topic was *Convicting the Innocent*. The Attorney-General attended this portion of the Conference and has subsequently referred papers from it to his Department for development of appropriate policies. The theme of Mr MacFarlane's paper was the necessity for prosecuting agencies to lead the way in avoiding innocent people being convicted of crime. Prosecutors, as *ministers of justice*, are ideally placed for this purpose.

In addition to the Professional Program, the delegates were greeted by the Attorney-General and the profession (and the Larrakia Dancers) at a reception at Parliament House. Separately, they were greeted by the Administrator, Mr John Anictomatis and Mrs Anictomatis at Government House. The delegates were duly impressed with the hospitality and what Darwin and its environs had to offer.

Financial matters

Last year I dwelt on the financial pressures that had attended the operation of the Office of the Director of Public Prosecutions (ODPP) in the Northern Territory for most of the year. This was particularly in the context of the new departmental arrangements and the integration of the ODPP into the Department of Justice. I do not intend to repeat all that I said then. Those pressures have not eased. The ODPP budget has been quarantined to some extent within the Department. There is still a need to justify budgets and expenditure within a departmental situation, other than as an independent agency (still an accountable identity, of course). This is somewhat more intrusive than the previous protocol.

Unfortunately the administrative workload carried by senior staff of the ODPP has not diminished, as had been hoped in late 2001. On the contrary, it has increased with the need to comply with *whole of Department guidelines and instructions*. This has come at a time when the professional workload of the ODPP has increased very significantly, with the concomitant pressure on all staff.

Some good news

Our need for accommodation reasonably close to the courts has fallen on sympathetic ears. It seems that we will be accommodated in a new building close to our present address. We have been provided with space on the ground floor of our current building which will enable us to give our Victim Support Unit (VSU) a shopfront situation with disabled access and also a separate operational area to prepare bigger cases.

The bad news

The Government has not been able to provide funds to enable us to carry out our victim support program as fully as we had hoped. We had been given to understand that this was a high priority area within Government but *umbrella* submissions made on behalf of the Department (which include our submissions) do not seem to have found favour.

The VSU has fought to maintain its contribution to the criminal justice system with a very determined and committed performance by all its members. During the previous year a *bush promotion* was undertaken with a view to enlarging the presence of victim support in the bush courts and generally throughout the Territory. This had received support from the magistrates, in particular in the Katherine region. The provisions of s.106A of the *Sentencing Act* makes it obligatory on the prosecutor to provide victim impact statements to the Court.

Without resources this is a very difficult task. Unfortunately, the funding necessary to enable prosecutors, with the assistance of the VSU, to comply with these provisions has not been forthcoming. Without resources this is a very difficult task. One of the consequences of the success of the *bush promotion* is the need for VSU members to travel far more regularly to the bush courts. This means there is an obvious increase in travel expenditure and strain on those resources. Hopefully we will be more successful in our application for funds in 2003-2004.

One other interesting result of the excellent work of the VSU, which includes distribution of written material to crime victims, is the increased number of applications made under the relevant crime victims' legislation. This in turn creates logistic and administrative difficulties within the Office in complying with the request by the applicants and their solicitors for access to the ODPP prosecution files. There may be a business principle which deals with this phenomena (similar to *Parkinson's Law* or *the Peters' Principle*). It might be something like *the harder you work, the more work you have to do*.

It is recognised that there is always competition for funds from Government. The Government has to do the best it can with what it has available to meet those competing demands. The best we can do is state what our needs are and encourage their provision.

In April 2003, I wrote to the Chief Executive Officer of the Department, who I might say has been very sympathetic and helpful once again this year, on the topic of the professional and financial needs of the ODPP. I then said this:

The prosecution task is mostly thankless. (Members of) my professional staff are regularly criticised by Judges and Magistrates, victims and witnesses, the Police and Defence Counsel. They make difficult and sensitive decisions every day. They work damned hard. They are poorly paid and have poor conditions, when compared to their southern counterparts. I don't think they get any recognition at all for the fine work they do. They deserve decent support. I will keep urging its provision.

Form of the Report

The Annual Report this year is again taking a truncated form. The sections dealing with corporate services, strategic planning and performance and financial administration have been included in the Department of Justice Report. It is not intended to repeat all those matters here. However, for

completeness of this document, strategic planning and performance will be included. Otherwise, this Report only contains those matters which are mandatory, or reasonably ancillary to those required pursuant to the *Director of Public Prosecutions Act*. Pursuant to s.25 of the Act, it is necessary to publish guidelines. No new guidelines have been published this year. I have therefore chosen to incorporate the existing guidelines on the ODPP's website (www.nt.gov.au/justice/dpp). This also applies to policies and procedures in respect of witnesses, interpreters, Aboriginal employment and career development strategies and the like.

Challenges for the future

The biggest single challenge is to maintain the independence of the ODPP. In stating this proposition, it should not be thought that the prosecutorial integrity of the Office has been diminished at all by administrative changes introduced by Government in the last year or so. Such would not have been acceptable. In no instance has any improper pressure been brought to bear. On the contrary, the Chief Minister and Attorney-General have both assured me personally of their support for the Office and its independence.

I have said in previous years that *the success of the Office is something that can only be really judged by others*. Nevertheless, it is necessary for there to be appropriate performance measures and a strategic plan. There needs to be transparency in regard to these issues and the extent to which the ODPP adheres to and meets its own *Mission Statement*. Consistent with the *Mission Statement*, the essential outcomes are:

- an effective criminal prosecution service
- victims and witnesses are satisfied with the support provided.

I believe that the Office has achieved those outcomes.

Acknowledgements

This has again been quite a difficult year for many of the professional and administrative staff for all sorts of reasons which need not be explored here. Nevertheless, it must be said that the support provided by the staff during the year has been enormous. Despite the extreme pressures, members have invariably accepted additional responsibilities and duties and got on with the job. I particularly mention the support provided by Deputy Director Jack Karczewski QC, Dr Nanette Rogers, as the Crown Prosecutor in Charge of the Alice Springs Office and Michael Carey's work as General Counsel. I continue to be proud of the work of the VSU which under its Co-ordinator Nannette Hunter maintains an effective and sensitive service to victims and witnesses.

Nannette also provides invaluable additional assistance in the preparation of this report each year. Lilia Garard, the Business Manager, again has carried out what is a very difficult job with enthusiasm, skill and panache. I again recognise the efforts of Senior Sergeants Peter Thomas (Darwin) and Rob Burgoyne (Alice Springs) who have provided excellent support to the ODPP during the year. My previous executive assistant, Joan Macpherson, retired in October 2002 having provided eight first class years of service to the ODPP and to me in particular. Trish Smith succeeded her and has quickly become *a member of the team*. She provides effective and friendly support at all times.

Directions

Pursuant to the *Director of Public Prosecutions Act*, there is provision for the Attorney-General to provide directions to the Director of Public Prosecutions as to the general policy to be followed in the performance of a function of the Director. Any such direction shall be in writing and shall be included in the Annual Report. I formally note that no direction has been issued by the Attorney-General during the year under review (and, in fact, in any previous year by any Attorney-General, to my knowledge). I formally also note that the Attorney-General has not sought to interfere in the conduct of the Director's functions. As a result, I have been able to enjoy appropriate independence in exercising the powers conferred by the *Director of Public Prosecutions Act*.

REX WILD QC
Director of Public Prosecutions

30 September 2003





FUNCTIONS OF THE DIRECTOR OF PUBLIC PROSECUTIONS

The major responsibilities of the Director of Public Prosecutions (hereinafter referred to as the Director) may be identified as follows:

- (a) the preparation and conduct of all prosecutions in indictable offences
- (b) the preparation and conduct of committal proceedings
- (c) to bring and conduct proceedings for summary offences
- (d) the assumption where desirable of control of summary prosecutions
- (e) to institute and conduct prosecutions not on indictment for indictable offences including the summary trial of indictable offences
- (f) the power to institute and conduct or take over any appeal relating to a prosecution or to conduct a reference under s.414 of the *Criminal Code*
- (g) the right to appeal against sentences imposed at all levels of the court hierarchy
- (h) the power to grant immunity from prosecution
- (i) the power to secure extradition to the Northern Territory of appropriate persons
- (j) the power to participate in proceedings under the *Coroner's Act* and with the concurrence of the Coroner, to assist the Coroner if the Director considers such participation or assistance is relevant to the performance of some other function of the Director and is justified by the circumstances of the case
- (k) to secure recovery of penalties or to enforce forfeiture

- (l) to provide assistance in the Territory to other State or Commonwealth Directors of Public Prosecutions
- (m) to institute, intervene in and conduct proceedings that are concerned with or arise out of any function of the Director or to otherwise do anything that is incidental or conducive to the performance of the function of the Director
- (n) the power to furnish guidelines to Crown prosecutors and members of the police force related to the prosecution of offences
- (o) to require information or to give directions limiting the power of other officials.

General powers

The Director has power to do all things that are necessary or convenient to be done for the purpose of performing the functions of the Director and may exercise a power, authority or direction relating to the investigation and prosecution of offences that is vested in the Attorney-General.



STRATEGIC PLAN AND PERFORMANCE

Corporate Services

Strategic Directions for 2002-2003 were to:

- Maintain an efficient and independent prosecutorial service to the Crown
- Provide support to victims, witnesses and their families
- Provide systems and processes that facilitate the delivery of core business
- Provide professionally competent and motivated staff.

During the 2002-2003 the ODPP achieved the following:

- *Information Technology*

- (a) Implementation of an updated case management system

In November 2002 the case management system was upgraded. CRIMS was replaced with Casenet. The system has now been in place for eight months and experience has already been gained in its use. Further developments are planned for the 2003/2004 financial year which will introduce other modules of the system. These modules will automate the production of management information data relating to the performance indicators. This activity is ongoing.

- (b) Creation of an opinion register

The ODPP sought to have central access to the various opinions provided on legislation and for both the access and the opinions to be in an electronic format. Opinions data contained in files is a valuable source of information to prosecutors. The ODPP established a database that will provide improvements in the area of accessibility, flexibility and ease of maintenance with a low operating cost. The new *DPP Opinions Register* was based on the same functionality and format as the existing *DPP Law Register*. Low maintenance, user friendly databases provide the Office with accessibility to all users.

- *Ongoing review of staff performance and appraisal scheme*

Performance management appraisal of staff was completed in the first half of the 2002-2003 financial year. Personal development plans were developed. The plans assist in developing the appropriate skills experience and knowledge to meet existing and future challenges both at a corporate and individual level.

Every personal development plan is tailored to meet the needs of the individual employee and is designed to ensure that the employee has not only the skills required for their current position but also the skills required for career advancement and personal development.

The ODPP also conducts regular in-house legal training which is designed to ensure that prosecutors keep their skills current and that they are able to comply with any continuing legal education requirements.

Direct expenditure on external training for the 2002-2003 year was \$36,614.00. There was also considerable in-house and on the job training which is not costed.

- *Ongoing consultation with community programs*

The ODPP continues to contribute to training and information sessions conducted by police, community agencies, schools and the University. These opportunities enhance the relationship between the ODPP and community groups and provide the foundations for improved service delivery to our clients (witnesses and victims).

- *Ongoing involvement in community activities*

The ODPP continues to support young Territorians undertaking law degrees by contributing to the NTU Law School prizes. These prizes are awarded annually in recognition of the best students in Advocacy and Criminology. The Director teaches the subject of Advocacy at the University each year in an honorary capacity.

In addition vocational employment is offered to law students

The ODPP has continued to provide Territory students with work experience placement both in Darwin and Alice Springs. Students gain an insight into the workings of the ODPP by assisting Crown prosecutors and attending court proceedings.

- *Occupational Health and Safety*

The ODPP continued its focus on preventative measures during the year providing ODPP staff with flu vaccinations, eye and hearing tests.

Encouraging physical fitness amongst staff was also part of the ODPP program. In line with this initiative modest funds were provided for staff attending corporate hockey, beach volleyball and Life Be In It programs.

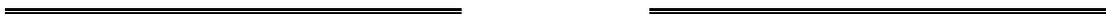
Strategic directions

Strategic directions and business priorities 2003-2004 will remain the same as the past year.

Performance reporting

Performance Measures	2001-02	2002-03	2002-03	2003-04
	Actual	Estimate	Actual	Estimate
Quantity				
Number of new matters*	429	590	958	700
Clients	567	600	646	636
Quality				
Establish a case to answer before the court (percentage of total cases)	90%	95%	88%	95%
Convictions after committal	84%	75%	91%	75%
Convictions after trial or hearing	69%	50%	72%	50%
Client satisfaction	94%	85%	95%	85%
Timeliness				
Disclosure not later than 14 days before committal	69%	80%	84%	80%
Meeting client timeframes	79%	80%	90%	80%
Cost				
Average cost per:				
• Completed matter	\$8,880	\$8 880	\$6,141	\$7,592
• Client	\$970	\$970	\$1,013	\$928

* Incorrectly published as completed matters rather than new matters





ORGANISATION CHART

AS AT 30 JUNE 2003

DIRECTOR
Rex Wild QC

**CROWN PROSECUTOR
IN CHARGE (SOUTH)**
Dr Nanette Rogers

DEPUTY DIRECTOR
Jack Karczewski QC

EXECUTIVE ASSISTANT TO THE DIRECTOR
Tricia Smith

GENERAL COUNSEL
Michael Carey

**SOLICITOR FOR THE
DPP**
Alexis Fraser

SENIOR RESEARCH SOLICITOR
Shane McGrath

BUSINESS MANAGER
Lilia Garard

CROWN PROSECUTORS

Northern Office

John Adams (Senior Crown Prosecutor)
Anthony Elliott (Senior Crown Prosecutor)
Therese Austin (Crown Prosecutor)
Glen Dooley (Crown Prosecutor)
Mark Johnson (Crown Prosecutor)
Brett Harris (Crown Prosecutor)
Georgia McMaster (Crown Prosecutor)
David Lewis (Crown Prosecutor)

Southern Office

Ron Noble (Senior Crown Prosecutor)
Chris Roberts (Crown Prosecutor)
Stephen Geary (Crown Prosecutor)

LEGAL OFFICERS

Ruth Brebner
Nigel Browne
Sally Ozolins

SUMMARY PROSECUTORS

Amanda Clark
Tiarni McNamee
John Duguid
Amanda Nobbs-Carcuro
Tim Smith

VICTIM SUPPORT UNIT

Nannette Hunter (VSU Co-ordinator)
Colleen Burns (Aboriginal Support Co-ordinator)
Carolyn Woodman (VSU Co-ordinator – South)
Michael Devery (VSU Assistant – Darwin)
Christine Garland (VSU Assistant - Darwin)
Merle Thomas (VSU Assistant – Alice Springs)

PROFESSIONAL ASSISTANTS

Northern Office

Kerrie Wilson (Training Officer)
Sue Golik
Karen Le Bretton
Kate Stevens
Kelly Petersen
Diane Bower
Cecily Hagan (Temp)

Southern Region

Alisha Nunan
Suzanne Hamilton (part-time)
Natalie Jordaan
Gail Scobie (Training Officer)

ABORIGINAL LIAISON OFFICER

Jack A'Hang

ADMINISTRATION OFFICERS

Allan Page (South)
Heather Parker
Margaret Ray

LIBRARY TECHNICIAN

Coleen Harris

REGISTRY CLERK

Coralie Crookes
Jacqui Walker (acting)

ASSISTANT REGISTRY CLERK/ROUNDS CLERK

Helen McKeiver

RECEPTIONIST

Vicki Hall (temp)

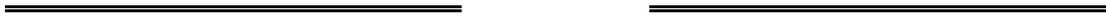
Martin Fisher
Josie Burness (Alice Springs)

ARTICLED CLERKS

Juan Dominguez Jr (Alice Springs)
Dr Celia Kemp (Darwin)

OIC SUMMARY PROSECUTIONS DARWIN
Senior Sergeant Peter Thomas

OIC SUMMARY PROSECUTIONS ALICE SPRINGS
Senior Sergeant Rob Burgoyne





PROFESSIONAL STAFF

The membership of the staff has undergone a large number of changes during the year. Articled clerks Martin Fisher (Darwin) and Nick Espie (Alice Springs) duly completed their articles and were admitted to practice. Martin has since been appointed as a Summary Prosecutor and continues with the Darwin Office in that capacity. Nick is employed with NAALAS as a legal officer. New articled clerks for 2003 are Dr Celia Kemp (Darwin) and Juan Dominguez Jr (Alice Springs).

The professional staff was, as I have said, depleted during the year. Jan Whitbread (ACT), Janelle Martin (WA), Grant Hayward and Lorne Walker - Nolan (VIC) have all left to expand their professional and personal horizons at interstate DPP Offices. Therese Austin was on maternity leave from which she returned in February 2003. The impact of these moves and absences was considerable given the heavy workloads of this last year.

We were able to obtain temporary assistance from the New South Wales Director of Public Prosecutions, Nicholas Cowdery QC which I gratefully acknowledge. He facilitated the temporary transfer of two of his staff. Elizabeth (Libby) Armitage was with us for three months in the Darwin Office and Ruth Brebner for six months altogether in both the Darwin and Alice Springs Offices. Ruth subsequently accepted an offer of a two-year contract and has stayed on in Darwin. With their assistance we were able to get through the year. However, it was also necessary to recruit. Mark Johnson and Brett Harris joined us as Crown Prosecutors from August 2002 and David Lewis from May 2003.

In Alice Springs, the most significant change was the cross-transfer of Ron Noble to Alice Springs and Georgia McMaster to Darwin. Additionally, for the first time we have had a permanent legally qualified summary prosecutor in Alice Springs with the appointment of Josie Burness (former police officer and ODPP articled clerk) in that position.

In Darwin, we have increased the number of summary prosecutors to six, with one of those at all times operating on the *Crown side*. A system of quarterly rotation has been established to allow each member a reasonable

opportunity to see the other side of the operation of the Office.

During the year, we had continued the arrangement implemented last year of dividing the professional and administrative staff and hence the workload, into three separate teams (A, B and F). In last year's Annual Report, I said that it was too early to say whether it would be effective. In fact it has proved not to be. The fairly constant interruption to the constitution of each group (with staff departures, long service and maternity leave) made it difficult to have the consistency of team membership that was essential. It has been effectively discontinued.

In the early part of 2003, the role of *Solicitor to the DPP* was revived with Alexis Fraser taking that position and at the same time reducing her own in-court contributions. This enabled her to accept the responsibility for allocations and arraignment days and become more involved in policy and continuing legal education. The role of *Solicitor to the DPP* will continue.

Thanks are again extended to all former staff members who have left during the year for their contribution to the ODPP during their employment. I particularly mention Jan Whitbread who was with us for nine years and Janelle Martin for seven years. It is hoped that those who have left us to expand their knowledge and experience in other places will sometime in the future return to the Territory and share that experience.

Profiles of the new professional staff appear below.

Mark Johnson

Crown Prosecutor

Mark comes from New South Wales where he was born and went to school. He completed his law degree in 1984 while working with the Australian Taxation Office and was admitted in 1985. He commenced as a solicitor with the NSW Legal Aid Commission in late 1985. In early 1990, he went to the UK where he worked as a prosecutor for the Crown Prosecution Service. He returned to Australia in 1995. He moved to the Territory in early 2000 and worked with NAALAS, NT Legal Aid Commission and as Deputy Coroner. He commenced employment with the ODPP in August 2002.

Brett Harris

Crown Prosecutor

Brett Harris was educated at the University of Queensland from 1980 to 1983. He served articles with a Brisbane personal injuries firm before moving to Townsville in 1985. After a period as a sole practitioner and then litigation partner he went to the Bar in 1991, practising mainly in the criminal jurisdiction. He was granted a Commission to prosecute by the Queensland Attorney-General in 1996. He commenced employment with the ODPP in August 2002.

David Lewis

Crown Prosecutor

David comes to the ODPP from Katherine where he was the principal lawyer for KRALAS from January 2002. He commenced his legal career in 1977 as an articled clerk in Rockhampton Queensland under the old system of admission through the Barrister's and Solicitor's Board. David worked in a number of regional Queensland offices as a solicitor before joining the Queensland Bar in 1991. In 1996 David travelled to Tasmania and became the regional manager of the North and North-west regions for the Legal Aid Commission of Tasmania. In 2000 he was appointed as the Legislative Counsel for the external Australian Territory of Norfolk Island and after two years returned to mainland Australia to reside in the Territory. He spent time as the principal legal officer of KRALAS. He commenced employment with the ODPP in May 2003.

Ruth Brebner

Legal Officer

Ruth Brebner graduated from the University of New South Wales in Arts in 1996 and in Law in 1999. She was appointed tipstaff to Mr Justice Meagher of the New South Wales Court of Appeal and subsequently Justice Fitzgerald, also then of the New South Wales Court of Appeal. She was admitted to practice in December 2000. In early 2001 she commenced employment with the New South Wales ODPP, at the Campbelltown Regional Office. In November 2002 she was seconded to the Northern Territory Office of the ODPP in Darwin. She has since accepted a contractual position.

Juan Dominguez, Jr.

Articled Clerk (Alice Springs)

Juan is originally from Marfa, Texas, United States. After finishing secondary school, he entered the US Air Force and was stationed in Colorado. A year later, he was admitted as a cadet into the US Air Force Academy where he graduated with a Bachelor of Science degree and a commission as a second lieutenant. After flight training, Juan flew as a bombardier in a B-52 bomber. After leaving the military, he eventually returned to Darwin. A permanent resident of Australia since 1997, Juan entered the law program in 2000 at the NTU where he graduated in 2002. He commenced his articles with the Alice Springs Office in January 2003.

Dr Celia Kemp

Articled Clerk (Darwin)

Celia Kemp is a graduate of the University of Melbourne. She completed her Bachelor of Medicine (Hons) in 2000 and her medical internship at St Vincent's Darlinghurst in 2001. She spent half of 2002 in Papua New Guinea reviewing an HIV/AIDS prevention program before moving to Toronto to complete a semester of law on exchange. She finished her Bachelor of Law (Hons) in early 2003. During her university years she was active in student politics, becoming

president of the Asian Medical Student's Association and being appointed by the Minister of Health as the youngest ever representative on the National Health and

Medical Research Council. She commenced her articles with the ODPP in Darwin in March 2003.



PROFESSIONAL ACTIVITIES

There were a number of important events, conferences and activities during the year which are dealt with separately below. Naturally enough, the most important professional activity is the fulfilment of the prosecutorial function. That will be dealt with first.

General workload

This is best demonstrated in the following chart:

BREAKDOWN OF PROSECUTION CASES				
For the period 1 July 2002 to 30 June 2003				
Number of Matters dealt with by:	DARWIN		ALICE SPRINGS	
Trial	32	(18)	12	(9)
Re-trial	3	(-)	-	(-)
Plea	114	(146)	45	(12)
Justice Appeal	96	(45)	27	(21)
Case Stated	-	(-)	-	(-)
Voir Dire	10	(8)	-	(1)
297A	4	(3)	-	(-)
Nolle Prosequi	20	(12)	4	(3)
Committal	381	(100)	60	(47)
Court of Criminal Appeal	8	(10)	-	(-)
Court of Criminal Appeal (Mentions)	-	(6)	-	(2)
Court of Appeal	3	(2)	-	(-)
Court of Appeal (Mentions)	-	(-)	-	(-)
High Court	-	(1)	-	(-)
Summary Court Mentions*	674	(545)	1375	(1024)
Supreme Court Mentions**	621	(668)	127	(93)
Summary Prosecutions	176	(150)	136	(146)
Breach Supreme Court Bond	27	(20)	6	(3)
Supreme Court Warrants	41	(37)	14	(5)
Summary Court Warrants	36	(41)	63	(58)
Totals	2246	(1812)	1869	(1424)
NB: The figures in brackets are for the period 1 July 2001 to 30 June 2002				

- * Crown prosecutors in the Alice Springs Office appear at all preliminary mentions of hearings at committals. In the Darwin Office these mentions are primarily dealt with by the bail and arrest sergeant and are not included here.
- ** Figures do not include arraignments.

The workload pressure has remained constant on all staff. Given that professional and other staff, resources have not kept pace with increased business over recent years this is not surprising. Statistically, the breakdown does not adequately reflect the nature of the cases either in a quantitative way or the sense of gravity.

Last year I noted:

One interesting development during the year was the increased use of ex officio indictments (37 in 2001-2002, compared to 24 in the previous year). This indicates a resort to best practice by both prosecution and defence representatives. This has reduced the number of committals and has the long term tendency to release some of the pressures on the courts and practitioners.

This development has continued this year with 63 ex officio indictments filed; more than in the previous two years combined. There is a determination by the prosecution – supported by the defence – to limit the expense of the criminal justice system to the community and the parties.

Results

Of those tried by jury in the Supreme Court last year 56% (compared with 48% in the previous year) were convicted and 44% acquitted. Overall, when pleas of guilty and nolle prosequis are included, the conviction rate was 81% (84%) of all matters disposed of in the Supreme Court. This is an acceptable outcome, consistent with previous years although slightly lower than last year.

Management

The management of the ODPP, both in a professional and administrative sense, is of course crucial. It has been discussed in resource terms elsewhere in this Report.

Each week, the Executive Committee of the ODPP meets to discuss important professional (and, from time to time, administrative) issues which arise. It provides an opportunity for the professional leaders to discuss legal and office policy issues which arise, with the facility to deal with them urgently. The committee comprises the Director, Deputy Director, General Counsel, Solicitor to the DPP, the Senior Crown Prosecutors, the Crown Prosecutor in charge of the Alice Springs Office, representatives of each of the summary prosecutions offices and the VSU.

There are also regular monthly meetings of all professional staff to discuss issues at which presentations are made from time to time on current topics. This is mirrored, by monthly meetings of the administrative staff to discuss matters relevant to their activities.

In addition to these methods of communication as between management and staff, there is also a weekly bulletin prepared by the Director which is distributed to all professional and administrative staff on both the Crown and the summary side. By this means all personnel are kept advised of current legal, staffing, personnel and personal issues.

Case summaries

In previous Annual Reports I have provided a summary of decisions and outstanding appeals in the Court of Criminal Appeal and Court of Appeal as well as matters in the High Court. This has been removed from the Report this year but will be published, instead, on the ODPP website.

ODPP website

Reference has already been made to the ODPP website (www.nt.gov.au/justice/dpp). This Annual Report and case summaries may be found on it together with the following separate items:

- DPP Home Page
- Office Locations
- Role of the DPP
- Guidelines
 - The criteria governing the decision to prosecute
 - Domestic violence cases
 - Prosecution of juveniles
 - Exercise of general prosecutorial discretion
 - Guidelines for appeals against inadequacy of sentence
 - Guidelines for prosecution disclosure
 - Extradition
 - Plea negotiations
 - Indemnity from prosecution
 - Informers
 - Media guidelines
 - CVA guidelines
- Policy and procedures for witnesses, interpreters and translators
- Provision of interpreters
- Victim support
- Aboriginal support
- Aboriginal Employment & Career Development Strategy 2000-2003
- Equal Employment Opportunity Management Plan
- Progress of a typical matter from charge to trial
- Memorandum of Understanding in respect of Summary Prosecutions

Legislative review

During the year, the ODPP was asked to comment on a number of papers, commentaries, drafts and the like on various proposed legislation. In some cases

that legislation was Commonwealth in origin. The Senior Research Solicitor, Shane McGrath, has in most cases provided draft comments for the Director. In other cases, prosecutors with some intimate knowledge of the particular legislative needs, perhaps arising from problems experienced during court proceedings or pointed out from the bench, provide the necessary submissions. In areas where victims or witnesses or indigenous interests are involved, submissions are provided by the professional members of the VSU.

Submissions were sought on a large variety of matters which, although not strictly speaking necessarily involving legislation, excited parliamentary interest. The contribution made by the ODPP in respect of legislative reviews generally, led by Jack Karczewski QC (Deputy Director), Michael Carey (General Counsel) and Shane McGrath (Senior Research Solicitor) is very significant. Alexis Fraser and Dr Nanette Rogers have also made important contributions in this area. It is time-consuming but, nevertheless, important work.

In a number of cases the Attorney-General has been advised of difficulties involved in the application and interpretation of various legislation. Some of them have been brought to notice by judges or magistrates dealing with cases. Others have been the result of prosecutors' own research. Members of the ODPP have been involved in a number of ad hoc and informal committees dealing with proposed amendments to relevant legislation.

Continuing legal education

This has not been a significant year for the provision of continuing legal education within the Office. Various seminars have been held in-house but the quantity of them was affected by workloads and other matters.

The Director has met on a regular basis early on Monday mornings with the junior lawyers and articled clerks to discuss matters relevant to their level of experience.

A number of professional staff attended conferences interstate during the year.

Conference of Australian Directors

For a number of years, Australian heads of prosecuting agencies have met informally to discuss matters of mutual interest. Due to the increase of crime which traverses State and Territory borders and the increased introduction of uniform legislation among the States and Territories of the Commonwealth, the various Directors in Australia have formed an association which meets

regularly to discuss matters of mutual concern. This association meets on a more formal basis than in the past and is known as the Conference of Australian Directors. By this means the Directors are usefully promoting consistency of the administration of criminal law in the several jurisdictions and, additionally, exchanging very useful information.

The pressure of business on all Directors meant that there was only one meeting in 2002-2003. The Directors have nevertheless maintained contact by mail and telephone on issues of common interest. The contacts and the information exchanged between Directors has proved to be invaluable and continues to assist each of us greatly in carrying out our respective functions and ensuring valuable and essential co-operation.

Heads of Prosecuting Agencies Conference (Commonwealth)

The first meeting of this group (HOPAC) took place in Sydney in 1991. Attendance at this original conference was by invitation which stated:

The aim of the conference is to give heads of prosecution agencies an opportunity to meet and to discuss matters of contemporary significance, general principle and issues of practical importance.

The conference was therefore designed to bring together heads of prosecuting agencies of Commonwealth jurisdictions for the purpose of meeting and exchanging different points of view. It was the answer to specific operational needs.

Subsequently meetings have taken place in Ottawa (1993), London (1995), Wellington (1997), Sigatoka (1999) and Edinburgh (2001). The ODPP was represented by the previous Director at the first three such conferences. Most other Australian jurisdictions are represented at these meetings. The current Director attended the conferences in NZ, Fiji and Scotland.

These conferences have proved invaluable in providing a forum for:

- sharing knowledge and networking
- international co-operation
- an aid in movements towards consistency in legislation.

As indicated in the *Director's Overview* in this Report the meeting for 2003 was held in Darwin. It was, as already noted, very successful.

International Association of Prosecutors

The International Association of Prosecutors (IAP) was created in June 1995 in the offices of the United Nations in Vienna and was formally inaugurated in September 1996 in Budapest.

The IAP is the only world association of prosecutors and its membership includes individuals, prosecution services and associations of prosecuting counsel.

As a world organisation, the IAP membership is not confined to one legal system. It encompasses as many legal systems as are represented by its members. It is an alliance of both individual and corporate members who already have standing and credibility in their respective jurisdictions. It is the coming together of reputable persons to learn from and to share with, one another in all areas concerned with the business of prosecution.

The role of the IAP on the international scene is an extremely broad one.

All Offices of Directors of Public Prosecutions in Australia have joined as corporate members of the organisation.

The former president of the IAP, the Director of Public Prosecutions of Ireland, Eamonn Barnes, in May 2000 articulated his view of the role of the prosecutor as an upholder and defender of human rights and said:

It is a function which often appears to be the monopoly of defence counsel or of the many excellent organisations formed for the promotion of human rights or civil liberties. The reality is that prosecutors, by their dedication in daily practice to individual rights, whether they relate to the victims of crime, to persons suspected or accused of crime or to the community generally, are in many jurisdictions the principal defenders of those rights.

If there were to be a single hope and ideal on which I could choose to vacate my high office as your President, it would be the aspiration that at our conferences and meetings our role as defenders of human rights and civil liberties everywhere would be a theme which would underlie and inform all our deliberations and decisions. Unless we constantly rededicate ourselves to that role, our daily work and functions will become hollow in relation to our constitutional objectives and in particular in relation to the establishment and promotion everywhere of the highest standards of criminal justice.

Very few jurisdictions, if any, can afford to feel complacent or superior regarding the full achievement within their own criminal justice systems of a sufficient commitment to human rights. Our solemn duty as members of the Association is to seek always to enhance those rights around the world.

Eamonn was succeeded as president, by Nicholas Cowdery QC, the NSW Director of Public Prosecutions. This ensures and maintains a strong recognition of Australia, its States and Territories, within the organisation. The conference in September 2002, was held in London. The Northern Territory was not represented. The expense of attending international conferences, however compelling and relevant the subject matter, is prohibitive and selectivity needs to be exercised.

However, the Director will be attending the Washington Conference in August 2003 where the general theme is the very topical one of *the fight against terrorism: a global effort*. A report of the conference will be provided in next year's Annual Report.

Criminal Lawyers Association of the Northern Territory (CLANT)

The ODPP continues to be well represented in the membership of CLANT and its committees. Its Ninth Biennial Conference was held in Port Douglas in June-July 2003 and fourteen representatives from the professional staff of ODPP participated and contributed to what was a very successful conference. It was unfortunate that it could not be held in Bali this year, because of the events of October 2002, but nevertheless the venue was an appropriate one. This conference, of course, appeals to a much wider range of delegates than those from the Territory. There was an excellent attendance, given the change in location and wonderful presentations by Justice Michael Kirby of the High Court and Senator Noel Pearson. A somewhat fuller report will be provided in next year's Annual Report.





SUMMARY PROSECUTIONS

Background

Summary Prosecutions in Darwin and Alice Springs consists of: civilian legal practitioners employed by the ODPP, members of the Northern Territory Police Force attached to ODPP and employees under the Public Sector Employment & Management Act.

This arrangement is pursuant to the *Memorandum of Understanding* between the Director and the Commissioner of Police, dated 11 February 1998 (reproduced in the ODPP Website).

DARWIN

Functions

Summary Prosecutions, Darwin (SPD) is responsible through the Officer-in-Charge to the Director of Public Prosecutions. SPD carries out the following functions:

- receiving initial files including arrest, summons and opinion files both for adults and juveniles
- providing advice to investigating police on issues of substantive, evidentiary and procedural law in appropriate cases, these matters are referred to the *Crown side* of ODPP
- checking files and determining appropriate charges, according to the Director's Guidelines and in particular, the *reasonable prospect of conviction* and *public interest* tests. Some categories of files are referred to the *Crown side* of ODPP for advice as to charges
- issuing summonses to defendants in the Court of Summary Jurisdiction (CSJ) and the Juvenile Court (JC), for service by police
- all preliminary mentions of files in the CSJ and JC, including opposition to bail applications, setting dates for committal hearings in serious indictable matters, setting dates for hearing in minor indictable and summary matters and taking pleas of *guilty* in minor indictable and summary matters, with the exception of matters that:
 - are of a serious or complex nature
 - involving difficult or complex points of law

- serious indecency offences
- other matters considered appropriate to be handled by a Crown Prosecutor
- after a *finding of guilt*, making applications to breach sentencing orders or good behaviour bonds as appropriate
- receiving all prosecutions from Department of Correctional Services, for
 - breach of home detention
 - breach of community work orders
 - breach of sentencing orders
- prosecuting applications for extradition to places outside the Northern Territory under the Commonwealth *Service and Execution of Process Act*.

SPD services all of the circuits conducted by the Darwin-based Stipendiary Magistrates, as follows –

- Port Keats – three or more days per month
- Alyangula – three days per month
- Nhulunbuy – three days per month
- Jabiru – one day per month
- Oenpelli – one day per month
- Maningrida – one day per month
- Nguiu – one day per month
- Daly River - one day each second month and
- Galiwin'ku - one day each third month.

Usually, two prosecutors are sent to each circuit, being one police prosecutor and one legal practitioner. Prosecutors travel the day prior to court to allow for thorough preparation.

Police stations at Adelaide River and Batchelor do not have circuits: their prosecution files are dealt with in Darwin. Files from Pirlangimpi police station are dealt with at Nguiu.

Each *bush* station has a designated police member who acts as liaison with SPD manages the files between circuits and attends court. These members are given the opportunity to develop their skills and progress through simple pleas to more complicated matters, as their experience permits. This informal *Prosecutors' Development Program* raises the skill levels in the bush and provides a recruiting pool for the Darwin Office.

Location

Summary Prosecutions is co-located with the Director's Chambers on the second floor of Tourism House, 43 Mitchell Street, Darwin.

Staffing

	Establishment	Actual
Senior Sergeant	1	1
Sergeant	4	3.5
Constable & Senior Constable	2	6
Auxiliary	2	2
Legal Practitioners	6	6
AO3	1	1
AO2	3	3

Officer-in-Charge

The Officer-in-Charge is responsible for managing the section, answering correspondence, conducting mention and hearing matters in Darwin and on circuit, as required. Senior Sergeant Peter Thomas (formerly Officer-in-Charge from May 1997 to April 2001), resumed as Officer-in-Charge on 1 July 2002 and was the Officer-in-Charge throughout the year under report.

Police staff

The police members are employed under the *Police Administration Act*. They are entitled to appear in court, on the Director's behalf, by the *Director of Public Prosecutions Act*, s.22(b). Other aspects of the role of police members attached to the ODPP are governed by the *Memorandum of Understanding* between the Director and the Commissioner of Police, dated 11 February 1998 (reproduced in the ODPP Website). There are various sub-specialties within the office. Police members are rotated through each sub-specialty with the object of producing well-rounded summary prosecutors: file checking and charge selection, presenting pleas in the CSJ and JC and presenting evidence in contested hearings in the CSJ and JC. The police prosecutors (and their respective dates of commencement in this Unit) are:

Sergeants Peter Hales (1996), Sue Kendrick (commenced 2000, part-time since November 2002), Helen Rowbottam (2001) and Paul Tudor-Stack (Feb 2002)

Senior Constables Mark Lyons (commenced 1997 on leave for most of this year, pending his retirement on 21 July 2003), Mick Brennan (8 Jan 2003), David Peach (1997) and Paul Quin (Mar 2002)

Constables David Moore (2000), Anita Newman (2001) and Karen Sanderson (March 2002).

The Police Auxiliaries' roles are to-

- issue summonses for all witnesses in both summary and committal proceedings in Darwin
- arrange the service in N.T. and elsewhere, of all Supreme Court subpoenas for the Darwin sittings
- arrange travel, both domestic and international, for all summary court and Supreme Court witnesses and be available for after-hours call-out for such duties
- arrange appropriate and suitable accommodation for all summary court and Supreme Court witnesses and be available for after-hours call-out for such duties
- collect or arrange for collection of all witnesses from the airport, or point of arrival, to their accommodation and then to the DPP Office for interview and/or proofing and be available for after-hours call-out for such duties
- be responsible for all financial and associated accounting aspects of witnesses travel and accommodation including petty cash, sundry travel costs, incidental expenditure, loss of wages and professional services
- assist, where appropriate, the Victim Support Unit with liaison, travel and transport of Aboriginal witnesses.

The Police Auxiliaries are: Senior Auxiliaries Karren Brown (1996) and Helen Smith (2000).

The fourteen police staff attached to SPD have an average length of service in the section of 3 years and 4 months. Five of them have been in the section since before the *Memorandum of Understanding* of 1998.

Legal Practitioners

The legal practitioners' work is primarily to conduct contested hearings in summary and minor indictable matters in the CSJ. Each attends at least one circuit per month, where they are expected to advise and assist the locally based police prosecutors.

The legal practitioners were four in number at 1 July 2002. Funding for a fifth position was then available and recruitment had commenced, but the successful applicant was not available until September 2002. One of our legal practitioners took up a position in Melbourne, but that vacancy was promptly filled.

It is now recognised that a position in Summary Prosecutions can be the first rung on the ladder for junior legal practitioners who desire to explore the possibility of a career as a prosecutor, or in advocacy generally.

At the end of the previous year, the Director announced that some restructuring would take place in 2003. The intention was to further enhance the role of the

summary prosecutors. A pool of six would be created: five would be allocated to Summary Prosecutions, while the sixth rotated through the *Crown side* of the Office. Over an extended period, each of the summaries will have this opportunity. This was implemented in February. By June 2003, Tiarni McNamee had spent three months on the Crown side and Amanda Clark had commenced her rotation.

As at 30 June 2003, the summary prosecutors had an average service with the Office of 2 years and 2 months. They (and their respective dates of commencement in this Unit) are:

Amanda Clark (*nee* Story, commenced March 1997)
Tiarni McNamee (commenced June 2000)
John Duguid (commenced Sept 2001)
Lorne Walker-Nolan (departed August 2002, to ODPP Melbourne)
Amanda Nobbs-Carcuro (commenced 4 Sept 2002)
Timothy J. Smith (commenced 23 Sept 2002) and
Martin Fisher (commenced 5 Feb 2003, after completing his *articles of clerkship* with ODPP).

Public Sector employees

The AO3 position is funded by ODPP to provide administrative support to the legal practitioners. The three AO2 positions are employed by Police, to attend to word processing file tracking and archiving. These positions were reviewed under the *Job Evaluation System* in April 2002 at AO3 and the Commissioner of Police has agreed to upgrade them accordingly.

The Public Sector employees (and their respective dates of commencement in this Unit) are:

AO3 Kelly Peterson (until Dec 2002), then Cecily Hagan

AO2 Ellie Leitens (1996), Karen Maher (July 2002) and Tiffany Kilian (Oct 2002).

Liaison with VSU

SPD continues to have close liaison with the ODPP Victim Support Unit (VSU). VSU assists with requests for information regarding the *Crimes (Victims' Assistance) Act* and compilation of *Victim Impact Statements* for presentation, on behalf of victims, to the Court of Summary Jurisdiction and the Juvenile Court.

Other Resources

SPD benefits significantly from access to the *Chambers Prosecutor* and the *Senior Research Solicitor*.

There was no ODPP Conference this year. If resources are available (and it is acknowledged that they are not), it would be a worthwhile exercise to make this Conference an annual event, rather than biennial. Summary prosecutors look forward to the Conference planned for 19-21 March, 2004.

Training and advice

Summary Prosecutions also provides advice and training to police recruits. A prosecutor attends the Police Fire and Emergency Services (PF&ES) College and gives lectures as required. Also, the Moot Court Facility at NTU was utilised.

Advice is given to police members in the police stations included in the Darwin circuit.

The ODPP articled clerk and some articled clerks from the Department of Justice have spent time with SPD, familiarising themselves with our role and with the practicalities of the CSJ.

Acting Sergeant Peach of SPD was the co-ordinator of a course which aimed to develop police officers as prosecutors. The course provided the knowledge and skills to enable police officers to select appropriate charges to prosecute pleas and bail applications and to recognise significant issues that might require a case to be handed over to a legally qualified prosecutor. This course, of 10 days' duration, commenced on 3 February 2003 and was conducted at the PF&ES College, Peter McAulay Centre, Darwin. The course was opened by the Director of Public Prosecutions. Most of the resources utilised in the course were provided by SPD and the Crown-side of ODPP. Twelve participants successfully completed the course.

Planning is well-advanced for a second course to commence on 21 July 2003. It is hoped to run a third course in 2004, possibly followed by another course, aimed at a higher level, including the prosecution of a contested summary hearing.

Formal and informal in-service training was given during the year to police officers regarding preparation of files for court. Summary prosecutors delivered training to police recruits and in-service trainees at the PF&ES College. Less formally, refresher classes for general duties police were conducted in the *Moonta Room*.

Caseload

The caseload for the section remains high, statistics indicate the following:

	2002/03	2001/02
Fresh files	12,500	9,292
Matters listed for contested hearings	379	1,164
Matters conducted as contested hearings	264	862
Matters listed for <i>Contest Mentions</i> *	431	n/a

* *Contest Mentions*: a new system which commenced operation on 16 December 2002, under *Guidelines* issued by the Chief Magistrate. This partially explains the apparent reduction in the number of matters listed for contested hearings. However, this system requires significant extra work by the more experienced police prosecutors. The expected benefits of the system are yet to be realised.

One case is of particular significance: on 14 May 2002, a group of protesters entered the Chamber of the Legislative Assembly. The proceedings of the Assembly were suspended as a result. Nine persons were charged with *Intentionally Disturbing the Legislative Assembly while it is in Session*, contrary to ***Criminal Code***, s.61(a). This is the first time that this section has been utilised in the Territory. Of the nine charged, three pleaded guilty and have been sentenced. Five elected for summary trial of the charge. Their hearing lasted 16 sitting days of the Court of Summary Jurisdiction, between 31 October and 22 May. These five were all convicted and have appealed. This is the longest summary trial in living memory in the Territory and it is reported here for that reason. It also required a significant input of resources by SPD. The ninth defendant was dealt with separately and his case is still proceeding.

The *O'Sullivan & Forster Review of Police Resources* was underway during the year under report and is expected to report soon after the close of the year. The Director and Deputy Director were consulted. It is expected that the Final Report will have significant outcomes for SPD and Alice Springs and through them, for the rest of ODPP.

General Comment

The ODPP gives significant support to Summary Prosecutions through advice and shared facilities. As reported earlier, the Director sought and gained Government approval to employ a 6th legal practitioner to assist with contested hearings.

Summary Prosecutions continues to maintain a close working relationship with all other elements of ODPP and Police.

ALICE SPRINGS

Summary Prosecutions in Alice Springs (SPAS) is immediately responsible to the Crown Prosecutor-in-Charge, Office of the Director of Public Prosecutions (ODPP) Alice Springs. SPAS carries out the following functions:

- receiving initial files including arrest, summons and domestic violence order applications
- checking files and determining appropriate charges
- issuing summonses for service by police
- making applications to breach sentencing orders or good behaviour bonds as appropriate
- all preliminary mentions of files in court
- opposing bail applications in appropriate cases
- prosecuting guilty pleas
- receiving all prosecutions from Department of Correctional Services for:
 - breach of home detention
 - breach of community work orders
 - breach of sentencing orders
- prosecuting applications for extradition to places outside the Northern Territory under the Commonwealth *Service and Execution of Process Act*
- prosecuting minor breaches of liquor licences before the Licensing Commission Tribunal
- prosecuting all matters in the CSJ and JC with the exception of matters that:
 - are of a serious or complex nature
 - involving difficult or complex points of law
 - serious indecency offences
 - other matters considered appropriate to be handled by senior counsel.

Bush Courts are held at Hermannsburg, Mutitjulu (Yulara), Papunya and Yuendumu bi-monthly. A prosecutor attends as required. Additional courts at Docker River, Elliott, Kalkaringi and Lajamanu were added to the local circuit during the year when a third Magistrate moved to Alice Springs. Another bush court at Kintore is mooted for the future. A monthly court of 1 week's duration is also held in the Tennant Creek area, which has its own prosecutor. At present Elliott has been serviced from that location.

In addition, during the year the unit assisted the Domestic Violence Legal Service with their files when a solicitor from that office was not available and assisted the Commonwealth DPP with the Pine Gap Joint Defence Facility protests and subsequent prosecutions

Location

SPAS is located on the top floor in the Centrepoint Building on the corner of Gregory Terrace and Hartley Street, Alice Springs. The area is adjacent to the ODPP Office.

Staffing

	Establishment	Actual
Senior Sergeant	1	1
Sergeant	2	2
Senior Constable	1	1
Auxiliary	1	1
AO2	1	1
Legal Practitioner	1	1
—	-	-

Senior Sergeant Rob Burgoyne is the current officer-in-charge. He is responsible for managing the section, answering correspondence, conducting hearing and bail and arrest matters in town and bush as required including Liquor Commission and Domestic Violence Order application hearings.

Sergeant Alan (Garnet) Dixon, is the bail and arrest prosecutor.

Sergeant Kevin Winzar is the police hearing prosecutor.

Josephine (Josie) Burness commenced with SPAS on 1 July 2002 as a second and much needed hearing prosecutor. She was a serving police officer and is a qualified solicitor who has now been employed by the ODPP.

Senior Constable Robert Hosking is the prosecutions constable and is responsible for the initial preparation of files including computer entry, swearing warrants on oath, filing adjourned matters and general liaison with the police station and court regarding files. During staff shortages he can take up the position of bail and arrest prosecutor.

Senior Constable Allan Duncan, the Southern Region coroner's constable, has his office in the SPAS area. The coroner's constable provides administrative assistance to SPAS during staff shortages. The prosecutions constable and coroner's constable are cross-trained and each is able to undertake the duties of the other (minus prosecution duties for the coroner's constable). This expands the flexibility of both positions. The coroner's constable's vehicle is the only vehicle available for the day to day running of SPAS.

Senior police auxiliary Pat Arnell performs the duties of liaison between police and prosecutors, both SPAS and ODPP. The duties of the liaison officer include:

- issue summonses for all witnesses in both summary and committal proceedings in Alice Springs and Tennant Creek
- be responsible for the service of all Supreme Court subpoenas for the Alice Springs district
- arrange travel, both domestic and international, for all summary court and Supreme Court witnesses and be available for after-hours call-out for such duties
- arrange appropriate and suitable accommodation for all summary court and Supreme Court witnesses and be available for after-hours call-out for such duties
- collect or arrange for collection of all witnesses from the airport, or point of arrival, to their accommodation and then to the ODPP Office for interview and/or proofing and be available for after-hours call-out for such duties
- be responsible for all financial and associated accounting aspects of witnesses travel and accommodation including petty cash, sundry travel costs, incidental expenditure, loss of wages and professional services
- during sittings of the Supreme Court in Alice Springs, be available to escort and assist all Crown witnesses for the duration of the sittings
- assist, where appropriate and necessary, the VSU with liaison, travel and transport of Aboriginal witnesses
- be responsible for the travel and accommodation arrangements of the Northern Territory Forensic Pathologist
- other police duties as required.

Caroline Pidgeon gives valuable administrative assistance and types complaints, information, summonses, deals with correspondence and locates, maintains and tracks files as required.

The VSU continues to assist with an increased number of requests for crime compensation information and compilation of victim impact statements for the CSJ.

Training and advice

Training sessions during the year were given to general duties police officers especially in the area of interviewing and to prison officers, both those in training regarding the rules of evidence and trained officers regarding presentation of prison misconduct charges.

SPAS also provides advice to members at Alice Springs station as required. A comprehensive guide based on material compiled by Senior Sergeant Peter Thomas and Sergeant Hales was prepared for police officers being inducted into Alice Springs station.

Advice is given to police members carrying out prosecution duties at Ali Curung, Elliott, Hermannsburg, Kalkaringi, Lajamanu, Mutitjulu (Yulara), Papunya, Tennant Creek and Yuendumu.

Advice is also given to members at non-court stations at Borroloola, Harts Range, Kulgera and Ti Tree on all aspects of law, evidence and procedure.

Caseload

The caseload for SPAS remains very high given current staffing. Statistics indicate the following:

	2002-03	2001-02
New files (Arrest/Summons/DVO)	2724	2160
Hearings Set (Alice Springs)	469	380
*Hearings Conducted (Alice Springs)	102	63
*^Bush Hearing Files	36	33
*Liquor Commission Hearings	4	0

*Those files proceeding to the actual hearing date – may resolve on day but preparation time not lessened

^This figure is expected to rise significantly in 2003/04 due to the addition of courts at Docker River, Kalkaringi, Lajamanu and possibly Kintore

General comment

A submission was made during the year for another prosecutor due to the high increase in hearing matters as indicated above. Due to budget constraints this submission was not looked upon favorably. Given the above figures however it must be a priority in 2003-04.

It is interesting to note that the South Australian police surveyed the requirements for their prosecutors within the SA system in 2002 and came up with a benchmark figure of 1 prosecutor for every 494 new files per year. Based on this recommendation (and subsequent implementation in SA) SPAS should have 6 prosecutors instead of the 4 (including the OIC which is in fact a half prosecuting position) it currently has.

The Alice Springs ODPP gives significant support to SPAS through advice and shared facilities. This is underlined by the addition of an ODPP sponsored prosecutor to assist with the large increase in contested hearings.

Summary Prosecutions continues to strive to maintain a close working relationship with both the ODPP and police.





VICTIM SUPPORT

Support to victims of crime, witnesses and their families has been provided within the Office of the Director of Public Prosecutions (ODPP) since 1995. The Victim Support Unit (VSU) was established in April 1997. The VSU consists of six victim support staff. In Darwin: Nannette Hunter, VSU Co-ordinator, Colleen Burns, Aboriginal Support Co-ordinator, Christine Garland and Michael Devery. In Alice Springs: Carolyn Woodman, Co-ordinator (South) and Merle Thomas. The VSU also has some wonderful administrative support.

The VSU role has been detailed in previous reports. It is repeated here to illustrate the range of services offered to victims of crime, witnesses and their families.

Support

This involves court preparation and can include court tours, demonstration of vulnerable witness facilities and observations of court sittings. Support regularly involves accompanying witnesses to court and can include being with a witness in a closed circuit television room or behind a screen.

Information

The VSU notifies victims of crime about the service and invites them to make contact. Victims are provided with several publications at the appropriate times. These include the Northern Territory Charter for Victims of Crime which was reprinted in 2002, the VSU pamphlet and the Victim Impact Statement booklet which includes an updated pro-forma for victims who choose to prepare a victim impact statement independently. This can include a comment to the court on the appropriate orders that the court may make.

The VSU also gives information about the time, date and place of court appearances, the stage that the matter is up to and whether attendance by the witness is required.

In December 2000 we began writing to referred victims of crime whose matters would be dealt with by Summary Prosecutions Darwin. In the past year 735 victims were sent letters.

Referral

Victims, witnesses and their families can be referred to appropriate agencies for counselling including specialist sexual assault and domestic violence counselling, psychologists, psychiatrists or solicitors for financial assistance claims. The VSU has established and maintains contact with a wide variety of agencies.

Explanation

The explanation of legal processes, language and rules of evidence is vital. The aim is to explain technical legal language in plain English. When people have a better understanding and are given timely information about what is happening in relation to court proceedings, they report a higher level of satisfaction with their experience of the criminal justice system.

Liaison

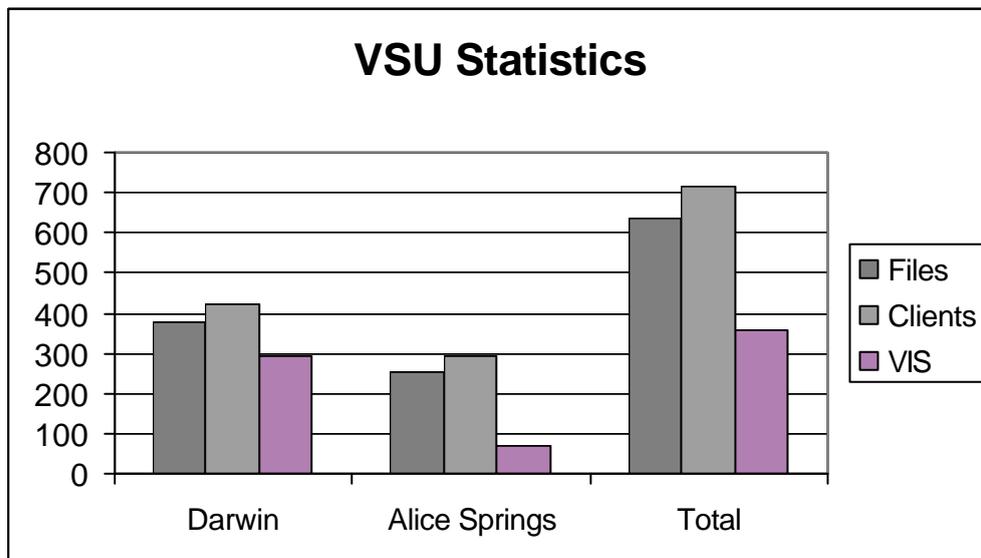
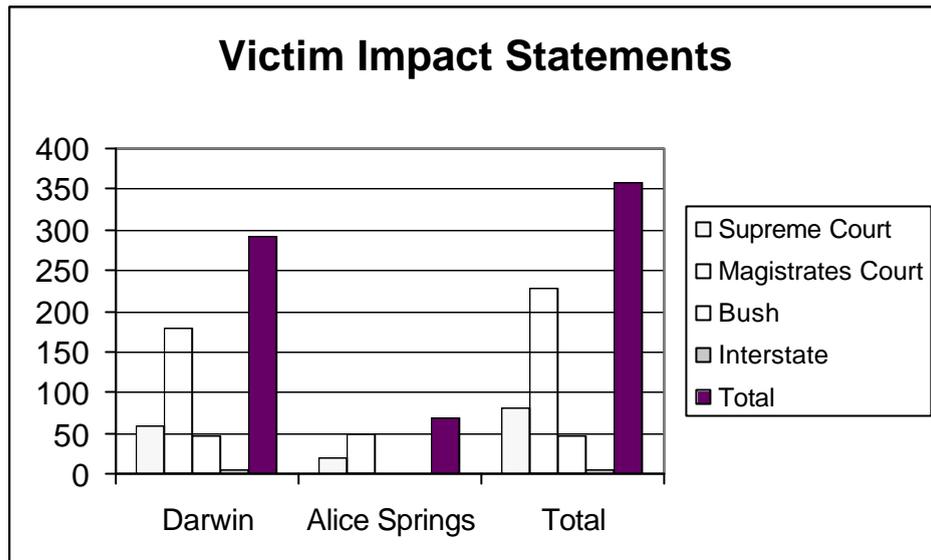
The VSU acts as a point of reference for victims, witnesses and their families. Liaison between police and victim, prosecutor and victim, police and prosecutor or counsellor and victim is a valuable function.

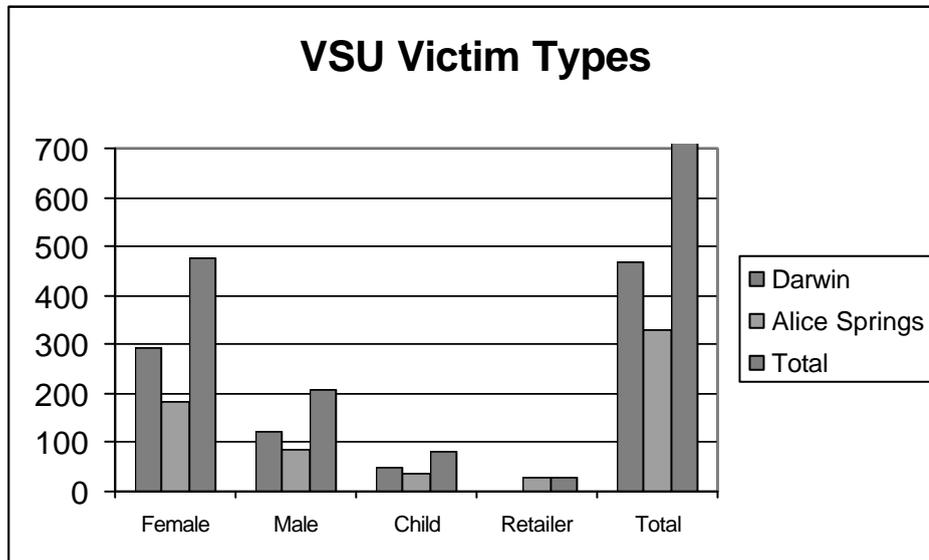
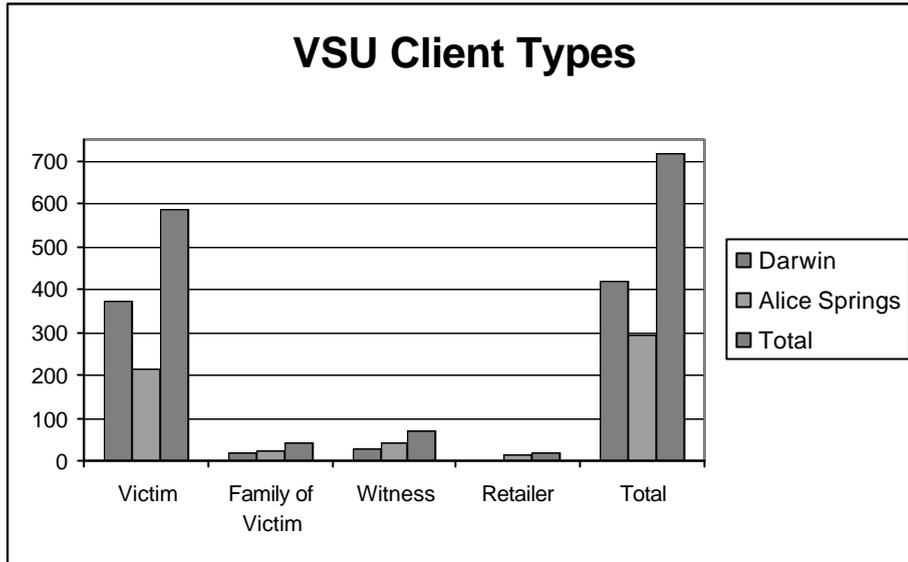
Interpreters

The VSU can assess the need for and organise the provision of interpreters to assist witnesses in their appearances before the court.

Victim impact statements

The VSU assists victims of crime to prepare victim impact statements. Victims of crime have the right to present to the court a statement detailing the effect the crime had on their lives. Victim impact statements were introduced in the Northern Territory in March 1997. Since then many people have decided to participate in the criminal justice system by exercising that right. The VSU assisted 359 people with victim impact statements this year. Since the beginning of the scheme the VSU has assisted more than 1500 people to prepare a victim impact statement.





Committee work

Members of the VSU participate in many committees and activities on behalf of the ODPP, to represent the ODPP and network with as many agencies as possible.

Crime Victims Advisory Committee

The VSU Co-ordinator and Aboriginal Support Co-ordinator attend the Crime Victims Advisory Committee meetings.

Domestic Violence Network

Members of the VSU regularly attend meetings of this network of service providers in the domestic violence area. Up to 17 organisations participate and it is a valuable forum to discuss issues of mutual interest.

Executive Committee

The VSU Co-ordinator and the Aboriginal Support Co-ordinator have each attended the weekly Executive Committee meetings on behalf of the VSU.

Training and Community Education

Members of the VSU in Darwin regularly participate in giving presentations to groups of people who come into contact with victims of crime in their workplace. This year this work included 12 presentations to various groups of police officers and recruits, 2 presentations to prison officers and presentations to the Attorney-General, Magistrates Conference, social workers and students at NTU.

In May 2003 the VSU participated in Law Week by giving talks to students at five Darwin secondary schools. These talks were well received.

Publications

The VSU is responsible for two publications, a booklet, *Victim Impact Statements* and a pamphlet, *Support for Victims of Crime*.

Client satisfaction survey

In July 2001 the VSU surveyed clients over a 12 month period for feedback on the quality of the service provided. There was a majority of positive responses (over 90%). The VSU again surveyed clients from January to June 2003. The results of this survey are not yet available.

ALICE SPRINGS

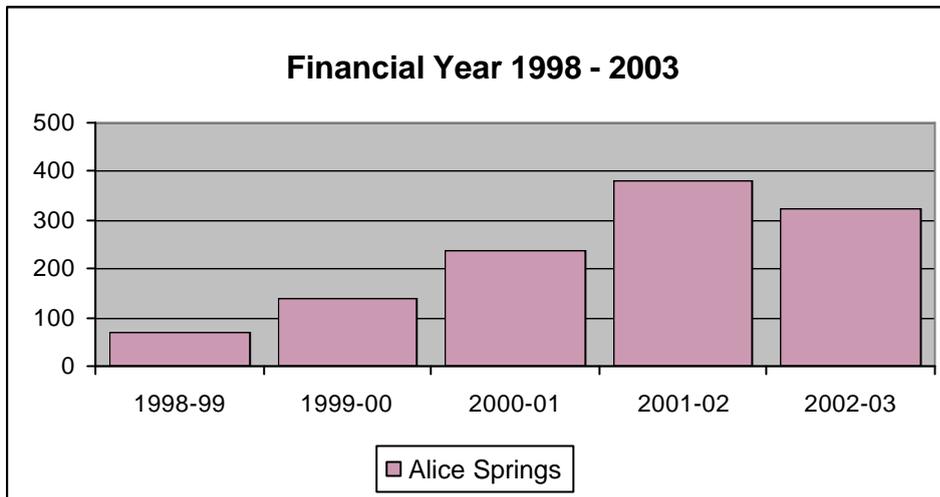
The VSU, in the seventh year of operation has seen another increase in client numbers. The core task of providing support to victims of crime, their families and other witnesses continues to absorb most of the Unit's time.

Crimes (Victims Assistance)

The Co-ordinator (South) also supervises the provision of documents to victims who wish to make claims pursuant to the *Crimes (Victims Assistance) Act*. This work takes the form of providing access to ODPP files so that victims are able to provide information and evidence of their experience in the criminal justice system. Those representing the respondents to such applications, be it the Northern Territory or the original defendant in any criminal proceedings, also seek access to the ODPP files. The net result is a vast amount of work required to locate and produce old files (in some cases from archival sources) with the necessity, from time to time, to respond to subpoenas to produce relevant material to the court.

There has been a considerable increase in the workload involved in this area in recent years. This can be shown from the following chart which tabulates requests received since 1998. We continue to need additional resources to cope with these demands.

A slight decrease in the numbers of Crimes (Victims Assistance) enquiries has been noted. It is yet to be determined what has caused the decrease and whether it will be maintained.



The VSU has maintained the practice of visiting young victims of crime and witnesses, in bush communities before it is necessary for them to give their evidence. This has been helpful to them in providing an understanding of their role and what will happen. It appears to have improved the quality of their evidence.

A plan to visit one or two bush courts routinely has not come to fruition, as it has not been possible to cater for responsibilities in Alice Springs as well as the bush courts when they are both sitting. The VSU has however provided a consistent service for the Magistrates Court sitting at Tennant Creek.

This year has also seen a settling in of the Aboriginal Interpreter Service as the roles and responsibilities of both users and providers of the service have become clearer. The on-site office at the court house has increased their availability and provided opportunities for closer working relationships to develop.

The Co-ordinator had the opportunity to attend a major national conference in May which was sponsored by the Australian Institute of Criminology. The conference looked at ways of resolving cases of child sexual abuse using both alternative and justice responses. This was a worthwhile conference with very high quality presentations which have been made available to all officers of the ODPP.





ABORIGINAL SUPPORT

Bush court circuit

The Aboriginal Support Co-ordinator continues to provide a service to Aboriginal victims and witnesses in remote communities. Since the Bush Promotion Report there has been a definite increase in the work done in bush courts over the past twelve months. It is envisaged that a review of the Bush Promotion Report will be concluded in the near future.

The significant move by Office of Courts Administration to have rotating magistrates in the Katherine bush court circuit has been met with different responses. It could disadvantage Aboriginal people of that region. It not only affects victims and witnesses but also alleged offenders. A different magistrate hearing their case each time could cause inconsistency.

The lack of vulnerable witness equipment in bush courts has raised some interesting debate. Often Aboriginal victims and witnesses feel intimidated to give evidence at a bush court. There are no closed circuit television rooms at bush courts so the court has been asked that some cases be heard where the victim can access these facilities in the urban centres where they may feel more comfortable giving evidence in the major centres. The VSU will endeavour to ensure that Aboriginal witnesses give evidence in a more culturally appropriate and comfortable setting.

The increase in SPD letters to victims may have led to an increase in Crimes (Victim Assistance) applications, as this information is sent out with other pamphlets.

There has been an increased demand for support in the bush. Sharing the bush court circuit has been implemented as bush courts have been attended more frequently by the VSU staff. As a result VSU statistics have shown an increase in victim impact statements. The VSU staff continue to build networks in the community. Those community based resources have been accessed regularly.

Cross Cultural Awareness Course

The Aboriginal Support Co-ordinator recently attended a course facilitated by Richard Trudgeon *Capacity Building in Indigenous Communities*. This was most informative and the knowledge gained will be useful when working with people from the East Arnhem Land region.

Aboriginal Staff

Our Aboriginal staff have declined to five members in the past twelve months. They are: Colleen Burns – Aboriginal Support Co-ordinator, Nigel Browne – Legal Officer, Merle Thomas – VSU Officer, Michael Devery VSU Officer and Jack A’Hang – Aboriginal Liaison Officer.

The most recent Aboriginal Law Cadet relinquished the Cadetship in late 2002. The ODPP will fill this cadetship in the future. The ODPP will implement a Mentor Panel consisting of Senior Crown prosecutor, Crown prosecutor and the Aboriginal Support Co-ordinator for future law cadets.

Aboriginal Employment and Career Development Strategy (AECDS)

The Aboriginal Support Co-ordinator has suggested an addition to the AECDS.

Goal # 9 Appoint Mentors for ATSI staff and ATSI law cadet students.

- Task:
- Provide a mentoring role for ATSI staff
 - Provide a mentoring role for law cadet students
 - Provide assistance in orientation of new ATSI staff and law cadet students into the ODPP, liaising with relevant staff
 - Provide a liaison role with NTU Law Faculty for law students
 - Provide information on counselling services for staff.

The Aboriginal Support Co-ordinator will have an integral role in mentoring and be a spokesperson for Aboriginal staff issues. Previous recipients of the ATSI Law Cadetship will be encouraged to act as a mentor to law students on placement with ODPP.

Participation in Committees, Forums, Meetings, Workshops

- Top End Women’s Legal Service
 - Indigenous Family Violence Reference Group
 - Interdepartmental Indigenous Women’s Policy Round Table
 - Crime Victims Advisory Committee
 - Katherine Aboriginal Family Support Unit
 - Umbakumba Council Office
-
-

- Aboriginal Interpreter Service
- Correctional Services
- Launch of Domestic Violence and Aboriginal Family Violence Strategy
- Office of Courts Administration
- Anti-Discrimination Commission HREOC Forum – Customary Law and Women’s Issues
- CLANT Conference